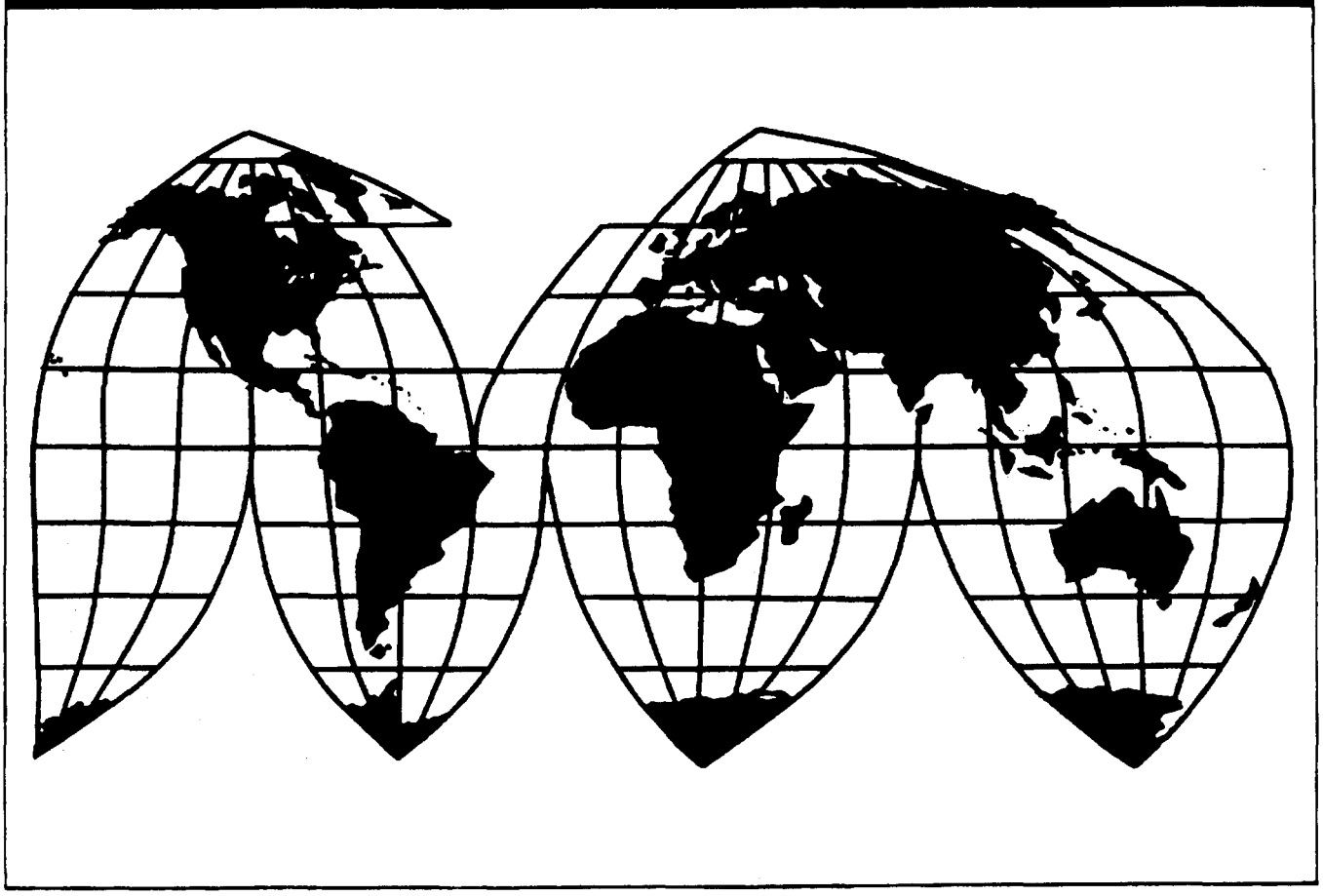
Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea

(Revised Issue)

Investigations Nos. 731-TA-1039-1041 (Preliminary)

Publication 3613 **July 2003**

U.S. International Trade Commission



Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Glossary of Firm Names

All Write	All Write Ribbon, Inc.
Armor	Armor USA, Inc.
Armor France	Armor, S.A.
BMW Imaging	BMW Imaging Products, Inc.
Dai Nippon	Dai Nippon Printing Co., Ltd.
DNP	Dai Nippon IMS (America) Corp.
Dynic	Dynic USA Corp.
Dynic Japan	Dynic Corp.
Fujicopian	Fujicopian USA, Inc.
Fujicopian Japan	Fujicopian Co., Ltd.
General	General Co., Ltd.
IIMAK	International Imaging Materials, Inc.
ITW	ITW Thermal Films (Divison of Illinois Tool Works, Inc.)
ITW Korea	ITW Specialty Films Co., Ltd.
NCR	NCR Corp.
Nu-Kote	Nu-kote International, Inc.
Paxar	Paxar Corp.
Ricoh	Ricoh Corp.
RSI	RSI ID Technologies, Inc.
Sony	Sony Chemicals Corp. of America
Sony Japan	Sony Chemicals Corp.
Union	Union Chemicar America, Inc.
Union Chemicar	Union Chemicar Co., Ltd.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-1039-1041 (Preliminary)

CERTAIN WAX AND WAX/RESIN THERMAL TRANSFER RIBBONS FROM FRANCE, JAPAN, AND KOREA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons, provided for in heading 3702 and subheadings 3921.90.40 and 9612.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

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

BACKGROUND

On May 30, 2003, a petition was filed with the Commission and Commerce by IIMAK International Imaging Materials, Inc., Amherst, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain wax and wax/resin thermal transfer ribbons from France, Japan, and Korea. Accordingly, effective May 30, 2003, the Commission instituted antidumping duty investigations Nos. 731-TA-1039-1041 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 10, 2003 (68 FR 34642). The conference was held in Washington, DC, on June 20, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Marcia E. Miller dissenting.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain wax and wax/resin thermal transfer ribbons (TTR) from France, Japan, and Korea that is alleged to be sold in the United States at less than fair value ("LTFV").[1] [2]

I. LEGAL STANDARDS

A. The Legal Standard for Preliminary Investigations

The legal standard for preliminary antidumping determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[3] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[4]

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."[5] Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[6] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[7]

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.[8] No single factor is dispositive, and the Commission

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[1] Whether the establishment of an industry is materially retarded is not an issue in these investigations.

[2] Commissioner Miller dissenting. See Dissenting Views of Commissioner Marcia E. Miller.

[3] 19 U.S.C. §1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Found. v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999).

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

[5] 19 U.S.C. §1677(4)(A).

[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(10).

[8] See, e.g., NEC Corp. v. Dep't of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[9] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[10] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[11]

B. Product Description

Commerce's notice of initiation define the imported merchandise within the scope of these investigations as:

> Wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35 -20>a*<35, and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.
>
> The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.[12]

Thermal transfer ribbons are thin, ink-covered strips of plastic film wound on plastic or cardboard cores that are used in a variety of thermal transfer printing devices (principally bar code

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[8] (...continued)
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).

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

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

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

[12] Notice of Initiation, 68 Fed. Reg. 38,305 (June 27, 2003).

printers and facsimile machines).[13] The basic composition of TTR involves a base of thin-film polyethylene terephthalate (PET) with a single coating on the back side and up to three other layers on the face side.[14] In thermal transfer printing, heat is applied to the ribbon through a print head, causing the ink layer to transfer a printed image onto the receiving media (e.g., a paper label).[15] The back coat protects both the print head and the ribbon during this process.[16] TTR is manufactured in jumbo rolls, which ultimately are slit into narrower widths and rolled into smaller rolls according to end user requirements.[17] TTR is categorized based on the type of ink used: wax,[18] wax/resin,[19] and resin.[20] Only the first two types are included in the scope of the investigation.

C. Domestic Like Product

The scope includes jumbo rolls of wax TTR that are used in facsimile and multifunction thermal transfer printing devices ("jumbo fax TTR"), jumbo rolls of wax and wax/resin TTR that are used in bar code printing devices ("jumbo bar code TTR"), and rolls of bar code TTR that are slit and finished for use in specific printing devices ("finished bar code TTR"). The petition, however, excludes rolls of fax TTR that are slit and finished for use in specific printing devices ("finished fax TTR").[21] The

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[13] Petition at 6-7.

[14] The face side layers may include an undercoat or release layer, an intermediate or adhesive layer, and an imaging or ink layer. Petition at 13.

[15] Petition at 7, 13-14.

[16] Petition at 13.

[17] Jumbo rolls are roughly 2 to 3 feet wide, 65,000 feet long, and 20 inches in diameter, and weigh approximately 350 pounds. Slit rolls are roughly 1 to 10 inches wide, 164 to almost 3,000 feet long, and 1.3 to 4 inches in diameter, and can weigh from 2 to 55 pounds. Petition at 7.

[18] Wax TTR is the least costly to produce. The ink formulation consists primarily of different waxes that have low melt points, resulting in low levels of energy required to transfer the wax onto the receiving media. Wax TTR, compared to resin TTR, does not offer long-lasting, durable print images due to its high wax content. Wax TTR is used for applications such as shipping labels, warehousing labels, retail tags and labels, and compliance labeling. Petition at 17. Wax (including fax) TTR accounts for *** percent of the total U.S. TTR market by volume. Petitioner's Postconference Brief, Exhibit 1.

[19] Wax/resin TTR contains a higher percentage of resinous materials than does wax TTR, which contributes to a higher melting point for the ribbons; as a result, a higher heat level is required for printing from wax/resin TTR than wax TTR. Petition at 17; International Imaging Materials, Inc. ("IIMAK"), About Thermal Transfer, at http://www.iimak.com/compatibility.htm. Also, the higher resin content of wax/resin TTR affords greater durability. Petition at 18. Applications for this form of TTR include general purpose labeling, plant and lumber tags, pharmaceutical and healthcare products, automotive labels, shipping, and retail pack labeling.

[20] Resin TTR is a ribbon containing ink with a majority of resinous materials. Because of the higher resin content, printing with these ribbons takes place at a slower speed, requires more energy, and can be done on a wider variety of surface media. Resin TTR is often used for applications that require high levels of resistance and durability against heat, weather, and certain chemicals. End uses for resin TTR include industrial and automotive applications, chemical drum labeling, and medical and pharmaceutical labeling. Petition at 19.

[21] The exclusion in the scope is set forth as a narrow range of sizes: a width between 212 and 220 mm, and a length of 230 m or less. Petitioner initially contended that only finished fax TTR in those specified dimensions was excluded from the petition. See Petition at 9 & n.12. However, petitioner stated elsewhere in the record that *all* finished fax TTR was excluded from the scope, without regard to its dimensions. See, e.g., Petition at 69. In meetings with investigative staff, Petitioner later clarified that all finished fax TTR was excluded from the petition

(continued...)

Commission therefore, has to decide three issues with respect to domestic like product: 1) whether to include jumbo TTR and finished TTR as part of the same like product, 2) whether to expand the domestic like product beyond the scope to include finished fax TTR, and 3) whether to expand the domestic like product beyond the scope to include color and/or pure resin TTR. For purposes of these preliminary investigations, we conclude that finished TTR, including finished fax TTR of the type not included within the scope, and jumbo TTR are part of a single domestic like product. We do not expand the domestic like product to include resin or color TTR.

1. Jumbo TTR and finished TTR

Only one importer suggested that the Commission should consider jumbo TTR and finished TTR to be separate markets.[22] All other parties advocated a single like product or treated them as a single domestic like product in their arguments. Jumbo TTR is a precursor to finished TTR.[23] Therefore, in addressing whether jumbo TTR and finished TTR constitute a single domestic like product for the purpose of these preliminary investigations, we apply our semifinished product analysis.[24]

Finished TTR (for either fax or bar code applications) is the only use for jumbo TTR. The record reflects that almost all jumbo TTR is internally consumed for the production of finished TTR, and that there is a very limited U.S. merchant market for jumbo TTR. That limited merchant market for jumbo TTR is separate and distinct from the much larger U.S. merchant market for finished TTR.[25]

Petitioner asserts that semifinished jumbo rolls embody "all the unique and technologically advanced characteristics of the finished TTR" and that "coating [jumbo TTR] marks the end of the actual manufacturing process."[26] Respondents do not refute petitioners' contention that the finishing process imparts no new properties to fax TTR, and that the essential characteristic of finished TTR, like that of

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[21] (...continued)
because there are no finished fax TTR products that are wider, narrower, or longer than the dimensions specified in the petition.

[22] Conference Exhibit (DNP) at 3.

[23] Confidential Report, as revised by Memoranda INV-AA-094 and INV-AA-095 ("CR") at I-10-11; Public Report ("PR") at I-7-8. To produce finished TTR, jumbo TTR is unwound on an "unwind station;" leader/trailer material is spliced onto the unwound roll; the roll is slit to a length suitable for the end-user's printing device; the slit roll is rewound onto a core at a "rewind station;" and, if required by the end-user's printing machinery, a "take-up core" may be added to the slit ribbon, and the ribbon may be loaded into a cassette. Petition at 23, 26.

[24] Under this analysis, the Commission examines (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles. E.g., Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom, Inv. Nos. 701-TA-409-412 (Preliminary) and 731-TA-909-912 (Preliminary), USITC Pub. 3388 (Jan. 2001) at 5-6; Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 (July 1999) at 6, n.23.

[25] CR at I-9; PR at I-6. Only one small domestic producer, ***, appears to be purchasing jumbo fax TTR in the domestic merchant market. The record does not indicate whether ***, a finished TTR producer, purchases and slits domestically produced or imported rolls of jumbo fax TTR.

[26] Petition at 22.

jumbo TTR, is that of a strip of PET film coated with ink that is used for thermal printing applications.[27] That is, the unfinished jumbo rolls "embody and impart to finished rolls the essential . . . characteristics" for which finished rolls are used.[28]

Six U.S. producers indicate that slitting and packaging accounts for an average of 34 percent of the cost of finished bar code TTR.[29] Converters reported that, on average, they contribute between *** percent of the domestic content of domestic finished bar code TTR.[30] It is difficult to compare the values of jumbo fax TTR and finished fax TTR, since the record contains no data on commercial U.S. sales of domestically-produced jumbo fax TTR. However, given that producing finished fax TTR may involve more steps than producing finished bar code TTR it appears likely that finishing fax TTR adds at least as much value as finishing bar code TTR.[31]

Jumbo TTR production is a multi-step process of ink-making (melting or dissolving proprietary ingredients, blending the ingredients, and milling the ingredients and pigments to achieve desired particle size) and coating (unwinding jumbo rolls, applying hot melt inks, cooling the inks, and rewinding the rolls).[32] In contrast, the general process for the manufacture of finished TTR involves unwinding, slitting, adding leaders and trailers, and rewinding the TTR, and may involve adding a take-up core or a cartridge. Thus, the record in these preliminary investigations indicates that the finished TTR slitting and packaging process is not particularly complex as compared to the jumbo TTR production process.

On balance, the apparent dedication of domestically-produced jumbo TTR to the production of the downstream article, finished TTR; the semifinished and finished products' common physical characteristics of imparting wax-based ink to PET film for use in thermal printing devices; the fact that jumbo TTR accounts for the majority of the finished product's cost; and the relatively less extensive nature of the finishing process lead us to conclude that jumbo TTR and finished TTR constitute a single domestic like product.

2. Finished Fax TTR

Japanese and Korean respondents advocated the expansion of the domestic like product to include finished fax TTR because this product is substantially the same as the TTR that is included in the scope of the investigations.[33] On balance, for the purposes of these preliminary investigations, we find that there is no clear distinction between finished fax TTR (which is not included in the scope) and the balance of the TTR included in the scope, and therefore include finished fax TTR in the domestic like product.

Physical characteristics and uses. As described above, the physical characteristics of finished fax TTR and TTR included in the scope ("certain TTR") are similar, in that both are strips of PET film

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[27] On the contrary, Korean respondent ITW Thermal Films (Division of Illinois Tool Works, Inc.) ("ITW") acknowledges that all TTR, including semifinished jumbo fax TTR and finished fax TTR, has "very similar" physical characteristics, and characterized the finishing process as a "format" change that does not "present clear dividing lines" between the jumbo and slit product. Korean Respondent's Postconference Br. at 4.

[28] See DRAMs of One Megabit and Above from the Republic of Korea, Inv. No. 731-TA-556 (Final), USITC Pub. 2629 (May 1993) at 7 n.11 (finding that unassembled DRAM wafers and dice impart their essential properties to assembled DRAMs).

[29] CR at I-11; PR at I-8.

[30] CR and PR Table III-2.

[31] CR at I-11; PR at I-7-8.

[32] CR at I-6-8; PR at I-5-6.

[33] The only domestic producers of slit fax TTR are ***. See CR and PR at Table C-4 note. (***).

coated with a wax-based ink. A range of wax types are used for fax ribbons, and a range of wax and wax/resin types are used for certain TTR. Petitioner concedes that there is some overlap in the range of wax types used in finished fax and certain TTR.[34] Thus, there is typically but not necessarily a chemical difference between finished fax TTR and certain TTR.

Finished fax TTR is cut to a specific range of dimensions primarily dictated by the size of the medium on which it is intended to print, i.e., letter paper. Certain TTR is produced in a range of widths, some narrower than finished fax and some wider. Thus, since fax TTR has virtually the same physical properties as other certain TTR, once it is slit, it is in effect part of a continuum of sizes of wax TTR. Slitted fax, unlike TTR generally, is often loaded into a cassette designed to fit a specific make and model fax machine.[35]

In a general sense, the end use of certain TTR and that of finished fax TTR is the same: thermal transfer printing.[36] Indeed, the scope of these investigations specifically identifies end uses of "certain" TTR to include facsimile machines.[37] The primary difference in end use is the difference between the image produced by a facsimile printer (in the case of fax TTR) and the image produced by a bar code printer (in the case of certain bar code TTR). A bar code image and a facsimile image have similar characteristics when a wax formulation is used for both applications; if a wax/resin formulation is used for a bar code application, the image will be more durable than a facsimile image produced with a wax formulation.[38]

Thus, the evidence under the first factor of the traditional like product criteria suggests that the slitted fax TTR and certain TTR share common physical characteristics and uses.

Interchangeability. Certain TTR and finished fax TTR are not "interchangeable" in the sense that different printing machines take ribbons that are cut to different dimensions or are loaded into different types of cartridges. However, different widths and chemistries of certain TTR are themselves not interchangeable because they are designed for different machines and a variety of uses. Similarly, different types of finished fax TTR are not interchangeable because they are designed for different fax machines. Certain TTR and fax TTR *are* interchangeable in the sense that they are both used for the same general application (thermal transfer printing), and in that a jumbo roll may be converted to a variety of products, so that there is a degree of interchangeability in end use application prior to slitting and finishing.

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[34] Petition at 22.

[35] We note, however, that a limited portion of other TTR products are loaded into cassettes and that some fax TTR products are not loaded into cassettes. Petition at 26; Conference Tr. at 57-58; CR at I-12-13; PR at I-9. Petitioner argues that finished fax TTR is "typically" cut to a smaller size and is "normally" wound on a smaller core than finished bar code TTR; is more likely than bar code TTR to have a secondary take-up core added; may, unlike bar code TTR, have an optical trigger or "silver stripe" painted on it; may, unlike bar code TTR, be subject to environmental controls during slitting; requires, "in some cases," dust-proof packaging that is not "typically" required for finished bar code TTR; and "typically" has retail packaging that is not required for bar code TTR. We do not find that these differences outweigh similarities between the products, particularly given petitioner's admission that the differences are typically present but are not uniformly or necessarily present.

[36] CR at I-5; PR at I-4.

[37] See Notice of Initiation, 68 Fed. Reg. 38,305 (June 27, 2003).

[38] CR at I-6; PR at I-5.

Channels of distribution.[39] Petitioner asserts that finished fax TTR, but not certain TTR, is primarily sold to end users through retail outlets such as office superstores, and that finished fax TTR therefore requires more expensive retail packaging than certain TTR.[40] However, there are some limited sales of finished fax TTR to OEMs.

Customer and producer perceptions. Finished certain TTR and finished fax TTR are perceived differently in that they have different end users. The record suggests that end users of fax ribbons purchase the product at retail outlets, while the end users for finished certain TTR purchase the product through distributors or OEMs as a supply item for large-scale manufacturing, distribution, and retail operations.[41] In addition, finished fax TTR and finished certain TTR may be perceived as different in that they are formatted for either a bar code printing machine or for a facsimile machine. However, because there is a continuum of 80 to 100 finished TTR products tailored to meet the requirements of individual models of specialized printing devices,[42] specific format distinctions between the spool or cassette required for each device may be more relevant to consumer or producer perceptions than any categorical distinction between finished fax TTR as a whole and finished certain TTR as a whole.

Manufacturing facilities, production processes, and production employees. All jumbo rolls are manufactured using the same equipment, processes, and production related workers regardless of whether they are intended for use as certain TTR or fax TTR.[43] In addition, finished certain TTR and finished fax TTR undergo similar "finishing" processes. Some finished fax products undergo additional finishing steps (such as the addition of take-up spools and cassettes, environmental controls, and specialty packaging and labeling). The record indicates that these additional steps are not required for all finished fax ribbons, and that these steps do not require a fundamental alteration of the facilities, processes, and employees utilized to produce finished fax TTR, as compared to finished certain TTR.

Price. Finished fax TTR is substantially more expensive than finished certain TTR. Over the period examined, a popular type of domestically-produced finished certain TTR sold to OEMs had a price ranging from a low of $*** per msi in the first quarter of 2003, to a high of $*** in the second quarter of 2000.[44] Over the same period, domestically-produced finished fax TTR had a unit net sales value ranging from a low of $*** in 2000 to a high of $*** in the first quarter of 2002.[45]

For purposes of these preliminary investigations, we find that the physical characteristics, end

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[39] There are three primary categories of customers of TTR: original equipment manufacturers (OEMs), distributors, and converters. OEMs buy TTR slit and cut to their specifications, which may be in cassettes and have custom logo leaders. The OEM integrates the cassettes in equipment that is sold to distributors or end users, or resells the cassettes directly to end users. Petition at 30-31. OEMs purchase TTR from producers, converters, or distributors and sell their TTR and branded printing equipment to end users. CR at II-1; PR at II-1. OEMs account for *** percent of end user sales, directly or through distributors. CR at I-9; PR at I-6. Distributors purchase slit, cut, and packaged TTR from producers, importers, or converters, and sell TTR to other distributors and to end users. CR at II-1; PR at II-1; Petition at 31. Distributors account for *** percent of direct sales, and an additional *** percent of sales where a master distributor sells through a small distributor. CR at I-9; PR at I-6. Converters buy jumbo rolls and often also buy generic slit rolls. Converters sell to distributors and OEMs. They account for *** percent of sales, including sales to end users through distributors.

[40] Conference Tr. at 55; Petition at 27.

[41] Conference Tr. at 55, 75-76; Petition at 27, 32.

[42] Conference Tr. at 39.

[43] CR at III-6-7; PR at III-5.

[44] CR and PR Table V-1. We note that the same type of bar code TTR sold to distributors was similarly priced.

[45] CR and PR Table C-4.

uses, interchangeability, and common manufacturing facilities and processes all weigh strongly in favor of including finished fax TTR in the domestic like product. Moreover, many of the differences between finished fax TTR and certain TTR (such as customer perceptions and practical interchangeability) also exist between types of certain TTR since each individual finished TTR product is made to fit only one type or brand of printing machine.

3. Pure Resin TTR and Color TTR[46]

Petitioner argues that the like product includes wax and wax/resin TTR, but excludes "pure resin" TTR.[47] Petitioner also argues that the like product includes TTR with a "black" or a "near-black" color,[48] but excludes "color" TTR.[49] Korean and Japanese respondents argue that the subject and non-subject products represent "a continuum of related products with no clear dividing lines," and that consequently, pure resin and color TTR should be included in the domestic like product.[50] For the purpose of these preliminary investigations, we do not include pure resin and color TTR in the domestic like product.

Physical characteristics and uses. Pure resin ribbons, unlike wax and wax/resin ribbons, have less than 20 percent total wax content by weight, and less than 10 percent total wax content by weight in the colorant layer.[51] In addition, unlike wax/resin ribbons, which may contain as much as 50 percent resin, pure resin ribbons most typically contain 70 percent or more resin.[52] Printing with these ribbons takes place at slower speed than printing with wax and wax/resin ribbons, requires more energy in the print head, and can be done on a wider variety of surface media.[53]

Moreover, the record reflects that resin and color TTR are substantially different than wax and wax/resin TTR in end uses. Resin TTR is a specialty product that is designed for bar code applications for which wax and wax/resin are not suited. For instance, some resin TTR is specifically designed for use in automobile manufacturing and thus must be highly abrasion resistant as well as resistant to

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[46] Petitioner and respondents indicated that other printing technologies might be substituted for certain TTR. See CR at I-9 n.21, II-9; PR at I-6 n.21, II-6. While the parties provided a general description of these technologies, they also stated that these products are poor substitutes for TTR and, as such, generally do not compete in the market for TTR.

Our data also indicate that there exist relatively small quantities of domestic production of other types of thermal transfer ribbons not included in the scope of these investigations (e.g., near-edge TTR). However, record evidence on these products is very limited, and we do not include them in the domestic like product for purposes of these preliminary determinations. We note, however, that domestic production of such ribbons is so small that it would not affect our injury analysis if included in the domestic like product.

[47] Petition at 9.

[48] "Near black" TTR's color is "at the higher end of the L* range." Petition at 9 & n.13.

[49] Petition at 9.

[50] CR at I-11-12; PR at I-8.

[51] The petition states that the total wax content of subject wax and wax/resin TTR is less than 20 percent by weight, or that the wax content on the colorant layer is less than 10 percent by weight. This description is apparently an error, because the petition later describes non-subject pure resin TTR, not subject wax and wax/resin TTR, as having wax content of less than these percentages, and the Notice of Initiation describes subject wax and wax/resin TTR as having wax content of equal to or greater than these percentages. See Petition at 18; Notice of Initiation, 68 Fed. Reg. at 38,305.

[52] Petition at 35.

[53] CR at I-13; PR at I-9.

extreme heat – a characteristic that TTR with a higher wax content does not display. The overwhelming majority of color TTR is used in signage applications for which black TTR cannot be used. Moreover, although color TTR may be used in very limited circumstance for bar code applications, most bar code scanners have difficulty reading in color.[54]

Interchangeability. Although as a functional matter, resin and color TTR may be used for bar code applications for which wax and wax/resin TTR are used, the converse is not true. As stated above, the record indicates that pure resin ribbons, in contrast to wax and wax/resin ribbons, have specialty applications. Pure resin is used for applications that require high levels of resistance and durability against heat, weather, and certain chemicals. End uses for resin TTR include industrial and automotive applications, chemical drum labeling, and medical and pharmaceutical labeling.[55]

Color ribbons, like black ribbons, can be used to print bar codes. However, it is unusual to use color TTR in the bar code and labeling markets because bar code scanners read black bar codes more reliably than color bar codes, and because the addition of color to the label could make scanning more difficult.[56] A significant proportion of color ribbon production is of pure resin used for specialty end uses, such as signage, for which black ribbon is not suited.[57] Thus, we find that as practical matter, resin and color TTR are largely not interchangeable with wax or wax/resin TTR.

Channels of distribution. Petitioner contends that color and resin TTR are specialty products that are sold along with a package of aftermarket services and do not share the same channels of distribution as wax or wax/resin TTR. However, evidence on the record indicates that in fact there may be significant overlap in the channels of distribution.[58] For the purpose of these preliminary investigations, it is unclear whether a clear distinction exists between the channels of distribution for black wax and wax/resin TTR, and the channels of distribution for color and pure resin TTR.

Manufacturing facilities, production processes, and production employees. Petitioner notes that subject wax or wax/resin ribbons can be coated using either hot melt or solvent technology, or a combination of the two technologies. The formulator may use a hot melt process only "at the bottom end of the wax products," and may use either an all-solvent process or a partially solvent-based process for more premium wax/resin products.[59] In contrast, petitioner asserted that pure resin TTR can be formulated only with solvents, not with the hot melt technology that is sometimes used to produce wax and wax/resin TTR.[60] If a producer uses solvent coating equipment, it can use that equipment to produce wax, wax/resin, or pure resin TTR.[61] More advanced coating equipment can switch between hot melt and solvent coating processes for wax, wax/resin, and pure resin formulations, but older coating equipment must be dedicated to one process or the other.[62]

The process of formulating color ink is "virtually identical" to the process of formulating black ink, except where the producer is formulating color ink for more sophisticated color imaging applications, and color ink can be formulated in the same machinery that is used for formulating black

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[54] Conference Tr. at 53.

[55] CR at I-13; PR at I-9.

[56] CR at I-14; PR at I-10.

[57] CR at I-14; PR at I-10; Conference Tr. at 52.

[58] CR at I-14; PR at I-10.

[59] Conference Tr. at 65-66. Wax products have at least one hot melt coated layer and may also have one solvent coated layer. See Petition at 17.

[60] Conference Tr. at 51, 65, 88.

[61] CR at II-4 & n.11; PR at II-3 & n.11; Conference Tr. At 51, 86-87.

[62] Conference Tr. at 86-87.

ink.[63] Color TTR for bar code tags and labels is coated using the same equipment and manufacturing processes as black TTR, except where additional processes are involved for so-called "panelized" coating.[64]

Customer and producer perceptions. Petitioner asserts that marketing has "blurred the lines" between wax and wax/resin TTR,[65] and that three to five common formulations of subject TTR account for the bulk of demand.[66] In contrast, according to petitioner, resin TTR is perceived as a "high quality and high cost product" that is only used for specialty applications.[67] Petitioner testified that the end user is directly involved in testing pure resin products to verify their suitability for conditions that are specific to the end use, such as contact with alcohol, transmission oil, gasoline, brake oil, or engine heat. Consequently, there is less likelihood of product-shifting by an end user of pure resin TTR than by an end user of wax or wax/resin TTR.[68] While the producer works directly with an OEM to develop a pure resin product, the producer does not interact directly with an OEM or end user to develop a wax or wax/resin product, and the end user may not even know the identity of the wax or wax/resin producer.[69]

Korean importer ITW contends that "[c]ustomers and producers also perceive both in-scope and out-of-scope products to have the same applications."[70] ITW cites a "compatibility matrix" published by label maker Avery Dennison, which purportedly demonstrates that wax, wax/resin, and pure resin products are suitable for printing on the same substrates.[71] However, the record indicates that while pure resin TTR may be substituted for wax or wax/resin TTR, the price premium for resin TTR is a barrier to end customers actually substituting the products.[72]

Petitioner asserts that color bar code TTR is perceived as a specialty product for adding color to tags and labels that already have black bar codes (e.g., for inventory or size information coding); that color TTR is only "very rarely" used by customers to print the bar code itself; and that, as previously noted, customers perceive the principal application of color TTR to be the market for signage printing, not the market for bar code and label printing.[73] The record indicates that while color TTR may be substituted for black TTR, the price premium of color TTR, and its poor performance qualities in producing reliable bar code images, generally prevent end customers from substituting the products.[74]

Price. Ink type is the most important factor in price.[75] Because pure resin TTR, unlike wax or wax/resin TTR, is specially formulated to meet an end user's specifications, the producer can charge a premium for resin TTR.[76] The record indicates that pure resin TTR is significantly more expensive than wax and wax/resin TTR products, with an average unit value of $*** per msi, compared to an average

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[63] Conference Tr. at 54, 67.

[64] Conference Tr. at 54, 89.

[65] Petition at 35.

[66] CR at II-7; PR at II-4.

[67] Petition at 18, 19 & n.35.

[68] Conference Tr. at 70-71, 98.

[69] Conference Tr. at 71-72.

[70] Korean Respondent's Post-Conference Br. at 6.

[71] Korean Respondent's Post-Conference Br. at Exhibit 2.

[72] CR at II-9; PR at II-6.

[73] Conference Tr. at 52-53.

[74] CR at II-9; PR at II-6.

[75] CR at I-9-10; PR at I-7.

[76] Conference Tr. at 70-71.

selling price of $*** to $*** per msi for domestically-produced, general purpose black wax TTR.[77] The record also shows that color TTR is significantly more expensive than black TTR, with an average unit value of $*** per msi.[78]

In sum, we find for purposes of these preliminary investigations that the lack of similar physical characteristics and end uses, the limited interchangeability, manufacturing differences, the perceptions of customers and producers, and the significant differences in price indicate that there is a clear dividing line between color and resin TTR on the one hand and black wax and wax/resin TTR on the other. Therefore, we do not include pure resin TTR or color TTR in the domestic like product.

D. Domestic Industry and Related Parties

The domestic industry is defined as "the producers as a [w]hole of a domestic like product. . . ."[79] In defining the domestic industry, the Commission generally includes in the industry all domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.[80] Based on our definition of the domestic like product and for the reasons stated below, we define the domestic industry to include all producers of jumbo rolls of wax and wax/resin bar code TTR, and wax fax TTR, but for purposes of these preliminary investigations we do not include domestic operations that solely slit and package jumbo rolls of TTR ("converters") for lack of sufficient production related activities. We shall continue to examine this issue in any final phase of these investigations. In addition, we exclude domestic producer ITW as a related party for the reasons presented below.

1. Converters' production related activities

In deciding whether a firm qualifies as a domestic producer, the Commission generally has analyzed the overall nature of a firm's production-related activities in the United States, bearing in mind that production-related activity at minimum levels may be insufficient to constitute domestic production. 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.[81]

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[77] CR at I-14; PR at I-9; CR and PR Table V-1.

[78] CR at I-14; PR at I-10.

[79] 19 U.S.C. § 1677 (4)(A).

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

[81] See DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Preliminary), USITC Pub. 3569

(continued...)

Converters are companies that import directly from foreign parent companies, or otherwise purchase, jumbo rolls of TTR which they slit to dimension and then package for sale. Based on the record in these preliminary investigations, we find that converters' slitting and packaging operations do not perform sufficient domestic production-related activity to be included in the domestic industry. We note that our decision not to include converters in the domestic industry was a very close one, with some facts weighing in favor of inclusion and others supported exclusion. We intend to revisit this issue in any final phase of these investigations.[82]

Source and extent of capital investment. The record indicates that the primary cost in converting jumbo rolls into finished TTR is not capital investment, but the direct cost of labor.[83] In 2002 converters' total property plant and equipment value (original cost) was $*** and their capital expenditures totaled $***.[84] While some respondents claimed that capital investments for slitting/conversion operations were large ***, converter DNP testified that the initial capital investment in a cutting and slitting operation generally very small ($100,000 to $300,000) since it primarily involves purchasing basic cutting machinery.[85] In contrast, for producers with both coating and slitting operations in 2002, original property, plant and equipment value (original cost) was $***, and capital expenditures totaled $***.[86]

Technical expertise involved in U.S. production activities. The record indicates more than a minimal level of technical expertise in slitting operations. ITW claims that converting facilities *** that supervisors *** and that machine operators ***.[87] Japanese importer DNP asserts that conversion involves technical skills, including "optimal yield and optimal changeover management," machinery programming and operation, and processing operations (such as packaging and product

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(...continued)
(December 2002) at 7-11(casing activities are production); Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 (April 2002) at 10-11 (packers included in the industry along with growers); Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391, 731-TA-816-821 (Final), USITC Pub. 3273 at 9 (Jan. 2000). See also Large Newspaper Printing Presses from Germany and Japan, Inv. Nos. 731-TA-736-737 (Final) USITC Pub. 2988 at 7-8 (Aug. 1996). Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify a company as a domestic producer.

[82] We note that, if the slitter/converters were deemed to be domestic producers, the Commission would need to determine whether their product, finished TTR, is properly considered to be a domestic product or a subject import. Because, for purposes of these preliminary investigations, we have not included the slitter/converters in the domestic industry, their products are considered to be subject imports for purposes of our assessment of volume effects, price effects, and impact. In any final investigations, we intend to examine in detail the appropriate treatment of the slitter/converters' product, and encourage input from interested parties on these issues and related data collection.

[83] Consequently, a producer's formulating and coating facilities may be limited to one location, while cutting and slitting operations can be sited closer to the end-user market. Conference Tr. at 62-63.

[84] CR and PR Table C-2.

[85] Conference Exhibit (DNP) at 6. In any final phase of these investigations we will examine further the source and extent of capital investment necessary to operate slitting/conversion operations.

[86] CR and PR Tables C-1B and VI-5. We note that these values cover both jumbo roll production and downstream slitting/processing. In any final phase investigations, we will also examine the separate components of these values.

[87] Korean Respondent's Postconference Br. at 11-12; Korean Respondent's Supplemental Postconference Br. at 4.

tracking).[88] Total research and development expenses for slitting operations, however, were only $*** in 2000 and $*** in 2002.[89] For producers with both coating and slitting operations, research and development expenses were $*** in 2000 and $*** in 2002.[90] Thus, in 2002 coaters' total research and development expenses were approximately *** greater than those of slitting operations.[91] We intend to seek further information relating to the technical expertise required for slitting/conversion operations in any final phase of these investigations.

Value added to the product in the United States. Data submitted in response to the questionnaire by six U.S. slitter/converters indicates that slitting and packaging operations account for an average of 34 percent (ranging from *** percent) of the total cost of the end product.[92]

Employment levels. All parties to these investigations agree that slitting and packaging operations are labor intensive, and as such employ substantial numbers of employees. In 2000, slitting operations employed *** production-related employees and in 2002, those operations employed *** employees.[93] Producers with both coating and slitting operations employed *** production-related workers in 2000 and *** in 2002.[94]

Quantity and type of parts sourced in the United States. The record in these preliminary investigations indicates that on average, slitting and packaging operations source less than 30 percent of their parts and labor in the United States.[95]

We conclude that, on balance, the record in these preliminary investigations favors not including producers with only slitting and packaging operations in the domestic industry. As noted earlier, the issue of exclusion of converters is a close one and we intend to seek further information on the nature and extent of domestic slitting and packaging operations in any final phase investigations.

2. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves

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[88] Conference Tr. at 131.

[89] CR and PR Table C-2.

[90] CR and PR Table VI-5. We note that these values cover both jumbo roll production and downstream slitting/processing. In any final phase investigations, we will also examine the separate components of these values.

[91] In addition, we note that when IIMAK acquired a license from Fujicopian to produce TTR in the United States, the evidence suggests that the consideration provided by Fujicopian in return for IIMAK's royalty payments consisted primarily of trade secrets, know-how and intellectual property rights relating to ink-formulation and coating of TTR. CR at III-2; PR at III-2.

[92] CR at I-11; PR at I-8.

[93] CR and PR Table C-2.

[94] CR and PR Table C-1B. We note that these numbers cover both jumbo roll production and downstream slitting/processing. In any final phase investigations, we will also examine the separate components of these numbers.

[95] CR and PR Table III-2.

importers.[96] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[97]

As discussed below, the record indicates that U.S. producers IIMAK, ITW, Sony Chemicals Corp. Of North America ("Sony"), and Dynic USA Corp. ("Dynic") all imported subject merchandise or were related to exporters of subject merchandise during the period examined and as such are related parties. We find that appropriate circumstances exist only to exclude ITW from the domestic industry.[98]

Dynic

Dynic increased its domestic production of TTR from *** msi in 2000 to *** msi in 2002.[99] Dynic imported and purchased from Japan *** msi of subject merchandise in 2000 and *** msi in 2002, corresponding to *** percent and *** percent of Dynic's domestic production in 2000 and 2002 respectively.[100] Although Dynic is owned by a Japanese producer of subject merchandise, its domestic operations are almost entirely dependent on domestic production and it appears not to benefit from its relationship to a subject foreign producer to any significant degree.[101] Dynic *** on the petition. Based on the above facts, we do not exclude Dynic from the domestic industry.

IIMAK

Petitioner IIMAK's domestic production was *** msi in 2000 and *** msi in 2002.[102] IIMAK's imports of subject merchandise from Japan were *** msi in 2000 and *** msi in 2002, corresponding to *** percent and *** percent of its domestic production in 2000 and 2002 respectively. IIMAK is the petitioner and the vast majority of its operations are dependent on domestic production. IIMAK does not

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[96] 19 U.S.C. § 1677(4)(B).

[97] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

[98] We note that in any final phase investigation, if we conclude that the slitter/converters are domestic producers by virtue of sufficient domestic production related activities, we would then need to assess whether to exclude such producers as related parties.

[99] CR and PR Table III-5.

[100] CR and PR Table III-5.

[101] CR and PR Table VI-2. Dynic ***.

[102] CR and PR Table III-4.

appear to derive any tangible benefit from importation of subject imports.[103] Therefore, we do not exclude IIMAK from the domestic industry.

ITW

ITW's domestic production declined from *** msi in 2000 to *** msi in 2002; it accounted for only *** percent of domestic production in 2002.[104] ITW's imports of subject merchandise from Korea, and purchases of imports of subject merchandise from Japan, were *** msi in 2000 and *** msi in 2002, corresponding to *** its domestic production in 2000 and *** its domestic production in 2002. In addition, ITW's financial performance suggest that *** during the period examined.[105] ITW *** the petition. For these reasons, we exclude ITW from the domestic industry for purposes of these preliminary investigations.

Sony

Sony's domestic production of TTR was *** msi in 2000 and *** msi in 2002. Sony's imports of subject merchandise from Japan were *** msi in 2000 and *** msi in 2002, representing *** percent and *** percent of its domestic production in 2000 and 2002 respectively.[106] Sony's parent company is a Japanese producer of subject merchandise, although Sony reported that ***. In addition, although Sony's imports of subject merchandise increased during the period examined, Sony's operating income and other indicators of financial health ***,[107] indicating that it did not benefit from its relationship to subject imports from Japan to a significant degree. Finally, Sony *** the petition. We therefore do not exclude Sony from the domestic industry.

III. NEGLIGIBLE IMPORTS

The provision defining "negligibility," 19 U.S.C. § 1677(24), provides that imports from a subject country that are less than three percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition shall be deemed negligible.[108]

French importer Armor USA, Inc. ("Armor") argues that "subject imports from France are negligible and that this investigation should be terminated, as a matter of law."[109] For purposes of these preliminary investigations, we do not find subject imports from any subject countries to be negligible. Subject imports from France were *** percent of all imports of products within the scope of these investigations, i.e., all jumbo TTR and slit bar code TTR, in the most recent 12 month period prior to the

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[103] IIMAK's operating income to net sales ratio fell from *** percent in 2000 to *** percent in 2001 and *** percent in 2002. CR and PR Table VI-2.

[104] CR and PR Table III-4.

[105] ITW's operating income was ***. ITW Producer Questionnaire Response, Section III-7.

[106] CR and PR Table III-4.

[107] CR and PR Table VI-2. Sony's operating income was ***

[108] The limited record in these preliminary investigations only permitted consideration of the 12-month period from April 2002 to March 2003. In any final phase of these investigations we will collect import data pertaining to the most recent twelve-month preceding the filing of the petition.

[109] Conference Tr. at 135-36.

filing of the petition (April 2002 - March 2003).[110] Subject imports from Korea were *** percent of all such imports in the most recent 12 month period prior to the filing of the petition.[111] Subject imports from Japan were *** percent of all such imports in the most recent 12 month period prior to the filing of the petition.[112] [113]

IV. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a material injury determination, section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.[114] In assessing whether subject imports compete with each other and with the domestic like product,[115] the Commission has generally considered four factors, including:

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

(2) the presence of sales or offers to sell in the same geographical 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.[116]

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[110] CR and PR Table C-1.

[111] CR and PR Table C-1.

[112] CR and PR Table C-1.

[113] Because we have determined to include finished fax TTR within the domestic like product in these preliminary investigations along with jumbo TTR and finished bar code TTR, the domestic like product is broader than the scope of these investigations, therefore raising an issue with respect to assessing negligibility. The statute and SAA, read in conjunction, are open to alternative interpretations regarding the universe of imports to be considered in the negligibility calculation in such a situation. If the calculation includes all imports corresponding to the expanded domestic like product, subject imports from France would be negligible. Because the law is open to differing interpretations, and parties have not addressed this exact issue fully, we intend to revisit the issue of negligibility in any final phase of these investigations.

[114] 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations. See id. at 1677(7)(G)(ii).

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

[116] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. 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

(continued...)

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.[117] Only a "reasonable overlap" of competition is required.[118]

Petitioner argues that the Commission should cumulate imports from the three subject countries because there is a significant overlap of competition among TTR from all subject countries, as well as between these countries and domestic producers. French respondent Armor argues that subject imports from France should not be cumulated with subject imports from Japan and Korea because imports from France do not compete with any other type of TTR (domestic or foreign) in the U.S. market.

B. Analysis

Petitions covering subject imports from Japan, Korea, and France were filed on the same day, and we find that there is a reasonable overlap of competition among subject imports from all three countries and between these subject imports and the domestic like product. As discussed below, subject imports and the domestic like product are generally fungible and are sold through similar channels of distribution. Moreover, imports from each of the subject countries were simultaneously present in the U.S. market during the period examined, and both the domestic like product and the subject imports from all three countries were sold in the same geographic markets.

Subject imports of TTR from France, Japan and Korea are largely interchangeable with each other and with the domestic like product.[119] Although purchasers of subject TTR from France testified that TTR from France was not interchangeable with domestic or imported TTR products, importer questionnaire responses indicate the contrary. Four out of five responding domestic producers reported that imports from all three subject countries were either always, frequently, or sometimes interchangeable with each other and with the domestic like product.[120] In addition, all responding importers reported that subject imports from all subject countries were either frequently or sometimes interchangeable with each other and with the domestic like product.[121]

Armor argues that its imports consist entirely of high-quality niche merchandise and thus do not directly compete with imported or domestic TTR. Pricing data, however, indicate the existence of sales of French product for the general purpose black wax finished TTR for which we sought information.[122] These pricing categories represent common wax and wax/resin products that are not used in "niche" or specialty applications.

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[116] (...continued)
Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

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

[118] See Goss Graphic Sys., Inc. v. United States, 33 Fed. Supp. 2d 1082, 1087-88 (Ct. Int'l Trade 1988) ("[C]umulation does not require two products to be highly fungible" (quoting BIC Corp. v. United States, 964 F. Supp. 391, 400 (Ct. Int'l Trade 1997)); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[119] CR at I-8; PR at I-6.

[120] CR and PR at Table II-1.

[121] CR and PR at Table II-2.

[122] CR and PR Tables V-1.

Subject merchandise from all three countries and the domestic like product are sold primarily to end users through distributors or OEMs, and compete in the same geographic markets.[123] Moreover, data indicate that subject imports from France, Japan, and Korea were simultaneously present in the U.S. market throughout the period examined.[124] Therefore, for purposes of these preliminary investigations, we find that there is a reasonable overlap of competition between subject imports from France, Japan, and Korea and the domestic like product and we cumulatively assess the volume and effects of subject imports.[125]

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[126] 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.[127] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[128] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[129] 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."[130]

Based on an evaluation of the relevant statutory factors, we find that there is a reasonable indication that the domestic industry producing TTR is materially injured by reason of subject imports from France, Japan, and Korea.

A. Conditions of Competition

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

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[123] We note that both of the purchasers testifying on behalf of Armor (one an OEM and the other a distributor) stated that they purchase subject TTR from France as well as domestic TTR and other subject TTR. Conference Tr. at 143-45, 163-64.

[124] CR and PR Table C-1B.

[125] Given that, in any final investigations, we intend to revisit the issue of whether converters should be included in the domestic industry, we will also continue to explore the degree of overlap of competition between subject imports and the domestic like product in light of the finishing operations performed by converters and in light of the relationships between the converters and foreign products of subject merchandise.

[126] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[127] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[128] 19 U.S.C. § 1677(7)(A).

[129] 19 U.S.C. § 1677(7)(C)(iii).

[130] 19 U.S.C. § 1677(7)(C)(iii).

Demand, as measured by apparent U.S. consumption quantity, decreased from *** msi in 2000 to *** msi in 2001, then increased to *** msi in 2002.[131] In interim (January-March) 2003 apparent U.S. consumption was *** msi compared to *** msi in interim 2002.[132] In terms of value, apparent U.S. consumption value declined from *** in 2000 to *** in 2001 and declined again to *** in 2002.[133] In interim 2003, apparent U.S. consumption value was *** compared to *** in interim 2002.[134]

There are six U.S. producers of TTR; however, the three largest account for the bulk of U.S. production. These three are IIMAK, an independent U.S. producer; Dynic, a U.S. producer owned by Dynic Corp. of Japan; and Sony, a U.S. producer owned by Sony Chemicals Corp. of Japan. IIMAK stated that it was the only U.S. producer for which TTR production provides its main source of revenue.[135]

IIMAK was founded in 1984 and was granted a license from Fujicopian that included patent rights and TTR manufacturing know how in exchange for royalty payments from IIMAK.[136] The licensing agreement, scheduled to run through 2008, also granted IIMAK the territorial exclusivity to sell TTR in North America. French respondent Armor was also under a similar licensing agreement with Fujicopian Japan that included territorial exclusivity provisions with regard to Europe. Thus Armor France, Fujicopian Japan, and IIMAK had their respective local markets protected from competition from one another due to licensing agreements.[137] According to the petitioner, the Fujicopian/Armor agreement ended in 1998, giving Armor complete access to the U.S. market, and the Fujicopian/IIMAK agreement was modified in 2000 to allow a licensed affiliate to sell Fujicopian products in the United States.[138] Fujicopian testified that the IIMAK initiated the license modification to reduce its royalty obligations and to obtain access to the Asian TTR market.[139]

According to respondents, Paxar acquired IIMAK in 1997 and sold it in March 2000 to IIMAK management in a "highly" leveraged buyout. Respondents allege that IIMAK management has made numerous failed investments since then, including capital investments emphasizing color and specialty TTR.[140]

The record indicates that during the period examined domestic production capacity outstripped the increase in domestic consumption, thus leading to overcapacity. In particular, projections in the late

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[131] CR and PR Table C-1B.

[132] CR and PR Table C-1B.

[133] CR and PR Table C-1B.

[134] CR and PR Table C-1B. Market participants expressed a range of views regarding demand trends in the TTR market. Most firms described demand as stable or increasing, though not necessarily as rapidly as in prior years. See CR at II-8; PR at II-5.

[135] CR at II-3; PR at II-2.

[136] CR at III-2; PR at III-2.

[137] CR at III-2-3; PR at III-2. IIMAK contends that the territorial exclusivity provisions were important to the agreements because all three companies sold identical or near identical products. Petition at 75.

[138] Petition at 75.

[139] Conference Tr. at 117-18.

[140] Conference Tr. at 104-107.

1990s into 2000 led both U.S. coaters and U.S. converters to increase capacity.[141] However, demand has not been as strong as some projected.[142]

Different producers of TTR have proprietary formulas for the ink-making and coating portions of their production processes; however, each producer generally produces a branded category (formulation) of TTR that will work in the most common printers in the industry, and customers have cross-reference guides to help them compare one brand to another within a particular formulation. The record indicates that within any one of the most common formulations, TTR is generally a commodity product for which price is the most important factor in a sale.[143] Thus, TTR is sold primarily on the basis of price although non-price factors such as compatibility, quality, and after market services are important considerations for purchasers.

Imports of subject merchandise consist entirely of jumbo rolls (the semifinished product), for which there exists only a small domestic merchant market. Imports largely are consumed by the importers themselves to produce finished TTR. Similarly, only a small share of domestically produced jumbo rolls are sold on the merchant market; U.S. producers' U.S. shipments of jumbo rolls as a share of total U.S. shipments was *** percent in 2002, and ranged from *** percent during *** to *** percent during ***.[144] Thus, the vast majority of merchant market competition in the industry occurs at the level of finished TTR.[145] Virtually all responding producers and all responding importers reported that imports from all three subject countries were at least somewhat substitutable with the domestic like product.[146]

The vast majority of imports of TTR within the scope of the investigation are from subject countries. However, there were substantial nonsubject imports of finished fax TTR from France, Japan, and Korea over the period examined.[147]

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[148]

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[141] CR and PR Tables C-1A and C-2A; Respondent ITW Postconference Br. At 22-23; Conference TR and 105; articles attached as Exhibit 15 to ITW's Postconference Brief (Thermal Transfer: Continued Growth Lures New Players, Marking Materials Journal, May 1996, at 33; Market Update: Expect 25% to 30% Growth in Consumables Market, Scan: The Data Capture Report, Aug. 29, 1997 (unpaginated); Paxar Aggressively Pursues AIDC Business, Scan: The Data Capture Report, Aug. 15, 1997 (unpaginated)).

[142] CR at II-7-8; PR at II-5. Thus, from 2000 to 2002 the domestic industry was characterized by low and declining capacity utilization. See CR and PR at Table C-1B.

[143] OEMs sell different brands of TTR under the same OEM brand name. Conference Tr. at 42-43.

[144] CR at III-7; PR at III-5.

[145] As discussed earlier, for purposes of these preliminary investigations, we have not included producers with only slitting/conversion operations in the domestic industry. However, in any final phase of these investigations we shall explore further whether domestic conversion operations should properly be considered part of the domestic industry and, in turn, whether their product should be considered domestic product. We shall also continue to investigate the extent and nature of competition between subject imports and domestic product in the U.S. market.

[146] CR and PR Tables II-1 and II-2.

[147] CR and PR Table C-3. Nonsubject imports of slitted finished fax TTR decreased from *** msi in 2000 to *** msi in 2002.

[148] 19 U.S.C. § 1677(7)(C)(i).

Subject import volume increased over the period examined, from 483 million msi in 2000 to 534 million msi in 2002.[149] In interim 2003, subject import volume was 125 million msi compared to 131 million msi in interim 2002.[150] Subject imports accounted for *** percent of apparent U.S. consumption (by volume) in 2000, *** percent in 2001, and *** percent in 2002.[151] In interim 2003 subject imports were *** percent of apparent U.S. consumption compared with *** percent in interim 2002.[152] Subject imports were equivalent to *** percent of apparent U.S. production (by volume) in 2000, *** percent in 2001, and *** percent in 2002.[153] In interim 2003 subject imports were equivalent to *** percent of apparent U.S. production compared with *** percent in interim 2002.[154]

Therefore, we find for purposes of these preliminary investigations that subject import volume was significant during the period examined both in absolute terms and relative to apparent U.S. consumption and production.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act[155] provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

As noted above, subject imports and the domestic like product are largely interchangeable and TTR is primarily sold on the basis of price. In these preliminary investigations, we requested quarterly sales data for the total quantity and value of certain types of TTR from U.S. producers and importers.[156] Data for product one, which is a popular form of slit black wax ribbon, represent prices in the finished TTR market, which is the level of trade where the vast majority of competition in the industry occurs. Product two data are for unfinished jumbo rolls of the black wax ribbon used to produce product one. Thus, product one is the finished version of product two. While the finishing occurs in the United States, for purposes of these preliminary investigations, and in light of our preliminary determination not to include converters in the domestic industry, we treat the sales prices of converters using imported jumbo TTR as import prices.

For product one, subject imports undersold the domestic like product in every quarter for which price comparisons were possible.[157] For sales of product one to distributors, margins of underselling ranged from *** percent to *** percent, with some of the greatest margins occurring in 2000, and subject imports undersold the domestic like product in all 37 instances in which price comparisons were possible.[158] For sales of product one to OEMs, margins of underselling ranged from *** percent to ***

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[149] CR and PR Table C-1B.

[150] CR and PR Table C-1B.

[151] CR and PR Table C-1B.

[152] CR and PR Table C-1B.

[153] CR and PR Table C-1B.

[154] CR and PR Table C-1B.

[155] 19 U.S.C. § 1677(7)(C)(ii).

[156] CR at V-5; PR at V-4.

[157] CR and PR Table V-1.

[158] CR and PR Table V-1.

percent and subject imports undersold the domestic like product in 25 out of 29 instances for which price comparisons were possible.[159]

Pricing data for product two entail much lower volumes than the data for product one, given the small merchant market for product two (and for jumbo rolls in general). These data were mixed, with significant incidence and magnitude of overselling by subject imports.[160]

Since product one competes in the segment of the market where most competition occurs, we find the pricing data for this product more significant to our analysis of price effects. Therefore, on balance, we find that subject imports consistently undersold the domestic like product by significant margins.

Coinciding with pervasive underselling by subject imports, domestic prices for slit TTR declined sharply from January 2000 to March 2003, as did prices for jumbo rolls of TTR. Import prices followed a similar trend, declining for both slit TTR and jumbo rolls of TTR over the period examined. In light of the substantial volumes of subject imports, the substantial interchangeability between subject imports and the domestic like product, and the low and declining prices of subject imports, for purposes of these preliminary investigations, we find that subject imports significantly depressed domestic prices throughout the period examined.

We also note that U.S. producers of certain TTR made *** allegations of lost sales due to competition from imports from France, Japan, and Korea, totaling over *** and involving over *** msi of certain TTR, for January 2000 through June 2003.[161] U.S. producers made *** lost revenue allegations totaling over *** and involving over *** msi of certain TTR for the same period.[162] Some allegations were confirmed and some were denied. While the evidence from purchasers is mixed, some purchasers' comments indicate that subject imports are depressing domestic prices.[163]

In any final phase of these investigations we intend to seek more information regarding market factors that may affect domestic prices. We note that the record suggests that intra-industry competition, domestic oversupply, and sluggish demand may have contributed to domestic price declines.[164] In addition, as noted above, we intend to examine the treatment of subject imports of TTR that are slit and packaged in the United States.

D. Impact of the Subject Imports[165]

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

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[159] CR and PR Table V-1.

[160] CR and PR Table V-3.

[161] CR at V-23; PR at V-8.

[162] CR at V-23; PR at V-8.

[163] CR at V-23-27; PR at V-8.

[164] See Nasty Times Ahead for TTR Industry: Price Wars May Force Many Thermal Transfer Ribbon (TTR) Players Out of Business, Scan: the Data Capture Report, Dec. 27, 2002, at 1-2 (quoting Sony Executive Vice President Michael Oliverio), attached as Exhibit 13 to ITW's Postconference Brief.

[165] In its notice of initiation, Commerce estimated dumping margins for imports of subject merchandise at between 16.5 and 60.6 percent for imports from France, between 65.9 and 147.3 percent for imports from Japan, and between 56.6 and 59.9 percent for imports from Korea. See Notice of Initiation, 68 Fed. Reg. at 38,307-8.

the state of the industry."[166] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[167]

We find that cumulated subject imports of TTR from France, Japan, and Korea have had a significant negative impact on the condition of the domestic industry during the period examined. As discussed above, we find both the volume of subject imports and the negative price effects of the subject imports to be significant. Our analysis of the state of the domestic industry does not indicate, by clear and convincing evidence, that there is no material injury by reason of subject imports.

The domestic industry's volume-based indicia, i.e., production, shipments, and market share, showed a positive trend over the period examined. Production quantity increased from *** msi in 2000 to *** msi in 2002. Production quantity was *** msi in interim 2003, compared to *** msi in interim 2002.[168] Shipment quantity increased from *** msi in 2000 to *** msi in 2002. Shipment quantity was *** msi in interim 2003 compared to *** msi in interim 2002.[169] Domestic industry market share, as percentage of apparent U.S. consumption, increased from *** percent in 2000 to *** percent in 2002. Domestic market share was *** percent in interim 2003 compared to *** percent in interim 2002.[170]

In contrast, the domestic industry's total shipment value declined over the same period. The value of total domestic shipments declined from *** in 2000 to *** in 2002. Domestic shipment value was *** in interim 2003 compared to *** in interim 2002.[171]

The domestic industry's labor and non-labor costs declined substantially during the period examined. The value of wages paid declined from *** in 2000 to *** in 2002; it was *** in interim 2003 compared to *** in interim 2002.[172] The decline in wages paid from 2000 to 2002 coincides with a decline in production related workers from *** to *** in that same time frame.[173] The rise in the value of wages between interim 2002 and interim 2003 also coincides with an increase in the number of production related workers from *** in interim 2002 to *** in interim 2003.[174] In addition the cost of goods sold ("COGS") declined by *** percent from *** in 2000 to *** in 2002. COGS as expressed per unit of measure (msi) declined by *** percent from *** per msi to ***.[175] Selling, general, and

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[166] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("in material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports. SAA at 885.

[167] 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).

[168] CR and PR Table C-1B.

[169] CR and PR Table C-1B.

[170] CR and PR Table C-1B.

[171] CR and PR Table C-1B.

[172] CR and PR Table C-1B.

[173] CR and PR Table C-1B. The domestic industry's productivity, as measured by msi produced per hour of work, increased substantially from ***.

[174] CR and PR Table C-1B.

[175] CR and PR Table C-1B.

administrative ("SG&A") expenses increased from *** in 2000 to *** in 2002, but remained constant as a measure of per unit cost at *** per msi.[176]

Operating income declined by *** percent from *** in 2000 to *** in 2002.[177] [178] It was *** in interim 2003 compared to *** in interim 2002.[179] Operating income as a percentage of net sales declined from *** percent in 2000 to *** percent in 2002, and was *** percent in interim 2003, compared to *** percent in interim 2002.[180] Capital expenditures declined from *** to *** between 2000 and 2002; capital expenditures were *** in interim 2003, compared to *** in interim 2002.[181]

Thus, the data present a mixed picture of the industry's condition. On balance, however, we find that in light of the negative volume and price effects of subject imports and the worsening financial position of the domestic industry, subject imports negatively impacted the performance of the domestic industry during the period examined.[182]

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of TTR from France, Japan, and Korea allegedly sold in the United States at less than fair value.

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[176] CR and PR Table C-1B.

[177] CR and PR Table C-1B.

[178] We note that there is a great disparity in profitability among the domestic producers, with *** having much higher operating income ratios than the other producers. See CR Table VI-2. While we recognize the requirement to consider the condition of the domestic industry as a whole, 19 U.S.C. §§ 1677(4)(A), 1677(7)(C)(iii), we intend to examine the reasons for, and any implications of, this disparity in any final phase investigations.

[179] CR and PR Table C-1B.

[180] CR and PR Table C-1B.

[181] CR and PR Table C-1B.

[182] In any final phase of these investigations we will further explore the correlation, if any, between subject import competition and the performance of the domestic industry. To this end, we note that subject import market share remained constant throughout the period examined while domestic industry performance fluctuated from year to year.

DISSENTING VIEWS OF COMMISSIONER MARCIA E. MILLER

Based on the record in these investigations, I determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain wax and wax/resin thermal transfer ribbons ("TTR") from France, Japan, and Korea that are alleged to be sold in the United States at less than fair value ("LTFV").[1] Because I dissent from the majority's determinations, I write separately to express my views.

These investigations present challenging legal issues because of the unusual facts involved. My decision flows from my conclusions on the legal issues. While the legal questions are difficult, I find that the evidence gathered in this preliminary phase provides ample basis on which to decide them. The record shows that virtually all subject imports enter the United States as an upstream product, jumbo TTR, that is imported and captively consumed by U.S. companies related to subject country producers. The related companies process the imports into a downstream product, slit TTR, which competes for sales on the open market with slit TTR produced by other U.S. producers from their own jumbo TTR. U.S. producers sell mainly slit TTR and only limited quantities of jumbo TTR, an input product. There is thus very little direct competition in the U.S. market between the imports, in jumbo form, and the U.S. product, in slit form.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the subject imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

The Court of Appeals for the Federal Circuit has stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the "reasonable indication" standard requires more than a finding that there is a "possibility" of material injury.[4] It also has noted that, in a preliminary investigation, "[t]he statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[5] Moreover, the CIT recently has reaffirmed that in applying the reasonable indication "standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence."[6]

The record in these investigations includes complete or nearly complete information from the U.S. firms accounting for virtually all U.S. production of TTR and for the companies believed to account

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[1] Whether the establishment of an industry is materially retarded is not an issue in these investigations.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999) ("R-CALF").

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] American Lamb, 785 F.2d at 1004.

[5] Texas Crushed Stone Co., 35 F.3d at 1543.

[6] R-CALF, 74 F. Supp.2d at 1368.

for the vast majority of imports of certain TTR.[7] I find that this record contains clear and convincing evidence that the domestic industry producing TTR is neither materially injured nor threatened with material injury by reason of the subject imports.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[9] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[10]

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.[11] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[12] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[13] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[14]

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[7] Confidential Staff Report ("CR"), Public Staff ("PR") at I-3, IV-1.

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

[11] See, e.g., NEC Corp. v. Department of Commerce, Slip Op. 98-164 at 8 (CIT, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 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 (CIT 1996).

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

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

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

(continued...)

B. Product Description

In its notice of institution, Commerce defined the scope of these investigations as follows:[15]

> These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that $L^*<35$, $-20a^*<35$ and $-40<b^*<31$, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.
>
> The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.
>
> The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.4025, 9612.10.9030, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90. The tariff classifications are provided for convenience and Customs purposes; however, the written description of the scope of the investigations is dispositive.

Thermal transfer ribbons are thin, ink-covered strips of plastic film wound on plastic or cardboard cores that are used in a variety of thermal transfer printing devices, principally bar code printers and facsimile machines. TTR are made in the form of jumbo rolls, which are then slit into smaller widths and rolled into smaller rolls based on the end use. TTR are categorized based on the type of ink used: wax, wax/resin, and resin.[16] Resin TTR are not included in the scope of subject merchandise, nor are color TTR. The scope includes all TTR in jumbo form and certain slit TTR, but does not include slitted fax TTR.

C. Domestic Like Product Issues

Petitioner International Imaging Materials, Inc. ("IIMAK") urges the Commission to find a domestic like product coextensive with the scope of subject merchandise.[17] Respondents urge the Commission to expand the domestic like product beyond the scope to include slitted fax, resin, and color TTR.[18]

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[14] (...continued)
classes or kinds).

[15] 68 Fed. Reg. 38305 (June 27, 2003).

[16] CR at I-5, PR at I-4.

[17] Petitioner's postconference brief at 5-9.

[18] Respondent ITW's postconference brief at 3; Respondent Dai Nippon's postconference brief at 14; Respondent (continued...)

For purposes of these preliminary determinations, I define the domestic like product coextensively with the scope of subject merchandise. With respect to color TTR and resin TTR, I find that there are sufficient differences between each of these products and certain TTR as defined in the scope ("certain TTR") to warrant not including resin TTR or color TTR in the domestic like product. These differences include physical characteristics, end uses, and price.[19] In addition, although it is a closer call, I do not expand the like product to include slitted fax TTR, as explained below.

With respect to physical characteristics, although respondents argue that all TTR share the same basic physical properties,[20] there are differences between slitted fax TTR and certain TTR, including: slitted fax TTR is slit to specific widths that differ from those for other slit TTR;[21] smaller, one-half inch cores are used in slitted fax TTR as opposed to one-inch cores for certain TTR; a secondary or "take-up core" is used in slitted fax TTR but not in certain TTR; a silver stripe is generally added to the end of a slitted fax TTR roll; some fax TTR rolls require special temperature and humidity controls during slitting not required of certain TTR; and specialty packaging is used for some slitted fax TTR, such as placing it in cassettes.[22] With respect to end uses, slitted fax TTR is used only in facsimile machines, while other slit TTR is used only in bar code printers, and the two are not interchangeable. Because of these different end uses and lack of interchangeability, customers generally perceive the products differently.

While manufacturing processes for certain TTR and slitted fax TTR are similar through the jumbo roll stage, differences occur at the finishing stage, as indicated above, because slitted fax TTR is slit to a specific width, often has a silver stripe added to the roll, may require special temperature and humidity controls, and often requires specialized packaging, such as cassettes.

With respect to channels of distribution, slitted fax TTR is sold mainly to OEMs whereas other slit TTR is sold mainly to distributors. Finally, slitted fax TTR is substantially higher priced than certain TTR. While slitted fax TTR has an average unit value of $*** per msi, wax TTR has an average unit value of $*** per msi and wax/resin TTR has an average unit value of $*** per msi.[23]

On balance, therefore, and for purposes of this preliminary phase investigation, I find sufficient differences between certain TTR and slitted fax TTR to warrant not expanding the domestic like product to include slitted fax TTR.[24] I therefore define the domestic like product as certain TTR, co-extensive with the scope of subject merchandise.

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[18] (...continued)
Armor's postconference brief at 2-3.

[19] CR at I-13-14, PR at I-9-10.

[20] Respondent Armor's postconference brief at 3; Respondent ITW's postconference brief at 4-7; Respondent Dai Nippon's postconference brief at 14.

[21] CR at I-12, n.31, PR at I-9, n.31.

[22] Petition at 25-27.

[23] CR at I-12, PR at I-8.

[24] In making my like product finding, my general approach is to take the scope of subject merchandise as my point of departure. In preliminary investigations, I do not normally expand the like product beyond the scope as defined by Commerce absent compelling evidence.

D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product . . ."[25] In defining the domestic industry, the Commission generally includes in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[26]

Certain TTR are manufactured in four primary stages, namely ink-making, coating, slitting, and packaging.[27] Certain domestic firms perform all four stages of manufacturing ("integrated producers"),[28] while seven others, referred to as "slitters/converters," purchase TTR in jumbo rolls and perform slitting and packaging operations, but not the ink-making and coating operations. For the reasons discussed below, I find that the slitters/converters, in addition to the integrated producers, engage in sufficient production-related activities in the United States to be considered domestic producers, although I also find it appropriate to exclude certain producers as related parties.

1. Inclusion of Slitters/Converters

The six factors generally considered in deciding whether a firm qualifies as a domestic producer are:

(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.[29]

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[25] 19 U.S.C. § 1677(4)(A).

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

[27] CR at I-6, PR at I-5.

[28] The integrated producers are: Dynic, IIMAK, NCR, Paxar, and Sony. CR/PR at Table III-1. The slitters/converters are: All Write, Armor, DNP, Fujicopian, ITW, *** and Union. CR/PR at Table III-2. While ITW does have a coating facility in the United States and provided the Commission *** of its U.S. operations are in slitting/converting only, and the *** for its U.S. operations as a slitter/converter. *See* questionnaire response of ITW.

[29] See Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 (April 2002) at 10-11 (packers included in the industry along with growers); Honey from Argentina and China, Inv. Nos. 701-TA-402 (Final) and 731-TA-892-893 (Final), USITC Pub. 3470 (November 2001) (honey packers included in the industry along with beekeepers); Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 (Final) and 731-TA-895-96 (Final), USITC Pub. 3467 (November 2001) at 9-11 (finding that grinding was sufficient production related activity to constitute "production" in that case); Citric Acid and Sodium Citrate from China, Inv. No. 731-TA-863 (Preliminary), USITC Pub. 3277 at 8 (Feb. 2000); Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391, 731-TA-816-821 (Final), USITC Pub. 3273 at 9 (Jan. 2000) (processors of cut-to-length plate from coiled plate included in domestic industry); Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Inv. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, at 9 (December 1997) (processors of cut-to-length plate from coiled plate included in domestic industry).

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of an investigation.[30]

The value added by slitting/converting operations constitutes on average about 34 percent of the cost to produce TTR, ranging from *** percent of the total cost of production.[31] I find this percentage of value added to be substantial. Although Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify a firm as a domestic producer, the Commission has included processors in the domestic industry where the value added ranged from 10 to 20 percent, or even where it was lower.[32]

The slitters/converters reported capital expenditures in their slitting and finishing operations that ranged, on an annual basis, from a low of $*** in 2000 to $*** in 2001. Their capital expenditures were higher in interim 2003 than in interim 2002.[33] I find these capital expenditures to be considerable, despite the fact, as petitioner argues, that the capital expenditures of the integrated producers were markedly higher.[34] [35]

In addition, the record shows that the slitters/converters employed approximately *** workers during each year of the period examined, a number that is significant relative to the number of workers employed by the integrated producers over the period, which ranged from *** workers in 2000 to *** workers in 2002.[36] No party has disputed the fact that the manufacturing equipment and processes used by slitters/converters are the same as those used by the integrated producers to slit and finish the TTR. In 2002, the TTR production and capacity of the slitters/converters each represented about a third of the production and capacity of the integrated producers, and as such account for a substantial portion of the U.S. TTR market.[37]

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[30] Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 at I-8-I-9 & n.34 (June 1994) ("no single factor -- including value added -- is determinative and . . . value added information becomes more meaningful when other production activity indicia are taken into account"); Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 (Apr. 1984) at 7-8 (Commission emphasized for the first time that no single factor--including value added--is determinative).

[31] CR at I-11, PR at I-8.

[32] See, e.g., Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Inv. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, at 9 (December 1997) (processors included where value added ranged from 2.6 to 23.1 percent, but averaged 11.1 percent when SG&A expenses were included in conversion costs); Low Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (Nov. 1985) (the Commission concluded that twenty percent value added by flux coaters was sufficient); Low Fuming Brazing Copper Wire and Rod from South Africa, Inv. No. 731-TA-246 (Final), USITC Pub. 1790 (Jan. 1986) (value added in the United States was ten to twenty percent).

[33] CR/PR at Table C-2.

[34] CR/PR at Table C-1. The capital expenditures of the integrated producers on an annual basis ranged from $*** million to $*** million.

[35] See Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Inv. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, at 9 (December 1997) (where capital investments by processors ranged from $15 to $19.4 million, but investments by integrated producers ranged from $188.9 to $308.1 million, capital investments of processors nevertheless considered significant).

[36] CR/PR at Tables C-1, C-2.

[37] CR/PR at Tables C-1, C-2.

The hourly wages of slitters/converters -- $*** in interim 2003 --- are somewhat lower than those of the integrated producers -- $*** in interim 2003,[38] but not so low as to indicate, as petitioner claims, that slitting and packaging use completely unskilled labor. While the petitioner characterizes slitting and packaging as relatively uncomplicated operations, the record indicates that slitting/converting requires a certain level of precision and technical expertise both in the manufacturing operations and in field support and sales operations.[39]

Although the jumbo rolls used by all the slitters/converters except *** are primarily sourced from imports,[40] other inputs are domestically sourced, such as packaging, cores, leaders and trailers materials, as well as the machines and computers used in the slitting/conversion process.[41] I note furthermore in this regard that the Commission has stated that a "modest percentage of domestically sourced parts or raw materials as a percentage of cost does not necessarily mean that a firm is not a domestic producer."[42] Indeed, in a 1993 ruling, Customs found that jumbo fax TTR rolls imported from Japan by Sony underwent substantial transformation in the slitting/conversion process and were products of the United States, not imports, when sold in the slit form.[43]

On balance then, consideration of the factors that bear on the extent of a firm's production-related activities in the United States leads me to the conclusion that slitters/converters perform sufficient production related activities in the United States to be considered domestic producers.

2. Exclusion of Related Parties

Although I consider slitters/converters to be domestic producers of TTR, I exclude certain of these firms as related parties when considering the condition of the domestic industry for the purpose of evaluating material injury and threat of material injury.

The related parties provision, 19 U.S.C. § 1677(4)(B), allows for the exclusion of certain domestic producers from the domestic industry for the purposes of an injury determination. Applying the provision involves two steps. First, the Commission must determine whether a domestic producer meets the definition of a related party.[44] Second, if a producer is a related party, the Commission may

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[38] CR/PR at Tables C-1, C-2.

[39] Respondent ITW's postconference brief at 11-12; Respondent Dai Nippon's postconference brief at 14.

[40] CR/PR at Table III-2.

[41] Respondent ITW's postconference brief at 13-14.

[42] Certain All Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (Mar. 1989) at 13-14.

[43] Respondent Dai Nippon's postconference brief at 5, n.8.

[44] The statute defines related parties in terms of direct or indirect control:

> (B) RELATED PARTIES. –
>
> (i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.
>
> (ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if –
>
> (I) the producer directly or indirectly controls the exporter or importer;

(continued...)

exclude such a producer from the domestic industry if "appropriate circumstances" exist.[45] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[46] The rationale for the related parties provision is the concern that domestic producers who are related parties may be shielded from any injury that might be caused by the subject imports.[47]

In this case slitters/converters Armor, DNP, Fujicopian, ITW, and *** are each related to producers of TTR in a subject country and each is also an importer of subject merchandise. Each therefore meets the definition of a related party under the statute. In addition, for each the ratio of its imports of subject merchandise to its domestic production of TTR throughout the period examined was relatively high, and each indicated that it ***.[48] The financial performance of these producers, moreover, appears to be somewhat better than that of the integrated domestic producers, an indication that they have benefitted from their imports of subject merchandise and may be shielded from any injury caused by subject imports.[49] I therefore find that appropriate circumstances exist to exclude Armor, DNP,

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[44] (...continued)

> (II) the exporter or importer directly or indirectly controls the producer;
> (III) a third party directly or indirectly controls the producer and the exporter or importer; or
> (IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

Section 771(4)(B), 19 U.S.C. § 1677(4)(B). Direct or indirect control exists when "the party is legally or operationally in a position to exercise restraint or direction over the other party." *Id.*

[45] 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

> (1) the percentage of domestic production attributable to the importing producer;
> (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and
> (3) the position of the related 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. See, e.g., Open-End Spun Rayon Singles Yarn from Austria, Inv. No. 731-TA-751 (Preliminary), USITC Pub. 2999 at 7 n.39 (Oct. 1996).

[46] See Torrington Co. v. United States, 790 F. Supp. at 1168; Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[47] See 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, Slip Op. 01-1421 (Fed. Cir. April 22, 2002).

[48] *See* CR/PR at Tables III-2 and III-6.

[49] *Compare* CR/PR at Table C-1 *with* Table C-3. While the data in Table C-3 also include that of ***, which do not qualify as related parties, the slitters/converters who are related parties account for the vast majority – over *** percent -- of U.S. production represented by slitting/converting operations only. CR/PR at Table III-2.

Fujicopian, ITW, and *** as related parties in considering the condition of the domestic industry for purposes of my material injury and threat of material injury analysis.

I note that integrated U.S. producers Dynic and Sony are also related parties in that each is affiliated with a subject country producer of certain TTR. In addition, each imports directly or purchases imports of subject merchandise. However, for each, the ratio of direct imports or purchases of subject imports to domestic production is relatively low,[50] and the financial performance of each company is *** from that of the other domestic producers.[51] I therefore find that appropriate circumstances do not exist to exclude either Dynic or Sony from the domestic industry as related parties.[52]

I therefore base my injury analysis on industry data that include the trade data of all the integrated producers and all the slitters/converters but exclude the financial data of certain related parties., *i.e.,* Armor, DNP, Fujicopian, ITW, and ***.[53]

III. CUMULATION

Section 771(7)(G)(i) of the Act requires the Commission to cumulate imports from all countries[54] 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. Should the Commission find, however, that one of the two competition factors is not met – i.e., either the imports do not compete with each other or they do not compete with the domestic like product in the U.S. market – then it may not cumulate for purposes of analyzing present material injury.[55]

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

(1) the degree of fungibility between the 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 geographical markets of imports from different countries and the domestic like product;

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[50] CR/PR at Table III-5. Dynic's ratio of imports or purchases of imports of subject merchandise to domestic production was at its highest in interim (January-March 2003), at only *** percent. For most of the period examined, Sony's ratio was below *** percent and at its highest was *** percent in 2002 and *** percent in interim 2002. Sony reported that it ***. *Id.* at n. 4.

[51] CR/PR at Table VI-2.

[52] While IIMAK reported *** purchases of subject imports during the POI, and under certain circumstances a domestic producer's purchases of subject imports can bring it within the related parties provision, the record does not indicate that IIMAK's purchases are of a magnitude so as to constitute control over an importer and bring it within the provision. CR/PR at Table III-5. Likewise, the record does not indicate that *** purchases of subject imports bring it within the provision. CR/PR at Table III-6.

[53] These data are found in Table C-8, appended to the staff report by INV-AA-094 (July 10, 2003).

[54] 19 U.S.C. § 1677(7)(G).

[55] See, e.g., Static Random Access Memory Semiconductors From The Republic of Korea and Taiwan, Inv. No. 731-TA-761-762 (Final), USITC Pub. 3098 at 15 (April 1998) (not cumulating subject imports on the basis of a limited degree of fungibility between the subject imports from Korea and Taiwan, where 96.7 percent of Korean imports were of one product type, and 97.8 percent of Taiwanese imports were of another product type, despite finding a "higher degree of fungibility between subject imports and the domestic like product").

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

(4) whether the imports are simultaneously present in the market.

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 imports compete with each other and with the domestic like product.[56] Only a "reasonable overlap" of competition is required.[57]

None of the exceptions to cumulation applies in this case.[58] I find on balance a reasonable overlap of competition and therefore cumulate subject imports from all three subject countries for the purpose of analyzing present material injury.

With respect to fungibility, the majority of importers and producers generally reported that, in terms of product quality and characteristics, subject imports were always, frequently, or sometimes interchangeable with each other and with the domestic like product,[59] despite the French respondents' argument that subject imports from France were niche or specialty products.[60] In addition, the subject imports from each country were simultaneously present in the U.S. market throughout the period examined and were generally sold in the same geographic regions as the domestic product.[61]

With respect to channels of distribution, it appears that most slit TTR (about *** percent) is sold to distributors.[62] However, there appears to be very little overlap in the channels into which subject imports are sold as opposed to the domestic like product, given that virtually all imports are in jumbo form and are therefore sold to slitters/converters (who are also importers).[63] The vast majority of U.S. product, by contrast, is slit TTR and is sold to distributors or OEMs.[64] In addition, the overlap in the channels into which the subject imports from each country are sold is extremely limited because the subject country producers are all related to U.S. importers who each buy jumbo roll TTR almost exclusively from their affiliated foreign producers.[65]

While the lack of overlap in channels of distribution weighs heavily against cumulation, for purposes of this preliminary determination, I do not base my cumulation decision solely on this factor, although important, and find, on balance, indication of a reasonable overlap of competition among subject imports and with the domestic like product with respect to fungibility, simultaneous market presence, and geographic overlap. I therefore cumulate subject imports from all three countries for my

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[56] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

[57] See Goss Graphic System, 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"), aff'd, 216 F.3d 1357 (Fed. Cir. 2000); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[58] 19 U.S.C. § 1677(7)(G)(ii). In particular, subject imports from each country, measured by quantity, were more than 3 percent of total imports of certain TTR during all relevant periods of the POI, and therefore negligibility, as defined in 19 U.S.C. § 1677(24), is not an issue in these investigations. CR/PR at Table IV-2.

[59] CR/PR at Tables II-1, II-2.

[60] CR at II-11, IV-6, PR at II-7, IV-2.

[61] CR at IV-1, IV-6, Table IV-2, PR at IV-1, IV-2, Table IV-2.

[62] CR/PR at Table II-1.

[63] CR/PR at IV-2.

[64] CR at III-7, PR at III-5.

[65] CR at III-9, Table IV-1, PR at III-5, Table IV-1.

material injury analysis, but take into account as a condition of competition the differing channels into which the domestic product and subject imports from each country are sold.

IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM FRANCE, JAPAN, AND KOREA

In the preliminary phase of antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[66] 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.[67] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[68] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, I consider all relevant economic factors that bear on the state of the industry in the United States.[69] 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."[70]

For the reasons discussed below, I determine that there is no reasonable indication that the domestic industry is materially injured by reason of subject imports of certain TTR from France, Japan, and Korea that are allegedly sold in the United States at less than fair value.

A. Conditions of Competition

The following conditions of competition are pertinent to my analysis in these investigations:

Direct competition between subject imports and the U.S. product is limited owing to the distinct processing stages at which each generally enters the U.S. market. U.S. producers sell the vast majority of their TTR in slit form, the downstream product. The remaining U.S. sales by U.S. producers of the upstream product, TTR in jumbo form, represented only *** percent of U.S. producers' total U.S. shipments in 2002.[71] U.S. producers' sales of jumbo TTR are to U.S. slitters/converters who slit and package the TTR and sell it in slit form.[72] Virtually all subject imports of TTR, by contrast, are in jumbo form and generally are sold to the U.S. affiliated importer of the subject country producer.[73] The

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[66] 19 U.S.C. § 1673b(a).

[67] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[68] 19 U.S.C. § 1677(7)(A).

[69] 19 U.S.C. § 1677(7)(C)(iii).

[70] 19 U.S.C. § 1677(7)(C)(iii).

[71] CR at III-7, PR at III-5.

[72] CR/PR at Table III-2.

[73] CR/PR at IV-2, Table IV-1.

importers are slitters/converters who captively consume the imported jumbo rolls to produce TTR in slit form.[74]

In contrast to the limited competition between subject imports and the domestic product, competition among domestic producers is significant and is reflected in the varying trends in their financial performance over the period examined. Among the three largest integrated producers, *** reported *** during most of the period examined, while *** registered ***. The two smaller integrated producers, ***.[75]

While different TTR producers have proprietary formulas for their ink-making and coating, there appear to be three to five common formulations of TTR that account for the bulk of demand. TTR thus may be considered a commodity product for which price is an important purchasing factor.[76]

Certain TTR in jumbo form are dedicated exclusively to the production of slit TTR; there is no other use for TTR in jumbo form.[77]

As apparent U.S. consumption increased over the period examined, the U.S. market shares held by the subject imports remained relatively constant.[78] While subject imports have maintained a steady presence in the U.S. market, it is almost exclusively, as noted above, TTR in the jumbo form. There were virtually no non-subject imports of certain TTR during the period examined.[79]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[80]

The absolute volume of subject imports increased during the period examined by 10.7 percent, from 482.6 million msi in 2000 to 534.1 million msi in 2002, but was lower in interim (January-March) 2003 than in interim 2002.[81] While I find the absolute volume of subject imports, and the increase in that volume, to be significant, I also consider the absolute subject import volume in light of prevailing market conditions.

The increase in the absolute volume of subject imports over the period examined was consistent with, and slightly lower, than the increase in apparent U.S. consumption over the period, which grew by 12.0 percent, from *** billion msi in 2000 to *** billion msi in 2002. Apparent U.S. consumption was slightly higher in interim 2003 than in interim 2002. As the U.S. market for TTR expanded, subject imports' U.S. market share remained relatively steady, and even declined slightly, from *** percent in 2000 to *** percent in 2002. U.S. producer' U.S. market share also decreased over the period, from *** percent in 2000 to *** percent in 2002.[82] Subject imports relative to U.S. production likewise remained

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[74] CR/PR at IV-2.

[75] CR/PR at Table VI-2.

[76] CR at II-7, PR at II-4.

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

[78] CR/PR at Table C-8.

[79] CR/PR at IV-2.

[80] 19 U.S.C. § 1677(7)(C)(i).

[81] CR/PR at Table C-8.

[82] CR/PR at Table C-8. Given the absence of non-subject imports, the drop in U.S. producers' U.S. market share is accounted for by an increase in the related parties' U.S. market share, from *** percent in 2000 to *** percent in

(continued...)

relatively steady over the period, at *** percent in 2000, *** percent in 2001, and *** percent in 2002, and showed a decline in the most recent period, at *** percent in interim 2003, compared to *** percent in interim 2002.[83]

The record thus shows that subject imports, although increasing in absolute volume over the period, simply maintained and even showed a slight loss in U.S. market share as apparent consumption grew.[84] Subject imports thus did not capture market share from U.S. producers.

I further note, in the context of my volume finding, that despite the significant absolute volume of subject imports, the imports are primarily in jumbo form and thus do not compete directly with U.S. product, which is primarily in slit form.[85]

Therefore, while I find the absolute volume of subject imports and the increase in volume to be significant, my finding is tempered by the fact that subject imports did not increase their U.S. market share over the period and that competition between imports and the U.S. product is attenuated.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[86]

Gathering meaningful pricing data for this industry is complicated by the fact, noted in conditions of competition, that the subject imports and the domestic like product are sold largely at different levels of trade. Virtually all U.S. product is sold in slit form, with only minor sales of U.S. product in jumbo form, including sales by *** to slitters/converters ***. By contrast, virtually all subject imports enter in jumbo form and are slit and packaged by slitters/converters, who are also importers, for ultimate sale in slit form.

The Commission gathered pricing data for two types of TTR, as suggested by petitioner: product 1 is a common slitted form of TTR; and product 2 is the same TTR in jumbo form. The pricing data gathered for the two products represented 61.6 percent of U.S. producers' shipments of certain TTR; 4.2 percent of U.S. shipments of subject imports from France; 24.9 percent of U.S. shipments of subject imports from Japan, and 84.4 percent of U.S. shipments of subject imports from Korea during 2002.[87] The volumes are much larger for pricing product 1, slit TTR, and generally show underselling.[88] However, the utility of the price comparisons for product 1 in showing the direct effects of subject imports is questionable. The sales by U.S. importers shown in the data are all sales of slit TTR that the

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[82] (...continued)
2002.

[83] CR/PR at Table C-8.

[84] CR/PR at Table C-8.

[85] CR at III-7, IV-2, PR at III-5, IV-2.

[86] 19 U.S.C. § 1677(7)(C)(ii).

[87] CR at V-5-6, PR at V-4-5.

[88] CR/PR at Table V-1.

importers, who are also slitters/converters, have slit from imported jumbo TTR and packaged for sale. I have found that slitters/converters engage in sufficient production-related activity in the United States to be considered domestic producers, based on the 34 percent value added by the slitting/conversion process and other factors. Consistent with this finding, the importers' sales of slit TTR are more properly seen as sales of domestic product, and the pricing data for product 1 therefore compare the prices of slit TTR sold by integrated U.S. producers with sales of slit TTR by U.S. slitters/converters. While the majority of slitters/converters use subject imports in jumbo form as the input to their slit TTR, the pricing data for product 1 do not show direct comparisons between the subject imports and the U.S. product, and it is therefore not an appropriate basis for analyzing the price effects of subject imports.

The pricing data for product 2, TTR in jumbo form, by contrast, show direct comparisons between U.S. and imported product. However, the sales of U.S. product represented in these comparisons are extremely low, given that over *** percent of U.S. producers' U.S. sales in 2002 were in slit, rather than jumbo, form.[89] Moreover, the quarterly pricing data for product 2 show that U.S. producers' prices are generally lower than subject import prices.[90]

Petitioner's lost sales/lost revenue allegations were largely unconfirmed. In the few instances where purchasers appeared to agree with IIMAK's allegations, moreover, the losses were attributed, not to subject imports in jumbo form, but to slit TTR sold by U.S. slitters/converters or other integrated U.S. producers.[91]

While the pricing data for product 1 show underselling, the data do not present direct price comparisons between subject imports and domestic product. Based on the limitations in the pricing data for product 1, the lack of evidence of direct underselling by the subject imports, and the predominant overselling by product 2, I do not find that the subject imports have had significant negative price effects during the period examined. I note that U.S. producers' prices for both product 1 and product 2 generally trended downward over the period. However, separate pricing data for the three largest integrated producers for these products, particularly product 1, show that certain producers' prices dropped more sharply than others over the period examined.[92] These data indicate that any declines in U.S. prices over the period were largely due to competition among U.S. producers, not between U.S. product and subject imports.

D. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[93] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."[94]

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[89] CR at III-7, PR at III-5.

[90] CR/PR at Table V-3.

[91] CR at V-24-26, PR at V-8. One customer, *** The same customer ***

[92] CR/PR at Table V-2. *** sales of product 1 over the POI *** per msi to $*** per msi, while ***'s prices ***.

[93] 19 U.S.C. § 1677(7)(C)(iii).

[94] 19 U.S.C. § 1677(7)(C)(iii). The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. In its notice of

(continued...)

As discussed above, while I find that the absolute volume and increase in volume of subject imports were significant during the period examined, I do not find that the subject imports have had significant negative price effects. Moreover, I do not find a significant decline in the condition of the domestic industry as a whole over the period, nor that subject imports contributed in any significant degree to any losses incurred by the domestic industry.

The domestic industry's performance declined slightly from 2000 to 2001, but several indicators showed significant gains from 2001 to 2002, when subject import volumes increased the most, and have continued to improve, rising to levels above 2000 levels. U.S. producers' capacity, production, U.S. shipments, and net sales all increased over the period as a whole and particularly in the most recent periods, from 2001 to 2002 and between the interim periods.[95] Net sales values and the value of U.S. shipments, by contrast, generally dropped, consistent with the downward trend in U.S. prices.[96] However, I do not attribute the drop in U.S. sales values and prices to subject imports to any significant degree, given the scant evidence that subject imports were driving down U.S. prices. I attribute the price declines instead to competition among U.S. producers.[97]

While U.S. producers lost some market share over the period, they began to regain market share toward the end of the period. Moreover, subject imports, despite an absolute volume increase, showed a slight decline in market share over the period and thus did not capture market share from the U.S. producers.[98]

U.S. producers' operating income and operating margins declined from 2000 to 2002, but showed an increase in the most recent periods, from 2001 to 2002, and between the interim periods: operating income declined by *** percent from 2000 to 2002, but rose by *** percent from 2001 to 2002, and by *** percent when interim 2002 is compared with interim 2003. The operating margins for the industry as a whole followed similar trends, the industry remained highly profitable throughout the period examined, and showed improved profitability at the end of the period. The industry's operating margins declined the most at the beginning of the period, from *** percent in 2000 to *** percent in 2001, and then rose again to *** percent in 2002; they were *** percent in interim 2003, as compared to *** percent in interim 2002.[99]

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[94] (...continued)
initiation, Commerce estimated dumping margins for the subject imports as follows: France, from 16.5 to 60.6 percent; Japan, from 65.9 to 147.3 percent; and Korea, from 56.6 to 59.9 percent. 68 Fed. Reg. 38305 (June 27, 2003).

[95] CR/PR at Table C-8. From 2000 to 2002, U.S. producers' capacity increased from *** billion msi to *** billion msi; their production increased from *** billion msi to *** billion msi; their U.S. shipments increased from *** million msi to *** million msi; and their U.S. sales increased from *** billion msi to *** billion msi. Capacity increased by *** percent from 2001 to 2002, and by *** percent between the interim periods; production increased by *** percent and *** percent, respectively, over the same periods; U.S. shipments, by *** percent and *** percent; and net sales, by *** percent and *** percent.

[96] CR/PR at Table C-8. The value of U.S. producers' U.S. shipments declined by *** percent from 2000 to 2002. Their net sales value dropped by *** percent over the same period.

[97] CR/PR at Tables V-2, V-4.

[98] CR/PR at Table C-8. U.S. producers' U.S. market share was *** percent in 2000, *** percent in 2001, *** percent in 2002, and *** percent in interim 2003, as compared to *** percent in interim 2002. As noted previously, the related parties' U.S. market share grew over the period, from *** percent in 2000 to *** percent in 2002, and *** percent in interim 2003.

[99] CR/PR at Table C-8.

I note that, while the industry as a whole performed well throughout the period examined, the performance of individual firms varied widely, due to a number of factors particular to each firm. ***.[100] ***.[101] The declines in sales prices, however, appear to be the result of competition among domestic producers, not with subject imports.

For the reasons discussed above, I do not find that the subject imports have had any significant adverse effects on the domestic industry during the period examined. The domestic industry continued to perform strongly over the period, although the performance of individual participants varied widely. Any declines in sales values and prices were caused by factors other than subject imports. Although subject imports increased in absolute volume over the period examined, they maintained, but did not gain market share in a growing market, and did not take market share from the U.S. producers.

Accordingly, I determine that there is no reasonable indication that the domestic industry producing certain TTR is materially injured by reason of subject imports from France, Japan, and Korea allegedly sold in the United States at LTFV.

V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM FRANCE, JAPAN, AND KOREA

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[102] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[103] In making my determination, I have considered all factors that are relevant to this investigation.[104] Based on an evaluation of the relevant statutory factors, I find that there is no

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[100] CR/PR at Table VI-2.

[101] CR/PR at Table VI-2 & U.S. Producers' Questionnaire Responses.

[102] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[103] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[104] 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant

(continued...)

reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain TTR from France, Japan and Korea that allegedly are sold in the United States at LTFV.

The statute gives the Commission the discretion to cumulate subject imports from the subject countries under certain conditions "if such imports compete with each other and with domestic like products in the United States market."[105] Based on my analysis of cumulation for considering present material injury, I exercise my discretion to cumulate the subject imports for determining threat of material injury.

I note, however, as discussed in my cumulation analysis, that there appears to be little overlap in the channels of distribution for the domestic product and for subject imports from each of the subject countries. Nor does the record contain evidence that this factor is likely to change in the imminent future. Subject imports during the period examined primarily consisted of jumbo rolls for captive consumption by importers, who are also slitters/converters that process the jumbo rolls into slit form for sale in the United States.[106] Moreover, the importers are each related to a producer in a subject country and generally purchase their supply of jumbo TTR from that subject country.[107] The vast majority of U.S. producers' U.S. shipments, by contrast, are of slit TTR, primarily to distributors.[108] In 2002 U.S. producers' U.S. shipments of jumbo rolls accounted for only *** percent of their total U.S. shipments,

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[104] (...continued)

depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

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

(VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),

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

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

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

Factors I and VII are inapplicable to these investigations.

[105] 19 U.S.C. § 1677(7)(H).

[106] CR/PR at IV-2.

[107] CR at III-9, Table IV-1, PR at III-5, Table IV-1.

[108] CR at II-1, III-7, PR at II-1, III-5.

and ranged from *** percent in *** to *** percent in ***.[109] The jumbo rolls sold by U.S. producers are primarily to slitters/converters ***.[110]

As an initial matter, I find that the record does not indicate that the domestic industry is vulnerable to a threat of material injury by reason of the subject imports. As described above, the domestic industry maintained a high level of profitability throughout the period examined, and its performance improved toward the end of the period. As the U.S. market expanded, U.S. producers' capacity, production, U.S. shipments, and net sales grew.[111]

I do not find a significant rate of increase in the volume or market penetration of subject imports that would indicate a likelihood of substantially increased imports in the imminent future. While the absolute volume of subject imports increased over the period examined, subject imports' U.S. market share generally remained steady, showing a slight decline over the period, as the U.S. market expanded. In addition, U.S. producers did not lose market share to the subject imports. Moreover, subject import volumes were lower at the end of the period, during the first quarter of 2003 as compared to the first quarter of 2002.[112]

The subject countries do not appear poised to increase their capacity significantly. While the *** producer projected some increase in capacity for 2003 and 2004, its capacity level is small relative to the U.S. market and its capacity utilization rates were high throughout the period examined.[113] The *** producer projected no increases in capacity and had very little excess capacity, particularly toward the end of the period.[114] The Japanese producers projected lower capacity for 2003 and 2004, their capacity utilization rate increased toward the end of the period examined, and the bulk of their shipments are for internal consumption or the home market.[115]

I also do not find that existing inventories of the subject merchandise indicate the potential for a significant increase in the volume of subject imports in the imminent future. Inventories held by importers were not substantial relative to apparent U.S. consumption and showed declines toward the end of the period.[116] U.S. importers did report orders of TTR from the subject countries for importation after March 31, 2003. However, these orders were generally from affiliated subject country producers for captive consumption by the importers for processing into slit TTR,[117] and hence generally move in separate channels from the domestic product.

There are no reported antidumping orders on exports of certain TTR from the subject countries into third-country markets.[118]

Because I do not find, as noted above, that the current conditions of competition affecting the U.S. TTR market are likely to change significantly in the imminent future, I conclude that subject imports are therefore not likely to have significant negative effects on U.S. prices. Subject imports enter

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[109] CR at III-7, PR at III-5.

[110] CR/PR at Table III-2.

[111] CR/PR at Table C-8.

[112] CR/PR at Table IV-2.

[113] CR/PR at Table ***. *** projects capacity levels of *** million msi and *** million msi in 2003 and 2004, respectively, up from *** million msi in 2002. Apparent U.S. consumption was *** billion msi in 2002. CR/PR at Table C-8.

[114] PR/CR at Table ***.

[115] CR/PR at Table VII-2.

[116] CR/PR at Tables VII-4, C-8.

[117] CR at VII-8, PR at VII-3.

[118] CR at VII-8, PR at VII-3.

the U.S. market primarily in jumbo form and are transformed by importers, who are also slitters/converters, into slit TTR before being sold in the U.S. market. There is thus very little direct price competition between the subject imports and U.S. product, the vast majority of which is sold as slit TTR.[119] U.S. importers, who are also slitters/converters, captively consume virtually all the subject imports to produce the downstream product, and the product sold by the importers, the slit TTR, represents significant value added to the product that is imported in jumbo form.[120]

The record does not indicate any actual or potential negative effects by subject imports on the existing development and production efforts of the domestic industry. As the absolute volume of subject imports increased from 2000 to 2002, the domestic industry's capital expenditures increased substantially between 2000 and 2001 and then decreased substantially from 2001 to 2002. The domestic industry's research and development ("R&D") expenses decreased slightly between 2000 and 2002, but increased somewhat between the interim periods.[121] The data thus do not reveal a clear correlation between subject import volumes and fluctuations in the domestic industry's capital and R&D expenditures.

Finally, there is no evidence of any other demonstrable adverse trends that indicate that there is likely to be material injury by reason of subject imports.[122] I do not find that the volume of subject imports is likely to increase substantially, or that subject imports will have negative price effects on the U.S. product. The U.S. industry as a whole remained profitable throughout the period examined, with profitability increasing at the end of the period. Any declines in the industry's performance are attributable for the most part to factors other than subject imports: competition among domestic producers, and uneven performance by certain producers due to factors specific to them, such as higher SG&A expenses.

CONCLUSION

For the reasons stated above, I determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain TTR from France, Japan, and Korea that allegedly are sold in the United States at less than fair value.

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[119] CR at III-7, PR at III-5.

[120] CR at I-11, III-3, Table IV-1; PR at I-8, III-2, Table IV-1.

[121] CR at VI-7, PR at VI-2.

[122] 19 U.S.C. § 1677(7)(F)(I)(IX).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on May 30, 2003, by International Imaging Materials, Inc. ("IIMAK") of Amherst, NY, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of less-than-fair-value ("LTFV") imports of certain wax and wax/resin thermal transfer ribbons ("certain TTR")[1] from France, Japan, and Korea. Information relating to the background of these investigations is provided below.[2]

Effective date	Action	*Federal Register* citation
May 30, 2003	Petitions filed with Commerce and the Commission; Commission institutes investigations	68 FR 34642, June 10, 2003
June 20, 2003	Commission's conference[1]	NA
June 27, 2003	Initiation of investigations by Commerce	68 FR 38305, June 27, 2003
July 11, 2003	Commission's vote	NA
July 14, 2003	Commission's determinations transmitted to Commerce	NA
July 21, 2003	Commission's views transmitted to Commerce	NA
[1] A list of witnesses that appeared at the conference 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 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--

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[1] The products covered by these investigations are wax and wax/resin thermal transfer ribbons, in slit or unslit form. A complete description of the imported products subject to these investigations is presented in *The Product* section of this part of the report.

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

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

. . .

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

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in [an antidumping investigation], the magnitude of the margin of dumping.

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

SUMMARY DATA

A summary of data collected in these investigations for the U.S. certain TTR market is presented in appendix C, table C-1. Table C-1 includes U.S. industry data submitted by six U.S. producers that both coat and slit/convert certain TTR. Table C-2 presents U.S. industry data for U.S. producers that solely slit/convert certain TTR in the United States, and table C-3 presents combined data for U.S.

producers and imports included in tables C-1 and C-2. Table C-4 presents data for U.S. production and imports of slitted fax TTR, a product not within the scope of these investigations, but one that potentially could be included in the domestic like product. Table C-5 presents data for U.S. producers and imports of slitted fax TTR in combination with data for U.S. producers (including those that only slit/convert) and imports of certain TTR.

Producer data are based on questionnaire responses of 13 firms that accounted for virtually all U.S. production (including both 6 coating firms and 7 slitting/converting firms) during the period examined. U.S. processing import data were compiled using the questionnaire responses of 9 firms that imported the subject product from subject countries during the period examined.

PREVIOUS AND RELATED INVESTIGATIONS

Certain TTR has not been the subject of prior antidumping investigations in the United States.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On June 27, 2003, Commerce published a notice in the *Federal Register* of the initiation of the antidumping investigations on certain TTR from France, Japan, and Korea. The estimated weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce (based on petitioners' alleged margins, as adjusted) are presented in the following tabulation.[3]

Country	Range of margins (*percent ad valorem*)
France	16.5 to 60.6
Japan	65.9 to 147.3
Korea	56.6 to 59.9

THE SUBJECT PRODUCT

Commerce has defined the scope of these investigations as follows:[4]

> These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35, -20a*<35 and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.
>
> The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or

[3] *Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons from France, Japan, and the Republic of Korea;* 68 FR 38305, June 27, 2003.

[4] *Id.*

8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.4025, 9612.10.9030, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90.[5] The tariff classifications are provided for convenience and Customs purposes; however, the written description of the scope of the investigations is dispositive.

THE DOMESTIC LIKE PRODUCT

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

Physical Characteristics and Uses

Thermal transfer ribbons are thin, ink-covered strips of plastic film wound on plastic or cardboard cores that are used in a variety of thermal transfer printing devices (principally bar code printers and facsimile machines).[6] The basic composition of TTR involves a base of thin-film polyethylene terephthalate (PET) with a single coating on the back side and up to three other layers on the face-side. These three layers are: an undercoat or release layer, an intermediate or adhesive layer, and an imaging or ink layer.[7] In thermal transfer printing, heat is applied to the ribbon through a print head, causing the ink layer to transfer a printed image onto the receiving media (e.g., a paper label). The back coat protects both the print head and the ribbon during this process. TTR are made by producers in the form of jumbo rolls, which are ultimately slit into smaller widths and rolled into smaller rolls based on the end use.[8] TTR are categorized based on the type of ink used: wax, wax/resin, and resin.[9]

Wax TTR are considered the least costly to produce.[10] The ink formulation on wax ribbons consists primarily of different waxes that have low melt points, resulting in low levels of energy required

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[5] These subheadings have normal trade relations tariff rates in 2003 ranging from 2.1 percent to 8.0 percent *ad valorem*, applicable to imports from France, Japan, and Korea. Staff notes that the goods of subheading 3204.90 are synthetic organic coloring matter; those of 3506.90 are bulk glues and adhesives; those of 3919.90, 3920.62, and 3920.99 are plastic film, tape, etc.; and those of 3926.90 are miscellaneous articles of plastics. The subject goods would not properly fall in those provisions.

[6] Petition, p. 6.

[7] *Id* at 13.

[8] Jumbo rolls are roughly 2 to 3 feet wide, 65,000 feet long, 20 inches in diameter, and weigh approximately 350 pounds. Slit rolls measure roughly 1 to 10 inches wide, 164 to almost 3,000 feet long, 1.3 to 4 inches in diameter, and can weigh from 2 to 55 pounds. *Id* at 7.

[9] As noted earlier, resin TTR are not included in the scope of these investigations.

[10] IdentiGraphics, Inc., "Thermal Transfer," found at http://www.identigraphics.com/thermal2.htm, on June 18, 2003.

to transfer the wax onto the receiving media.[11] Wax TTR do not offer long-lasting print images due to their high wax content and are not as robust as resin TTR. Wax TTR are used for applications such as shipping labels, warehousing labels, retail tags and labels, and compliance labeling.[12] Wax TTR account for *** percent of the total U.S. TTR market by volume.[13] Fax TTR fall under the wax category.

Wax/resin TTR contain a higher percentage of resinous materials than wax TTR, which contributes to a higher melting point for the ribbons.[14] As a result, a higher heat level is required for printing from wax/resin TTR than wax TTR. Also, the higher resin content of wax/resin TTR affords greater durability. Applications for this form of TTR include general purpose labeling, plant and lumber tags, pharmaceutical and healthcare products, automotive labels, shipping, and retail pack labeling.[15] Wax/resin TTR are estimated to account for *** percent of the U.S. TTR market.[16]

Manufacturing Processes, Facilities, and Employees[17]

Certain TTR are manufactured in four primary stages: ink-making, coating, slitting, and packaging (see figure I-1). The first step, ink-making, involves the use of two heated tanks and either an attritor or small media mill. In the heated tanks, ingredients[18] are melted or dissolved and then blended together. The ingredients and pigments are then milled and separated to achieve the desired particle size. During this process, a central computer control system regulates key factors such as temperature, mixing speed, and flow rates.

Figure I-1
Certain TTR: Product cross sections

* * * * * * *

The second step, coating, involves the use of multi-station coating machines to coat the jumbo rolls of PET film. The film is unwound and processed through the stations while each coating is applied. Depending on the form of ink (i.e., wax, resin, or a combination), either a hot melt or solvent ink process or both will be used. In the case of hot melt inks, they are coated onto the film in a hot-liquid state and then solidified as the film is run over large diameter chilling rollers. The hot melt ink process can be used for wax TTR production due to its low melting point while resin TTR production typically utilizes the solvent ink process because of its chemical composition and high melting point. In a solvent ink process, the film is passed through heated ovens immediately after the ink is applied to the film. This provides a controlled curing of the inks. At the end of the coating process, the product is then wound onto the jumbo roll, resulting in a TTR master roll. During this step of the manufacturing process, many

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[11] Petition, p. 17.

[12] Thermal Ribbon Supply Inc., "Information," found at http://www.thermalribbonsupply.com/new/Info/measure/measure.html, on June 19, 2003.

[13] Petitioner's postconference brief, exh. 1.

[14] IIMAK Website, "About Thermal Transfer," found at http://www.iimak.com/compatibility.htm, on June 18, 2003.

[15] Petition, p. 18.

[16] Petitioner's postconference brief, exh. 1.

[17] Information in this section is generally taken from the petition, pp. 20-25.

[18] These ingredients may include items such as waxes, resins, and other materials. The formulas of these inks are considered proprietary to TTR producers.

conditions, particularly environmental controls and special safety procedures are monitored carefully due to the hazardous chemicals used and to maintain product consistency.

The third step, slitting, involves the cutting of the jumbo rolls to specific sizes that designate its end use. The TTR producer can perform this process or sell the jumbo roll to others known as slitters/converters. The slitting process affects the price of the finished product depending on the different lengths, widths, and configurations of ribbon. The fourth step, packaging, has the finished ribbons being placed in sealed bags or plastic wrap along with labels for distribution to the ultimate customer.

Interchangeability and Customer and Producer Perceptions

Based on questionnaire responses and testimony in the conference, domestic certain TTR and subject imports are fully interchangeable, depending on their ink characteristics.[19] To an extent, certain TTR in different categories are also interchangeable with each other, such as wax and wax/resin TTR. The petitioner states that "manufacturers have worked to expand the scope and versatility of their wax ribbons to mimic the performance of wax/resin ribbons."[20] Similar end-use applications of the wax and wax/resin TTR and enhanced durability have contributed to the increased interchangeability.[21]

Channels of Distribution

The petitioner and respondents indicated that the major channels of distribution for certain TTR are sales to original equipment manufacturers (OEMs), sales of jumbo rolls to converters/slitters, and sales of finished product to distributers or resellers. The petitioner estimates that sales to distributors account for approximately *** percent of the sales to end users in the U.S. market, sales of jumbo rolls to independent converters account for *** percent of sales, sales to OEMs account for *** percent of U.S. end user sales, and the remaining *** percent of sales in the U.S. market reach the end user through both a master distributor and a small distributor.[22]

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[19] Interchangeability of the domestic and imported subject product is discussed further in *Part II* (Substitutability Issues) of this report.

[20] Petition, p. 34.

[21] Both petitioners and respondents indicate that there are other products that might be substituted for certain TTR. These include but are not limited to: direct thermal printing on plain paper labels, inkjet printing, laser printing, dot matrix impact printing, and radio frequency identification (RFID) technology. In the direct thermal printing process, the print head burns dots onto coated paper, resulting in an image without the use of ribbons. Ink jet printing involves the use of ink stored in cartridges, in which the printer uses its print head to spray ink through small nozzles onto the receiving medium to produce images. Laser printing uses toners that contain fine powdered ink. The media then go through heated rollers, which fuse the toner onto it. Dot matrix printing involves a moving printhead that consists of one or more vertical rows of hammers, which strike an ink-covered ribbon as it passes over it. RFID technology offers similar identification services as labels printed from TTR, but at a higher cost due to characteristics such as tracking abilities. The petitioner and respondents agree that these products and technologies are poor substitutes for TTR because they are not as cost-effective or durable as TTR. Whatis.com, "Thermal transfer printer," found at http://whatis.techtarget.com/definition/0%2C%2Csid9_gci214446%2C00.html on June 25, 2003; About Network, "Inkjet," found at http://desktoppub.about.com/library/glossary/bldef-inkjet.htm on June 25, 2003; and About Network, "Laser," found at http://desktoppub.about.com/library/glossary/bldef-laser.htm on June 25, 2003.

[22] Petition, pp. 31-32.

Price

The price of certain TTR is generally dependent on a number of factors, the most important being the ink type of the ribbon. Wax ribbons typically are the less expensive form of certain TTR, while wax/resin TTR are more expensive. Other factors that can impact the price of TTR include the size that the TTR are slit to for end use, and other value-added components that are needed for the product, such as custom logo leaders. Available data regarding average unit values of certain TTR during 2002 are presented below (more detailed information on prices is presented in *Part V* of this report).

Unit value (*dollars per msi*[1])

Item	Jumbo form	Slitted/converted form
Product of–		
U.S. coaters	$0.07	$0.11
U.S. imports and shipments of imports (based on origin of jumbo form) from–		
France	***	***
Japan	0.08	0.13
Korea	***	***

[1] TTR volumes are measured by area in thousand square inches ("msi"). Petition, p. 4, fn. 3.

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" test.[23]

In this case, slitted (finished) certain TTR are downstream products, and certain TTR in jumbo rolls (unfinished) are the upstream or intermediate product. Certain TTR in jumbo form has no use but in the production of slitted certain TTR. Slitted certain TTR are clearly different from unslitted (jumbo) certain TTR in physical characteristics. Slitted certain TTR are more costly to manufacture than unfinished certain TTR, due to the additional operations required to produce them. The cost of these additional operations is reflected in the higher prices and higher value of slitted product. Parties agree that the ink-making and coating processes are capital-intensive, while slitting and packaging are more labor-intensive processes. The ink-making and coating process can utilize the same employees and

[23] 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 are the significance and extent of the processes used to transform the upstream product into the downstream product?).

machinery during the production process[24] while the slitting and packaging of TTR can be done by either the producer or converter in the same or different facilities. In general, the various types of TTR share common manufacturing facilities and employees.[25]

Value Added

The Commission's questionnaires in these investigations requested information on the cost of production for certain TTR for the various stages of production. Data submitted in response to the questionnaire by six U.S. producers indicates that slitting and packaging operations account for an average 34 percent (ranging from *** percent) of the cost to produce certain TTR. The data are presented below:

Firm	Average cost ($ *per msi*)		Share of total cost (in *percent*)	
	Inking/ coating	Slitting/ packaging	Inking/ coating	Slitting/ packaging
Dynic	***	***	***	***
IIMAK	***	***	***	***
ITW	***	***	***	***
NCR	***	***	***	***
Paxar	***	***	***	***
Sony	***	***	***	***
Weighted average	0.04	0.02	65.9	34.1

DOMESTIC LIKE PRODUCT ISSUES

During the staff conference and in postconference briefs, a number of respondents raised issues with regard to the domestic like product. ITW and Dai Nippon argued that TTR products exist along a continuum of related products with no clear dividing lines and, therefore, all forms of TTR should be included in the domestic like product, including slitted fax, resin, and color TTR.[26] Armor argues that slitted fax TTR should be included in the domestic like product.[27] Petitioner argues that slitted fax TTR, resin TTR, and color TTR all have different physical characteristics and end uses and are not interchangeable with certain TTR.[28]

Estimates of the U.S. market for all TTR products, and average unit values, are presented in the tabulation below:[29]

* * * * * * *

[24] TR, pp. 86-87 (Marshall).
[25] Petitioner's postconference brief, p. 8, respondent's (ITW) postconference brief, p. 6.
[26] Respondent's (ITW) postconference brief, p. 3; respondent's (Dai Nippon) postconference brief, p. 14.
[27] Respondent's (Armor) postconference brief, pp. 2-3.
[28] Petitioner's postconference brief, pp. 5-9.
[29] *Id* at exh. 1.

Slitted Fax TTR[30]

Slitted fax TTR are TTR products used in facsimile machines to print incoming faxes. Before fax TTR can be sold to the end user, it must be converted from jumbo rolls.[31] Jumbo rolls are slit and rolled into smaller cores. The resulting ribbon is then encased in a cassette, typically made of plastic. Other items such as anti-rotation devices, labels, silver stripes to indicate the end of a roll, or additional parts can also be added during this process. The petitioner argues that slitted fax TTR is fundamentally different from certain TTR because of: (1) the smaller one-half inch cores used in slitted fax TTR as opposed to one inch cores for certain TTR, (2) the addition of a secondary or "take up core" used in slitted fax TTR, (3) further assembly process to place slitted fax TTR into a cassette, (4) the placement of a silver stripe on the end of a slitted fax TTR roll, (5) the fact that some fax rolls require special atmospheric conditions with regard to temperature and humidity during slitting, and (6) the addition of specialty packaging for slitted fax TTR.[32] In the resulting end product, TTR is only a component. Respondents argue that the Commission should not include some slitted TTR products and exclude others purely based on an arbitrary width.[33] Respondents argue that slitted fax TTR have only minor variations from certain TTR and there is no clear dividing line between products.[34] Slitted fax TTR are estimated to account for *** percent of the TTR market by volume, with an average unit value of $*** per msi.[35] Available information on production and imports of slitted fax TTR is presented in table C-4, appendix C.

Resin TTR

Resin TTR are ribbons containing ink with a majority of resinous materials. Because of the higher resin content, printing with these ribbons takes place at a slower speed, requires more energy, and can be done on a wider variety of surface media. Resin TTR are often used for applications that require high levels of resistance and durability against heat, weather, and certain chemicals. End uses for resin TTR include industrial and automotive applications, chemical drum labeling, and medical and pharmaceutical labeling.[36] Petitioner contends that resin ribbons are distinct from wax and wax/resin ribbons in part because of a higher resinous material content, very different end uses, and the price premium paid for the added durability.[37] Respondents argue that there is no clear dividing line between wax/resin TTR and resin TTR and that many of these products are interchangeable.[38] Resin TTR are estimated to account for *** percent of the TTR market by volume, with an average unit value of $*** per msi.[39]

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[30] Data regarding the U.S. slitted fax industry are found in table C-4 in appendix C. Commission staff did not collect data regarding the resin TTR or color TTR industries.

[31] When still in jumbo form, the rolls are within the scope of these investigations. The defining factor that places slitted fax TTR outside the scope is the slitting to a specific width.

[32] Petition, pp. 25-27.

[33] Respondent's (Armor) postconference brief, p. 3.

[34] Respondent's (ITW) postconference brief, pp. 4-7; respondent's (Dai Nippon) postconference brief, p. 14.

[35] Petitioner's postconference brief, exh. 1.

[36] Petition, p. 19.

[37] Petitioner's postconference brief, pp. 6-9.

[38] Respondent's (ITW) postconference brief, pp. 4-7 and exh. 2; respondent's (Dai Nippon) postconference brief, p. 14.

[39] Petitioner's postconference brief, exh. 1.

Color TTR

Color TTR are any form of TTR with the addition of color pigmentation during the ink making phase of production. The addition of certain color pigmentations could raise the price of the color TTR substantially. Color TTR are generally not used in the barcode and labeling markets because black ink is best read by the barcode scanners and the addition of color could make scanning more difficult.[40] Generally, color TTR are used in specialty end uses such as the manufacture of signage. Petitioner argues that color TTR represent a small specialty market unrelated to the subject product.[41] Again, respondents argue that there is no clear dividing line between these products and the subject product.[42] Color TTR are estimated to account for *** percent of the TTR market by volume, with an average unit value of $*** per msi.[43]

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[40] *Id* at 6-9.
[41] *Id* at exh. 1.
[42] Respondent's (ITW) postconference brief, pp. 4-7.
[43] Petitioner's postconference brief, exh. 1.

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

U.S. MARKET SEGMENTS

Certain TTR is PET film coated with wax (approximately 42 percent of the total TTR market), resin (approximately 5 percent), or a wax/resin combination (approximately 11 percent). Petitioner stated that wax and and wax/resin certain TTR are interchangeable, with chemical improvements to wax TTR now allowing it to compete with wax/resin TTR, which at first had more properties. (Resin is more expensive than wax.) Resin TTR and color TTR are more expensive specialty products.[1]

Inkmakers/coaters manufacture TTR in large jumbo rolls that are then slit into smaller rolls. TTR can be used for labeling (certain TTR) or fax printing (fax TTR). Slit-fax TTR are lined with silver and not part of petitioner's scope, while fax TTR in jumbo form are part of the scope.

CHANNELS OF DISTRIBUTION

OEMs buy certain TTR to install in their branded equipment (printers, etc.) or to sell as a replacement consumable. In turn, the OEMs sell their branded equipment or TTR to the ultimate end users, who will print bar code labels using the certain TTR. Certain TTR may be sold to OEMs directly or to slitter/converters who slit the TTR from jumbo to slit form, and then sell slit certain TTR to distributors or to OEMs. Certain TTR may also be sold to distributors, either after being sold to a slitter or directly from the certain TTR producer or importer. There is also some master distribution to smaller distributors. Petitioners estimate that *** percent of TTR sold in U.S. markets is sold to distributors, *** percent to master distributors, *** percent to OEMs, and *** percent to slitters/converters.[2]

IIMAK stated that in the past, certain TTR had been sold directly to OEMs more, but that the alleged oversupply due to subject imports had helped develop a large distributor network. Distributors are a diverse group that include forms suppliers, label converters, inventory control companies, and some companies who specialize in certain TTR and little else. Distributors will sell certain TTR from multiple sources and to a variety of end users, and may not even take possession of the certain TTR but rather arrange the sale through "drop-ship" delivery. According to IIMAK, converters and distributors sometimes compete with each other, leading to instability in the certain TTR distribution network.[3] *** also noted that while in the past resellers would exchange some purchaser loyalty for services, they now expect the same services without any guarantee of loyalty. *** said that low subject import pricing has also been putting a squeeze on the master distributors.

Respondents[4] allege that domestic producers have tried to circumvent the channels of distribution. *** stated that NCR has been increasing its emphasis on direct sales instead of sales to

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[1] The petitioner's proposed scope covers only black and near-black TTR.

[2] IIMAK also stated that in the past, prices for different customer types had varied substantially, but that subject imports had eroded producers' ability to exercise such pricing power. It added that consignment sales, previously reserved for larger purchasers, were now demanded by smaller purchasers as well. This section is drawn from petition, pp. 17, 19, 25-27, and 30-32, and TR, pp. 28-30 (Kingdon).

[3] IIMAK also said that distributors tended to be less loyal customers than OEMs, especially as regards purchasing across an entire product line. It further added that certain TTR distribution has low barriers to entry, and that the growing number of distributors has been facilitated by the growth in subject imports. TR, pp. 28-29, 72, 77-79, and 178 (Kingdon, Marshall, and Gallete).

[4] Of the 11 responding importers, seven were affiliated with slitter/converters and filled out both producer and importer questionnaires. For the purposes of this section, their answers will be counted once.

distribution, but the results of this shift were not yet apparent. Fujicopian stated that IIMAK had tried to contact the customers of Zebra (a printer manufacturer and ultimate end user), and that in response Zebra had looked to Fujicopian as a new source.[5]

Geographic Markets

Most producers and importers reported shipping to the entire United States, or multiple large regions of the United States.

SUPPLY AND DEMAND CONSIDERATIONS[6]

U.S. Supply

Domestic Production

There are six U.S. producers of certain TTR; however, the three largest account for the bulk of U.S. production. These three are IIMAK, an independent U.S. producer, Dynic, a U.S. producer owned by Dynic Japan, and Sony, a U.S. producer owned by Sony Japan. IIMAK stated that it was the only U.S. producer for which certain TTR was its main source of revenue.[7]

IIMAK was founded in 1984 as the exclusive U.S. producer of certain TTR using a license from Fujicopian Japan. Thus, IIMAK's certain TTR matches the specifications of Fujicopian's fairly closely. According to respondents, Paxar acquired IIMAK in 1997 and sold it in March 2000 to IIMAK management in a "highly" leveraged buyout. Respondents allege that IIMAK management has made numerous failed investments since then, including emphasizing color and specialty certain TTR.[8]

Both *** described themselves as introducing numerous new products in recent years, with *** noting that several of its wax ribbons have improved quality to the point of being more competitive with wax/resin TTR. (Importer *** also noted this trend). On the other hand, *** stated that domestic producers have attempted changes in product range and marketing, with little success so far. It described IIMAK as having invested in the color and specialty TTR markets without success. It added that producers now seem to be focusing on meeting demand with relatively fewer product offerings. In addition, *** and others noted that aggressive price-based competition from Sony began in late 2002.[9] ITW stated that Sony reduced prices 15 percent through a distributor in October 2000.[10]

Industry capacity and inventory levels

Industry capacity utilization has fallen since 2000, and capacity utilization rates remain low. Inventories are a small (and declining) share of total U.S. production.

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[5] TR, p. 120 (Groh).

[6] Unless otherwise noted, information in this section is compiled from responses to Commission questionnaires.

[7] TR, pp. 13-14 (Marshall).

[8] TR, pp. 104-107 (Landry).

[9] TR, pp. 104, 128, 133-134, and 144 (Landry, Cameron, Wechsler, and Cox) and "Price wars may force many thermal transfer ribbon (TTR) players out of business," in Scan: The Data Capture Report, Dec. 27, 2002.

[10] TR, p. 172 (Gallete).

Alternative markets

Export shipments are a moderate share of domestic production, and fluctuated over January 2000-March 2003 with no dominant trend. *** stated that foreign producers are effectively shut out of the Japanese and Korean markets, by vertical integration among Japanese firms in Japan and by high tariffs in Korea. It added that Armor France's majority position in Europe made market entry there difficult. It said that it believed demand was growing in China and Eastern Europe but was steady in Western Europe and Latin America. *** estimated that the European Union (EU) market for certain TTR would grow at 7-8 percent annually and the Chinese market at rates upwards of 20 percent.

Production alternatives

*** stated that it, much like other certain TTR producers, can produce resin, color, and slitted fax TTR on the newer equipment it uses for certain TTR, although some of the equipment it uses for resin TTR (a small portion of overall TTR capacity) is usable only for resin TTR production.[11]

Subject Imports

The U.S. TTR industry saw a rise in slitting capacity in the late 1990s and early 2000s, with much of that new slitting capacity intended for the processing of certain jumbo TTR produced in and imported from subject countries. Over 1998-2000, licensing agreements between Armor France, Fujicopian Japan, and IIMAK expired, and Armor France and Fujicopian Japan began exporting certain TTR to the U.S. market. In 1999, ITW purchased a film processing operation in Korea and began importing to its already-established distribution arm in the United States.[12] In July 2000, ITW purchased Advent, a slitter for Dai Nippon's TTR. Dai Nippon was already suffering losses from slowing demand for fax TTR (its specialty),[13] and had built its own slitting and converting plant (DNP) in the United States.

IIMAK stated that while it is fundamentally dependent on TTR, many of the producers/importers of the subject imports are large, multinational conglomerates for which certain TTR is a relatively small interest. IIMAK also stated that producers of subject imports are operating with spare capacity.[14]

France

***. Armor stated that it produces specialty products in small quantities for the U.S. market, and that it sells directly to large, established OEMs on global contracts where service is a major selling point. One purchaser stated that he preferred Armor because of their "snap-finger" service and shorter lead times compared to IIMAK.[15]

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[11] ***.

[12] See petition pp. 74-76, and TR., pp. 11 and 15-17 (Marshall). Respondents allege that IIMAK initiated the termination of the licensing agreement, which had been set to expire in 2008. TR, pp. 117-118 (Groh).

[13] ITW says this purchase occured in July 2000. TR, p. 109 (Landry).

[14] Petition, pp. 102-103.

[15] TR, pp. 136-143, 149, and 165 (Walker, Landry, and Cox).

Japan

Japanese production has remained relatively stable, albeit at much higher levels than other subject countries. Capacity utilization has also remained relatively stable, but with additional capacity available for more production. The majority of Japanese production is internally consumed, with imports to the United States remaining a substantial but small part of exports. Japanese certain TTR is sold world-wide and in Japan as well. IIMAK stated that Japanese producers, especially Dai Nippon, are switching production from slitted fax TTR to certain TTR as demand for slitted fax TTR drops. (IIMAK described Dai Nippon as the world leader in slitted fax TTR production.)[16]

Korea

Korean capacity remained steady over 2000-2002 as capacity utilization rose to nearly *** percent. Most Korean production of certain TTR is bound for export, with *** sent to the United States and the rest to China and the EU.

Nonsubject Imports

*** stated that there are almost no imports of certain TTR from nonsubject countries. IIMAK also said that it was not aware of any major producers outside of the three subject countries, although it added that some of the respondents are shipping jumbo rolls into China for slitting.[17]

U.S. Demand

Demand Characteristics

In the thermal transfer process, certain TTR can print on a wide variety of receivers, and thus is appropriate for bar code labeling across several sectors, including manufacturing, retail, and inventory control. According to petitioner, end uses for certain TTR in bar code labeling include retail tags, inventory and receiving labels, flexible packaging, and asset tracking.[18] Demand is thus related to the use of these kinds of identification technologies in retail stores, factories, and shipping.[19] *** described the U.S. certain TTR market as the largest in the world, representing *** percent of the global requirements for certain TTR over 2000-2002.

Different producers of certain TTR have proprietary formulas for the ink-making and coating; however, each producer will generally produce a branded category (formulation) of certain TTR that will work in the most common printers in the industry, and customers have cross-reference guides to help them compare one brand to another within a particular formulation. Petitioner said that there are three to five common formulations of certain TTR that account for the bulk of demand, and most certain TTR suppliers have a brand that fits into these formulations and is marketed as interchangeable with other brands. For each of these three to five more general formulations, there are different applications and different purchasers. (For more specific applications, certain TTR suppliers may have a custom or

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[16] TR, pp. 11 and 15 (Cunningham and Marshall).

[17] TR, pp. 85 and 93 (Marshall).

[18] Petition, p. 29.

[19] End users often have an installed base of thermal printers that use certain TTR. TR. pp. 121-122 (Groh).

higher-end certain TTR.)[20] IIMAK stated that within any one of the most common formulations, certain TTR is basically a commodity product where price is the most important factor in a sale. Furthermore, according to IIMAK, OEMs may sell different brands of certain TTR under the same OEM brand name.[21]

Both producers and importers described themselves as one step removed from the ultimate end users, meaning that the certain TTR suppliers may not always have a clear idea of new demand trends. The ultimate end user may be more likely to complain to the printer manufacturer (the certain TTR suppliers' purchaser) rather than the certain TTR supplier itself.[22]

Demand Trends

In general, demand for certain TTR rose steadily throughout the 1990s as more customers adopted thermal transfer barcode labeling. Once a customer has adopted thermal transfer labeling technology, its demand for more certain TTR will depend on its financial health; thus, as growth in the number of companies switching to thermal transfer printing has slowed, the demand for certain TTR tracks the wider economy more closely.[23]

Market participants had varied descriptions of recent trends in demand for certain TTR. Among U.S. producers, IIMAK saw demand closely tracking the wider U.S. economy, but noted that demand growth recently has also been connected with falling prices, in that U.S. consumption is up when measured in pounds or msi, but down when measured in dollars.[24] *** stated that demand had flattened due to the slowing U.S. economy, and the fact that most U.S. manfacturers that were going to make the transition to bar codes already had. *** saw demand increasing because certain TTR allows for more accuracy in scanning, and U.S. corporations are giving increasing value to that accuracy. *** saw no change in demand recently, but *** saw 10-20 percent growth recently due to new uses for certain TTR.

Among importers and slitters/converters, *** saw demand for certain TTR as "sluggish" due to wider economic conditions and substitute technologies such as direct thermal and the emerging RFID. *** saw steady or moderate growth, and *** estimated growth was about 4 percent annually. However, *** saw growth as 20 percent since 1999 due to increased need for automation and compliance standards. Fujicopian said that, in 2000, IIMAK had overestimated the strength of demand for certain TTR, assuming that because printer sales were growing, there would be a corresponding increase in demand for certain TTR. It stated that new printer sales were often for replacing older printers or for distributive processing, where more than one printer at different locations do the previous work of one printer. Thus, new printer sales did not indicate a higher installed base and future demand for certain TTR. Based on this analysis, Fujicopian forecast stable demand for certain TTR.[25]

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[20] TR, pp. 80-81, 120, and 183 (Kingdon, Groh, and Gallete). In addition, ITW stated that the bulk of demand is in the black wax categories. TR, p. 106 (Landry). *** submitted a price list that showed its products classified by which typical OEM printer type they fit, and *** submitted a price list that showed its certain TTR's comparability to other brands' certain TTR.

[21] TR, pp. 27-28 and 42-45 (Kingdon and Marshall).

[22] TR, pp. 80-81 (Kingdon).

[23] TR, pp. 81-84 (Marshall).

[24] Petition, p. 78.

[25] TR, pp. 121-122 and 177 (Groh).

Substitute Products

There are few direct, drop-in substitutes for certain TTR. Nonetheless, since certain TTR is used in thermal transfer labeling, ultimate end users can substitute competing technologies instead of thermal transfer, and hence not use certain TTR. These technologies include ink jet printing, laser printing, direct thermal printing, and pre-printed flexo bar coding. However, IIMAK stated that these alternative technologies generally have significant drawbacks when compared to thermal transfer using certain TTR.[26] Conversely, *** saw direct thermal and *** saw non-printing technology like RFID taking market share from certain TTR in the U.S. market due to their enhanced features. *** offered yet another contrasting view, stating that certain TTR has been making inroads into printing applications previously served by ink jet, impact, laser, and hot stamp printing. Nonsubject TTR (i.e., color or resin) may be used for certain TTR, but these nonsubject TTR generally have a price premium and, in the case of color TTR, may not produce a label that scans as well as black or near-black TTR.[27]

Cost Share

End user cost is a nebulous concept in the certain TTR industry, since certain TTR goes into the production of printers and then the bar code labels produced by those printers. Petitioner described certain TTR as a small part of the costs for the ultimate end user, and said that purchasers regard certain TTR as a supply, rather than material, item.[28] However, at the level of a printed label, importer *** said that certain TTR was approximately 40 percent of the cost, and *** said that it was 25 percent.

SUBSTITUTABILITY ISSUES

Factors Affecting Purchasing Decisions

Petitioner and respondents disagreed about the importance of price in purchasing decisions, with petitioner saying that price was the most important factor and respondents saying that price was one among many important factors. When purchasing, customers must consider price, compatibility with existing printers, services (including private labeling and drop-ship delivery), lead times,and technical assistance.

DNP explained that before purchasing certain TTR, some purchasers will conduct extensive tests, checking alternative ribbons to see whether they produce labels that scan well. The scanning is graded A-F and plays a large role in purchasing decisions, according to DNP.[29] Other respondents added that quality, compatibility, and on-time or just-in-time delivery, were more important than price.[30]

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[26] Direct thermal does not yet have the performance of thermal transfer, and laser and inkjet printed labels are not as robust as thermal transfer printed labels under more difficult conditions (heat, pressure, etc.). TR, p. 74 (Kingdon).

[27] TR, pp. 66-68 (Marshall).

[28] TR, p. 76 (Marshall).

[29] TR, pp. 124-126 (Cameron).

[30] TR, pp. 148-149, 152, and 173-175 (Landry, Cox, Gallete, and Cameron).

Lead Times

Lead times typically depend on whether a product is in stock or not, and for ***, whether it is a jumbo roll (one week lead time) or already slit (2 week lead time). Among coaters, ***.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers and importers were asked to assess how interchangeable certain TTR from the United States was with certain TTR from subject countries and nonsubject countries. Their answers are summarized in tables II-1 and II-2. Among producers, those who did not say "always" cited print speed, resistance to harsh environments, smudge, smear, and scratch resistance, and particular TTR for certain applications being produced by only one brand. Among importers, those who did not say "always" cited quality, durability, and optimum design for a specific application as reasons why subject certain TTR might not be always interchangeable. *** stated that because of wide variations in printer types and the trial and error associated with switching to a new ribbon in an established application, certain TTR from different countries are not always interchangeable. However, it added that *** is usually interchangeable at the ribbon component level. *** stated that it produces niche products with certain TTR, and hence its products are not highly interchangeable with U.S. certain TTR.

Table II-1
Certain TTR: U.S. producers' perceived degree of interchangeability of certain TTR produced in the United States and other countries

Perceived degree of interchangeability	France	Japan	Korea	Nonsubject
United States	1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never
France		1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never
Japan			1 always 2 frequently 1 sometimes 1 never	1 always 2 frequently 1 sometimes 1 never
Korea				1 always 2 frequently 1 sometimes 1 never

Source: Compiled from responses to Commission questionnaires.

Table II-2
Certain TTR: Importers' perceived degree of interchangeability of certain TTR produced in the United States and other countries

Perceived degree of interchangeability	France	Japan	Korea	Nonsubject
United States	4 frequently 3 sometimes	5 frequently 2 sometimes	4 frequently 2 sometimes	3 frequently 2 sometimes
France		4 frequently 2 sometimes	4 frequently 2 sometimes	3 frequently 2 sometimes
Japan			4 frequently 2 sometimes	3 frequently 2 sometimes
Korea				2 frequently 2 sometimes
Source: Compiled from responses to Commission questionnaires.				

Producers and importers were asked to assess how often differences other than price were significant in sales of certain TTR from the United States, subject countries, or nonsubject countries. Their answers are summarized in tables II-3 and II-4. *** stated that subject certain TTR has less durability and consistency than U.S. certain TTR. However, importers such as *** felt that purchasers often considered product range, service, consistency, technical support, and ease of doing business along with or before price.

Table II-3
Certain TTR: U.S. producers' perceived importance of factors other than price in sales of certain TTR produced in the United States and other countries

Perceived importance of price in sales	France	Japan	Korea	Nonsubject
United States	1 always 2 sometimes 1 never	1 always 2 sometimes 1 never	1 always 2 sometimes 1 never	3 sometimes 1 never
France		1 always 2 sometimes 1 never	1 always 2 sometimes 1 never	3 sometimes 1 never
Japan			1 always 2 sometimes 1 never	3 sometimes 1 never
Korea				3 sometimes 1 never
Source: Compiled from responses to Commission questionnaires.				

Table II-4
Certain TTR: Importers' perceived importance of factors other than price in sales of certain TTR produced in the United States and other countries

Perceived importance of price in sales	France	Japan	Korea	Nonsubject
United States	1 always 1 frequently 2 sometimes	1 always 1 frequently 2 sometimes 1 never	1 frequently 2 sometimes	2 sometimes
France		1 frequently 2 sometimes	1 frequently 2 sometimes	2 sometimes
Japan			1 always 1 frequently 2 sometimes	2 sometimes
Korea				2 sometimes

Source: Compiled from responses to Commission questionnaires.

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 six firms that both coat and slit TTR in the United States. These firms are believed to account for all of the U.S. production of certain TTR during the period examined.

U.S. PRODUCERS

The Commission sent producers' questionnaires to seven firms identified as U.S. producers of certain TTR in the petition as well as to all U.S. importers.[1] In the U.S. TTR industry, there are firms that both coat and slit their product into finished TTR and those that purchase or import jumbo rolls of coated TTR and solely slit or convert these rolls into finished TTR. Table III-1 presents the list of U.S. producers that have both coating and slitting operations and produce certain TTR in the United States, with each company's production location(s), share of U.S. production in 2002, and position on the petition.

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

Firm	Production location(s)	Share of production (*percent*)	Position on the petition
Dynic[1]	Hillsboro, OR	***	***
IIMAK	Amherst, NY	***	Petitioner
ITW[2]	Kalkaska, MI Romeo, MI	***	***
NCR[3]	Dayton, OH	***	***
Paxar	White Plains, NY	***	***
Sony[4]	Mt. Pleasant, PA	***	***

[1] ***.
[2] ***.
[3] ***.
[4] Sony Chemicals Corp. of America ("Sony") is a wholly-owned subsidiary of Sony Chemicals Corp. and Sony Corp. of Tokyo, Japan. On June 17, 2003, Sony issued a news release via its website which stated "Sony believes that the petition's allegation of less than fair value sales of Japanese, South Korean, and French TTR has substance. Fortunately, Sony is essentially unaffected by the petition. This is because Sony does not import any significant quantity of TTR covered by the petition. Rather, Sony produces virtually all of the wax and wax/resin TTR covered by the petition in the United States . . ." *http://www.sonychemicals.com/news* (June 17, 2003).

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

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[1] The following firms received a producers' questionnaire: *** and all importers listed in table IV-1 of this report. In addition to the firms listed in table III-1, the following firms submitted producers' questionnaires: ***. These firms do not coat certain TTR in the United States but rather import or purchase jumbo rolls and slit/convert certain TTR in their domestic facilities.

***. The following U.S. coating firms reported that they also produce slitted fax TTR: ***. The following U.S. slitting/converting firms reported that they also produce slitted fax TTR: ***. The following firms responded that they did not produce certain TTR or slitted fax TTR: ***.

Coaters

IIMAK was formed in 1984 and was granted a license from Fujicopian of Japan that included patent rights and TTR manufacturing technical knowledge in exchange for royalty payments from IIMAK.[2] The licensing agreement, scheduled to run through 2008, also granted IIMAK the territorial exclusivity to sell TTR in North America (thus Fujicopian Japan agreed not to sell its TTR in North America in exchange for royalty payments from IIMAK). Armor, S.A., in France, was also under a similar licensing agreement with Fujicopian Japan that included territorial exclusivity provisions with regard to sales in Europe (while disallowing Armor France sales of TTR into North America or Asia).[3] Thus, Armor France, Fujicopian Japan, and IIMAK had their respective local markets protected from competition from one another due to these licensing agreements.[4] The licensing agreement between Armor France and Fujicopian Japan ended in 1998, thereby granting Armor France access to the U.S. TTR market. On January 1, 2000, IIMAK and Fujicopian Japan modified their licensing agreement and agreed to reduce IIMAK's royalty payment to Fujicopian Japan, grant IIMAK access to the TTR market in Asia, and eliminate IIMAK's exclusivity on the North American TTR market.[5] Thus, IIMAK was free to pursue the Asian market while Fujicopian Japan now had access to the North American TTR market. Fujicopian began importing jumbo rolls for slitting/converting into the United States in ***.

Also, one independent U.S. producer of TTR, Chemicraft, Inc, exited the TTR industry in the fall of 2001. In 2000-2001, NCR closed a small coating facility in the United States and consolidated its TTR operations.[6]

Slitters/Converters

U.S. firms that do not perform coating operations in the United States, but rather solely slit/convert imported or purchased jumbo rolls of certain TTR into finished TTR, also submitted industry data to the Commission.[7] These responding slitter/converters include: ***.[8]

In deciding whether a firm that further processes a product that is within the domestic like product definition qualifies as a domestic producer, the Commission generally has analyzed the overall nature of the firm's production-related activities in the United States to determine whether its

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[2] Conference transcript, p. 117 (Groh). In 1997, Paxar acquired IIMAK and sold it in 2000 for a gain to IIMAK's management in a leveraged buyout. *Id.* at 105 (Landry). Currently, IIMAK is a privately held company owned by ***.

[3] Petition, p. 75.

[4] Petitioner argues that the territorial exclusivity provisions were important to the agreements because all three companies sold identical or near identical products. *Id* at 75.

[5] TR, pp. 117-118 (Groh).

[6] Petition, p. 80.

[7] U.S. trade and financial data submitted by these firms can be found in appendix C, table C-2. Appendix C, table C-3 combines U.S. coaters' and U.S. slitter/converters' trade and financial data. *** provided incomplete and unusable data and is not included in those tables.

[8] ***. Petitioner argues that only IIMAK, NCR, and Paxar are the U.S. producers that should constitute the U.S. industry, thus excluding all slitter/converters. Petitioner does not currently take a position with regard to whether Sony should be included in the U.S. industry. Petitioner's postconference brief, pp. 39 and 43. Respondents argue that slitting operations constitute a substantial portion of overall TTR production and therefore those firms slitting in the United States should be included as part of the U.S. industry. Respondent's (ITW) postconference brief, pp. 10-14; respondent's (DNP) postconference brief, pp. 11-14.

production-related activities are sufficient to constitute domestic production.[9] Available U.S. trade, employment, and financial data pertaining to U.S. slitters/converters can be found in appendix C, table C-2.

Table III-2 presents the responding slitter/converters, the average unit costs of production (foreign and domestic content), shares of total cost by process, shares of total production, and position on the petition, for finished certain TTR produced by each firm during 2002.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-3. Total U.S. capacity increased from 2000 to 2002 by *** percent. Total U.S. production of certain TTR increased by *** percent from 2000 to 2002. Capacity utilization decreased by *** percentage points from 2000 to 2002.

[9] The Commission generally considers the following factors: (1) the source and extent of the firm's capital investment; (2) the technical expertise involved in U.S. production activities; (3) the value added to the product in the United States; (4) employment levels; (5) the 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.

Table III-2
TTR: Selected data for producers that only slit/convert, 2002

Firm	Average cost (*$ per msi*)		Share of total cost (in *percent*)		Share of 2002 total production[1] (*percent*)	Position on petition
	Foreign content (jumbo rolls)	U.S. content (slitting/ packaging)	Foreign content (jumbo rolls)	U.S. content (slitting/ packaging)		
All Write[2]	***	***	***	***	***	Support
Armor[3]	***	***	***	***	***	***
DNP[4]	***	***	***	***	***	***
Fujicopian[5]	***	***	***	***	***	***
ITW[6]	***	***	***	***	***	***
***[7]	***	***	***	***	***	***
Union[8]	***	***	***	***	***	Oppose
Weighted average/total	0.08	0.03	72.4	27.6	100.0	

1 ***.
2 ***.
3 ***.
4 ***.
5 ***.
6 ***.
7 ***.
8 ***.

Note–Foreign content represents the cost of production of the jumbo roll certain TTR, generally of a foreign related company. U.S. content cost represents the materials, overhead, and labor costs in the United States to conduct slitting/converting operations.

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

Table III-3
Certain TTR: U.S. producers' capacity, production, and capacity utilization, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

***.[10]
***.[11] ***.
***.[12]

[10] ***'s U.S. producer questionnaire response.

[11] *Id.*

[12] U.S. producer questionnaire responses of ***.

***. The domestic industry reported *** U.S. production of certain TTR in U.S. foreign trade zones.

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

As detailed in table III-4, the volume of U.S. producers' U.S. shipments rose by *** percent from 2000 to 2002. The value of their U.S. shipments decreased by *** percent during the same time period. U.S. producers' U.S. shipments of jumbo rolls accounted for *** of total U.S. shipments during 2002, and ranged from *** percent during *** to *** percent during ***. The volume of export shipments made by U.S. producers increased by *** percent between 2000 and 2002, while the value of those export shipments decreased *** percent during the same period. *** reported export shipments, which were made to ***.

Table III-4
Certain TTR: U.S. producers' shipments, by type, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

Table III-5 presents direct imports and purchases of imports by U.S. producers, along with their U.S. production. ***. *** all import jumbo rolls from their parent corporations in Japan *** to be slit/converted in the United States. *** reported that they purchased certain TTR from *** during the period examined. Table III-6 presents direct imports and purchases of imports by U.S. firms that perform only slitting/converting operations.

Table III-5
Certain TTR: U.S. producers' production, imports, and purchases of imports, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

Table III-6
TTR: U.S. firms that slit/convert, production, imports, and purchases of imports, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of certain TTR for the period examined are presented in table III-7.

Table III-7
Certain TTR: U.S. producers' end-of-period inventories, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of certain TTR, 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-8. ***.[13]

Table III-8
Certain TTR: Average number of production and related workers producing certain TTR, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

[13] *** questionnaire response; petition, p. 68.

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 22 firms believed to be importers of certain TTR from the subject countries, as well as to all U.S. producers.[1] Questionnaire responses were received from 9 companies that are believed to account for the vast majority of U.S. imports of certain TTR.[2] Questionnaire respondents were located in California (2), Kentucky, Michigan, North Carolina, Oregon, Pennsylvania, South Carolina, and Texas. All responding U.S. importers have affiliated companies that produce certain TTR in one of the subject countries. U.S. import data set forth in this section are a compilation of these firms' reported imports from subject countries.[3] *** reported imports from nonsubject countries.[4] Imports from nonsubject countries appear to be an extremely small portion of the market.[5] Table IV-1 lists all responding U.S. importers of certain TTR and their quantity of imports, by source, in 2002.

***, no U.S. importers entered the subject product into or withdrew it from foreign trade zones or bonded warehouses.

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[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 Service, may have imported certain TTR since 2000.

[2] In addition to the 9 responses, the Commission received responses from *** indicating that they did not import certain TTR during the period examined.

*** reported that they do import slitted fax TTR from Japan but not certain TTR within the scope of these investigations. *** also reported that they imported slitted fax TTR in addition to certain TTR. Data regarding U.S. production and imports of slitted fax TTR can be found in appendix C, table C-4.

ITW stated that it believes that it accounted for 100 percent of U.S. imports of certain TTR from Korea during the period examined. TR, p. 103 (Landry).

[3] Classification of entries into the United States of the subject product under the HTS appears to be inconsistent. Petitioner stated in the petition that it believes certain TTR should be classified under heading 3702 and statistical reporting numbers 3921.90.4025 and 9612.10.9030, but also had reason to believe that some imports were entering the United States under subheadings 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90. *See* petition, pp. 10-12. All of these HTS categories contain products outside the scope of the investigations and many are "basket" categories. Therefore, it would appear that questionnaire data of reporting U.S. importers would be more reliable than import statistics compiled by Commerce.

Petitioner provided the Commission with import data derived from its examination of bills of lading found on the Port of Import Export Reporting Service ("PIERS"). Petition, pp. 11-12, exhibit A3; petitioner's postconference brief, pp. 22-23. It argues that because of what it perceives to be anomalies in the data submitted by importers in their questionnaires, the PIERS data are more reliable. Petitioner's postconference brief, exhibit 1. Petitioner stated, however, that, if used by the Commission, the import data as opposed to the import shipment data are the more reliable data subset and that both the PIERS data and the import data collected by the Commission depict an increase in subject imports. *Id.* Respondents recommend that the Commission use the questionnaire data to analyze U.S. imports. Respondent's (ITW) postconference brief, supp. p. 8; respondent's (DNP) postconference brief, pp. 7-8 n. 12.

[4] ***.

[5] At the conference, the industry agreed that the volume of imports from nonsubject countries was small to nonexistent. ***. No other importer reported imports of certain TTR from nonsubject countries.

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

* * * * * * *

U.S. IMPORTS

Table IV-2 shows that the volume of U.S. imports of certain TTR from all subject countries combined increased by 10.7 percent from 2000 to 2002. U.S. imports of certain TTR from the subject countries principally consisted of jumbo rolls for captive consumption in the further processing into slitted certain TTR in the United States. The volume of U.S. imports from France increased from 2000 to 2002 by *** percent.[6] The volume of U.S. imports from Japan increased by *** percent from 2000 to 2002. The volume of U.S. imports from Korea increased by *** percent from 2000 to 2002. The quantity of imports from nonsubject countries was nearly *** during the period examined.

Table IV-2
Certain TTR: U.S. imports, by source, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II. With regard to geographical markets and presence in the market, the petitioner argues that imported certain TTR from all subject countries compete for the same end users without regard to geographical location in the United States and that these imports have been simultaneously present in the U.S. market throughout the period examined.[7] No geographical market segmentation in the United States was reported by the parties to these investigations.[8]

Respondent Armor is the only party to argue that its imports from France should not be cumulated with other imports due to its product uniqueness and niche market.[9] Armor argues that its products are high-quality niche TTR products that are not interchangeable with other certain TTR

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[6] The share of the volume of total U.S. imports from France *** percent during the period examined and went as low as *** percent of the total volume in 2001. During the most recent period, U.S. imports from France totaled *** percent of total volume. Thus, these volumes remained above the statutory threshold of 3 percent for purposes of negligibility. Respondent Armor argues, however, that if the Commission decided to include slitted fax TTR in the domestic like product, U.S. imports from France would account for *** percent of all imports. Respondent's (Armor) postconference brief, p. 4.

[7] Petition, pp. 72-73 ("complete overlap in competition among subject imports from the three respondent countries and between all of those imports and domestic product."); Petitioner's postconference brief, p. 19.

[8] Respondent's (Armor) postconference brief, p. 26.

[9] *Id* at pp. 5-10.

products and that its primary channel of distribution is to sell its TTR (pursuant to global supply contracts[10]) directly to the OEM as opposed to through a distributor as much of the TTR industry does.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of certain TTR are presented in table IV-3 and are based on U.S. producers' shipments as reported in the Commission's questionnaires and U.S. imports as reported by U.S. importers in the Commission's questionnaires.

Table IV-3
Certain TTR: U.S. shipments of domestic product, U.S. imports by source, and apparent U.S. consumption, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

U.S. MARKET SHARES

Data on market shares in the total U.S. market for certain TTR are presented in table IV-4.

Table IV-4
Certain TTR: Apparent U.S. consumption and market shares, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

[10] Armor argues that it also differentiates itself with other certain TTR producers by having global supply contracts with its customers. It estimated that *** percent of TTR sales are made on the spot market. *Id* at p. 8.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Transportation Costs to the U.S. Market

Transportation costs for certain TTR from subject countries to the United States (excluding U.S. inland costs) are estimated to be approximately 2.1 percent of the total cost for certain TTR from France, 2.1 percent of the total cost for certain TTR from Japan, and 8.6 percent of the total cost for certain TTR from Korea. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.[1]

U.S. Inland Transportation Costs

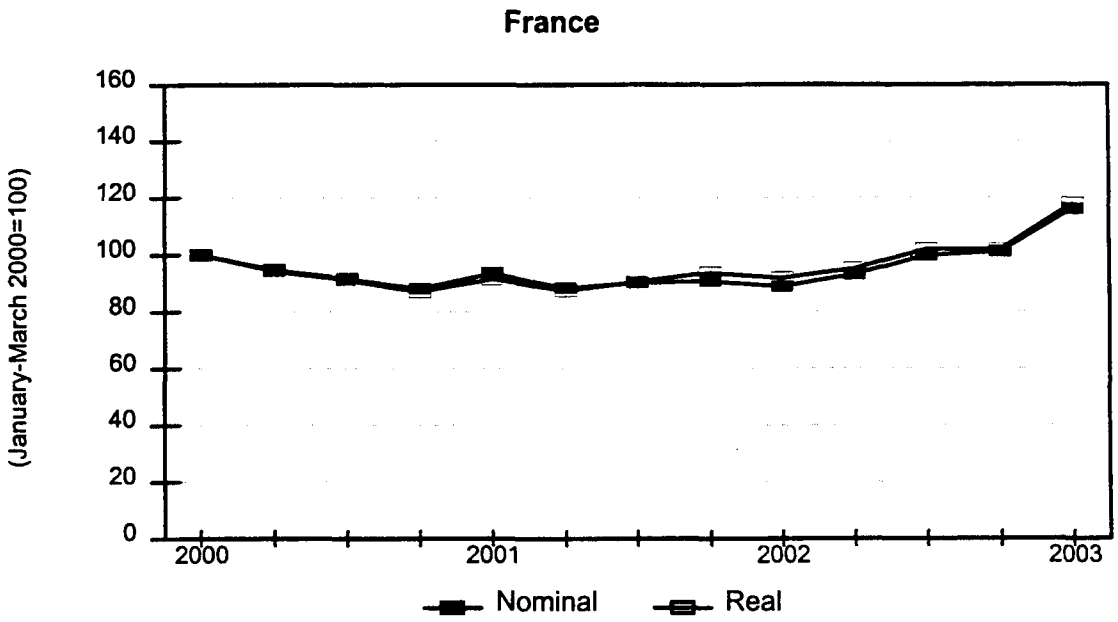
Transportation costs were generally zero to five percent for both producers and importers. However, while *** reported that they arranged transportation, *** reported that their purchasers arrange transportation. Most importers and producers shipped their sales at least 100 miles to their customers.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the euro appreciated over January 2000 through March 2003. Over the same period, the nominal values of the Japanese yen and Korean won depreciated at first, and then appreciated while remaining below first quarter 2000 levels. Real values for all three currencies did not vary substantially from nominal values. Both nominal and real values of the currencies are presented in figure V-1.

[1] These estimates are based on HTS codes 3702.44.00.60, 3921.90.40.25, and 9612.10.90.30. While these codes may not be accurate estimates of certain TTR imported into the United States (see petition pp. 10-11), staff believes they are adequate for estimating the cost of transporting certain TTR or similar types of coated films.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the French, Japanese, and Korean currencies and the U.S. dollar, by quarters, January 2000-March 2003



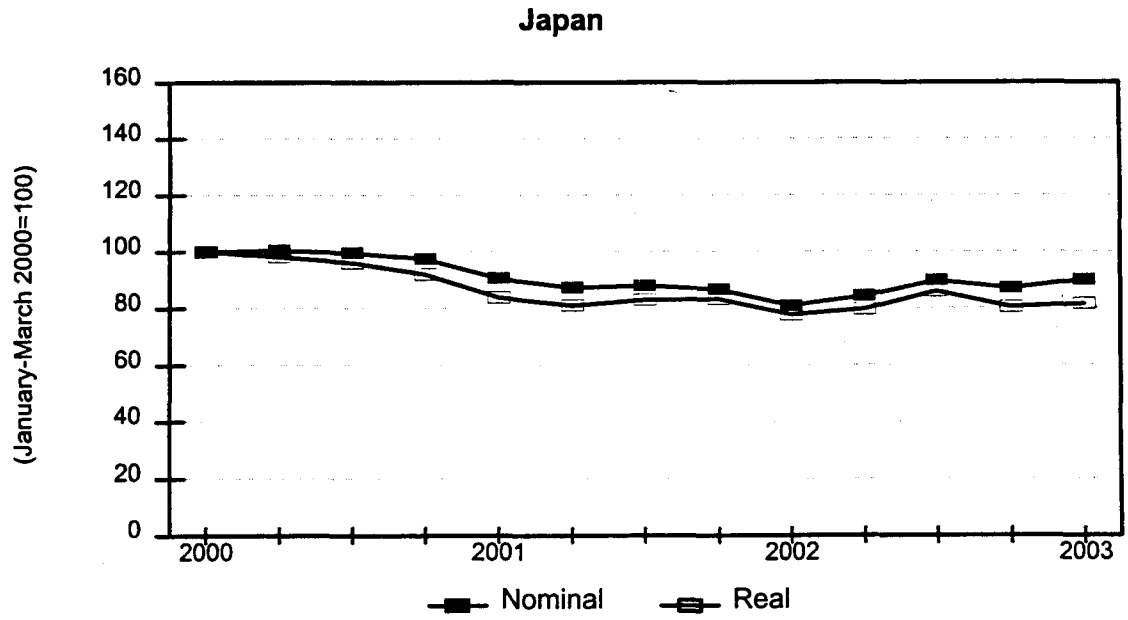
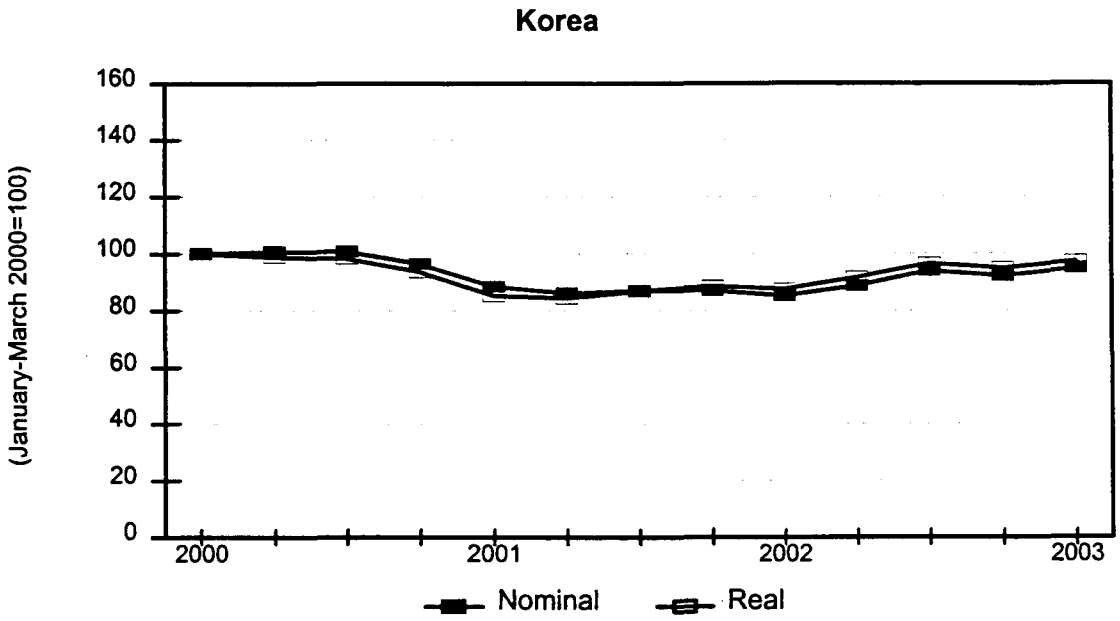


Figure continued on next page.

Figure V-1--*Continued*
Exchange rates: Indices of the nominal and real exchange rates between the French, Japanese, and Korean currencies and the U.S. dollar, by quarters, January 2000-March 2003



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

PRICING PRACTICES

Pricing Methods

Most producers and importers stated that contracts are rare for certain TTR, with most transactions being a one-time delivery of a specific quantity of certain TTR.[2] Certain TTR is sold on the basis of ribbon area, in dollars (or cents) per msi.[3] Pricing is generally set f.o.b. warehouse or plant.

Sellers of certain TTR generally reported that prices were set through a variety of methods, including price lists, transaction by transaction negotiation, and request for quotes. However, pricing methods did not tend to vary by seller; rather, each seller reported a variety of methods depending on the type of customer it had (custom order, distributor, etc.)

Among U.S. producers, ***.[4]

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[2] *See also* petition, p. 32.

[3] TR, p. 29 (Kingdon).

[4] Several companies (including ***) submitted price lists that showed discounts for larger volume purchases.

Among importers and their affiliated slitters/converters,[5] there was also a tendency toward the use of price lists for some customers and transaction by transaction negotiation for others.[6] ***.

Among U.S. producers, ***. *** stated that the certain TTR market has been moving toward more spot sales due to purchaser reluctance to commit long-term in an atmosphere of falling prices. Among importers and slitters/converters, seven reported 90 percent or more of their sales were spot sales. However, ***. U.S. producers generally reported contracts of one to two years, but with a variety of different conditions (e.g., setting price or quantity, have meet or release clauses, etc.). Among importers and slitters/converters, contracts were less common. ***.

PRICE DATA

The Commission requested U.S. producers and importers of certain TTR to provide quarterly data for the total quantity and value of certain TTR that was/were shipped to unrelated customers in the U.S. market. Data were requested for the period January 2000 to March 2003. The products for which pricing data were requested are as follows:

> ***Product 1***.--**General purpose wax ribbon (also known as "resin enhanced wax" or "premium wax" ribbons), such as or directly competitive with ITW's W90, DNP's W137, Dynic's S2, Armor's AWX500, Union Chemicar's UN250, and IIMAK's High Mark, Fast Wax, Versa Mark, Flex Mark, and Hard Wax, supplied in a standard configuration offered by OEMs to fit printers such as Zebra, Datamax, Sato, Tec, and Monarch, in slit form, between 80 mm and 110 mm in width, and between 350 and 600 m in length on a core with a 1 inch internal diameter.**
>
> ***Product 2***.--**General purpose wax ribbon (also known as "resin enhanced wax" or "premium wax" ribbons), such as or directly competitive with ITW's W90, DNP's W127, Dynic's S2, Armor's AWX500, Union Chemicar's UN250, and IIMAK's High Mark, Fast Wax, Versa Mark, Flex Mark, and Hard Wax, in jumbo form.**

Four U.S. producers, five importers of certain TTR from Japan, one importer of certain TTR from Korea, and one importer of certain TTR from France provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. By quantity, pricing data reported by these firms accounted for approximately 61.6 percent of U.S. producers' shipments of certain TTR, 4.2 percent of U.S. shipments of subject imports from France, 24.9 percent of U.S. shipments of subject imports from Japan, and 84.4 percent of U.S. shipments of subject imports from Korea during 2002.

Product 1 is a common slitted form of certain TTR. The major brands all have a version of this ribbon, and it is featured prominently in pricing and product lists supplied in their questionnaires, as well as their websites. Among producers, four supplied data, and among importers, one supplied data for

---

[5] Of the 11 responding importers, seven were affiliated with slitter/converters and filled out both producer and importer questionnaires. For the purposes of this chapter, their answers will be counted once.

[6] At the conference, DNP described the process for large sales as involving bids based on meeting customer standards, especially those related to compatibility with other company's ribbons the customer may already be using. TR, pp. 123-128 (Cameron).

French certain TTR, four supplied data for Japanese certain TTR, and one supplied data for Korean certain TTR.[7]

Product 2 is a jumbo roll product that would typically (though not always) be sold to slitters/converters. Among producers, three supplied data, and among importers, four supplied data for Japanese certain TTR and one supplied data for Korean certain TTR.

Price Trends

Prices for certain TTR clearly fell over the period January 2000 through March 2003, although ***.[8] IIMAK attributes this fall to subject import pricing, while respondents attribute the price fall to lower-than-expected demand and an aggressive strategy by Sony to reduce the number of certain TTR suppliers.[9] IIMAK described a market where the increasing prominence of distributors who buy and sell certain TTR only on price had been aided by the high volume of low-priced subject imports.[10] During January 2000 through March 2003, U.S. prices fell 29.3 percent for product 1 sales to distributors, 20.8 percent for product 1 sales to OEMs, 21.8 percent for product 2 sales to OEMs, and 27.8 percent for product 2 sales to slitters/converters (see tables V-1 and V-3 and figures V-2 to V-5 and V-8 to V-11).

Price Comparisons

Tables V-2 and V-4 and figures V-6, V-7, V-12, and V-13 present selling prices for the three largest U.S. producers listed, most of whom sold most of their products into one distribution channel. However, ***.

Overall, there is a clear pattern of subject imports underselling domestic certain TTR in product 1 and overselling in product 2. For product 1 sales to distributors, certain TTR from France undersold U.S. product 1 in 13 of 13 quarters (on low volume) by margins ranging from *** percent. Product 1 from Japan undersold U.S. product 1 in 13 of 13 quarters by margins ranging from *** percent. Product 1 from Korea undersold U.S. product 1 in 11 of 11 quarters, by margins ranging from *** percent.

For product 1 sales to OEMs, French product 1 undersold U.S. product 1 in 4 of 7 quarters (again on low French volume). Japanese product 1 undersold U.S. product 1 in 12 of 13 quarters, by margins of *** percent. Korean product 1 undersold U.S. product 1 in 9 of 9 quarters, by margins of *** percent. U.S. volumes fell substantially from 2000 to 2003. Breaking the data out by U.S. producer (table V-2), *** is generally the highest-priced producer of product 1, and *** the lowest.

Volumes are much lower for sales of product 2, but U.S. producers' prices for product 2 are generally lower than importers' prices, and sometimes substantially so. *** shows substantial volumes of product 2 shipped to slitters and converters. It should be noted that importer pricing data for this category add up to total imports of slitted TTR in several of the importer questionnaires, raising questions as to whether these data were supplied in the same way that producers supplied pricing data.

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[7] Some of the importers supplied these data in their producers' questionnaire rather than their importers' questionnaire, as they slit the product 1 here in the United States. However, all importers slit product 1 in the United States. *** supplied data that were probably for product slit from both *** rolls and so its data were not used. *** submitted some product 1 data as sold to slitters; after conversations with counsels for ***, it is clear that product 1 is not being re-slit. Thus, these data were re-classified as sales to distributors. In addition, *** submitted product 1 data which are not included here because ***.

[8] See ***.

[9] TR, p. 10 (Marshall).

[10] TR, p. 77 (Kingdon).

Table V-1
Certain TTR: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 1, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Table V-2
Certain TTR: Weighted-average selling prices and quantities as reported by U.S. producers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Table V-3
Certain TTR: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 2, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Table V-4
Certain TTR: Weighted-average selling prices and quantities as reported by U.S. producers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-2
Weighted-average selling prices to distributors, as reported by U.S. producers and importers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-3
Quantities sold to distributors as reported by U.S. producers and importers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-4
Weighted-average selling prices to OEMs, as reported by U.S. producers and importers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-5
Quantities sold to OEMs as reported by U.S. producers and importers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-6
Weighted-average selling prices as reported by U.S. producers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-7
Quantities reported by U.S. producers of product 1, by quarters, January 2000-March 2003

* * * * * * *

Figure V-8
Weighted-average selling prices to OEMs, as reported by U.S. producers and importers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-9
Quantities sold to OEMs as reported by U.S. producers and importers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-10
Weighted-average selling prices to slitters/converters, as reported by U.S. producers and importers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-11
Quantities sold to slitters/converters as reported by U.S. producers and importers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-12
Weighted-average selling prices as reported by U.S. producers of product 2, by quarters, January 2000-March 2003

* * * * * * *

Figure V-13
Quantities as reported by U.S. producers of product 2, by quarters, January 2000-March 2003

* * * * * * *

LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of certain TTR report any instances of lost sales and lost revenues they experienced due to competition from imports from France, Japan, and Korea since January 1, 2000. All the lost sales and lost revenue allegations are presented in tables V-5 and V-6 and are discussed in more detail below. There were *** lost sales allegations totaling over *** and involving over *** msi of certain TTR for January 2000 through June 2003. Additionally, there were *** lost revenue allegations totaling over *** and involving over *** msi of certain TTR. In addition to summary information provided in tables V-5 and V-6, more detailed descriptions of the allegations follow.

* * * * * * *

Table V-5
U.S. producers' lost sales allegations

* * * * * * *

Table V-6
U.S. producers' lost revenue allegations

* * * * * * *

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Five producers, which together accounted for the majority of U.S. commercial shipments and internal consumption and/or transfers to related companies of certain TTR as coaters during the period examined, supplied financial data on their certain TTR operations.[1] Three producers (approximately *** percent of 2002 total sales value) reported internal consumption, and all five producers reported transfers of certain TTR to related firms (approximately *** percent of 2002 total sales value).

OPERATIONS ON CERTAIN TTR

The aggregate results of the U.S. producers' operations on certain TTR are presented in table VI-1. Total sales volume and value decreased slightly from 2000 to 2001. While total sales volume increased somewhat from 2001 to 2002, net sales value decreased for the same period, due to a decrease in the average unit sales value. Operating income decreased substantially from 2000 to 2001 and then increased from 2001 to 2002. The per-unit sales value and per-unit total cost (combined unit cost of goods sold (COGS) and unit selling, general, and administrative (SG&A) expenses) both decreased continuously over the period. However, per-unit profitability decreased from 2000 to 2001 and rebounded from 2001 to 2002, due mainly to a decreased per-unit total cost and an increased sales volume for the period. Both total sales volume and value as well as operating income increased somewhat from interim 2002 to interim 2003 for the same reason.

Table VI-1
Results of operations of U.S. producers in the production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

The results of operations by individual firms are presented in table VI-2. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), and the ratio of operating income/(loss) to net sales value. *** experienced operating income for the entire period.[2] Per-unit sales value differed substantially between *** in interim 2003.

Table VI-2
Results of operations of U.S. producers, by firms, in the production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Selected aggregate per-unit cost data of the producers on their operations, i.e., unit COGS and unit SG&A expenses, are presented in table VI-3. Total unit cost decreased overall over the period, mainly due to a decrease in overhead and G&A expenses.

---

[1] The producers with fiscal years end other than December 31 are ***. ***.

[2] ***.

Table VI-3
Unit costs (per msi) of U.S. producers in the production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

A variance analysis showing the effects of prices and volume on the producers' sales of certain TTR, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income ($*** million) between 2000 and 2002 was attributable mainly to the negative effects of decreased sales prices ($*** million), combined with the positive effects of decreased costs and expenses ($*** million) and increased sales volume ($*** million). An increase in operating income between the interim periods was attributable to both a favorable net cost/expense variance (decreased unit costs and expenses) and a favorable volume variance combined with unfavorable price variance (a decrease in unit sales value).

Table VI-4
Variance analysis of operations of U.S. producers in the production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

U.S. producers' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table VI-5. Capital expenditures increased substantially between 2000 and 2001 because of increased capital spending by *** for the period. Capital expenditures decreased substantially from 2001 to 2002 due to decreased spending by *** for the same period. Capital expenditures by individual firms are presented in table VI-6.

Aggregated R&D expenses decreased slightly between 2000 and 2002, but increased somewhat between the two interim periods. The original cost of fixed assets increased steadily over the period, while net book value of productive facilities decreased continually for the same period.

Table VI-5
Capital expenditures, R&D expenses, and assets utilized by U.S. producers in their production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table VI-6
Capital expenditures by U.S. producers, by firms, in their production of certain TTR, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of certain TTR from France, Japan, and Korea. The producers' comments are presented in appendix D.

PART VII: THREAT CONSIDERATIONS

This part of the report contains information on foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets.

THE INDUSTRY IN FRANCE

Table VII-1 presents data for reported production and shipments of certain TTR in France. The Commission requested and received data from one firm that was listed in the petition and believed to export certain TTR to the United States. The *** producer of certain TTR in France, Armor, S.A., accounted for *** percent of France's exports of certain TTR to the United States during the period examined.

Armor France reported that *** percent of its total sales in the most recent fiscal year were sales of certain TTR. In 2002, *** percent of Armor France's total shipments were exported to the United States. Approximately *** percent of its shipments of certain TTR go to other export markets such as ***. From 2000 to 2002, Armor France's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets rose by *** percent. Armor France's capacity increased from 2000 to 2002 by *** percent due to the addition of *** and is projected to further increase in 2003 and 2004. Its production increased from 2000 to 2002 by *** percent and is projected to further increase in 2003 and 2004. Armor is Armor France's *** U.S. importer of certain TTR.

Table VII-1
Certain TTR: France's reported production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004

* * * * * * *

THE INDUSTRY IN JAPAN

Table VII-2 presents data for reported production and shipments of certain TTR in Japan. The Commission requested data from seven firms[1] that were listed in the petition. The Commission received questionnaire responses from all seven of the firms, which are believed to account for the all of the certain TTR production in Japan.

In 2002, 12.7 percent of total shipments of certain TTR from Japan were exported to the United States. Producers of certain TTR in Japan reported that in 2002, 25.9 percent of their shipments of certain TTR were to other export markets, ***. From 2000 to 2002, Japanese TTR producers' volume of shipments exported to the United States decreased by 4.3 percent while their volume of shipments being exported to other world markets increased by 52.6 percent. Producers' capacity in Japan increased from 2000 to 2002 by 6.8 percent but is projected to decline in 2003 and 2004 by 11.2 percent.[2] Their production increased from 2000 to 2002 by 3.9 percent and is projected to further increase in 2003 and 2004. *** producers of certain TTR in Japan have U.S. subsidiaries that import certain TTR into the United States. *** have coating operations at their U.S. manufacturing facilities. The *** producers of

[1] These firms include: ***.

[2] ***.

Table VII-2
Certain TTR: Japan's reported production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004

Item	Actual experience					Projections	
				January-March			
	2000	2001	2002	2002	2003	2003	2004
				Quantity (*1,000 msi*)			
Capacity	3,459,684	3,600,912	3,670,412	917,877	812,877	3,257,726	3,271,307
Production	2,315,568	2,235,652	2,406,328	609,309	621,493	2,533,955	2,663,098
End of period inventories	94,713	122,185	120,098	151,392	135,797	124,772	117,221
Shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	318,967	290,898	305,264	86,280	82,204	324,003	192,900
All other markets	407,880	527,457	622,242	137,526	148,010	654,265	686,895
Total exports	726,847	818,355	927,506	223,806	230,214	978,268	879,795
Total shipments	2,294,703	2,214,732	2,401,772	581,171	604,306	2,529,281	2,511,950
				Ratios and shares (*percent*)			
Capacity utilization	66.9	62.1	65.6	66.4	76.5	77.8	81.4
Inventories to production	4.1	5.5	5.0	6.2	5.5	4.9	4.4
Inventories to total shipments	4.1	5.5	5.0	6.5	5.6	4.9	4.7
Shares of total quantity of shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	13.9	13.1	12.7	14.8	13.6	12.8	7.7
All other markets	17.8	23.8	25.9	23.7	24.5	25.9	27.3
Total exports	31.7	37.0	38.6	38.5	38.1	38.7	35.0

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

certain TTR in Japan export jumbo rolls, which they produce in Japan, to their U.S. subsidiaries for slitting and packaging.

THE INDUSTRY IN KOREA

Table VII-3 presents data for reported production and shipments of certain TTR for Korea. The Commission requested data from one firm, ITW Specialty Films Co., Ltd, which was listed in the petition and accounted for all certain TTR production in Korea during the period examined. ITW Korea is a wholly-owned subsidiary of ITW.

ITW Korea reported that *** percent of its total sales in the most recent fiscal year were sales of certain TTR. In 2002, *** percent of ITW Korea's total shipments were exported to the United States. It reported that *** percent of its shipments of certain TTR were to other export markets such as ***. From 2000 to 2002, ITW Korea's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets rose by *** percent. ITW Korea's capacity *** from 2000 to 2002 and is projected to *** in 2003 and 2004. Its production increased from 2000 to 2002 by *** percent and is projected to further increase in 2003. ITW is ITW Korea's *** U.S. importer of certain TTR.

Table VII-3
Certain TTR: Korea's reported production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from France, Japan, and Korea are shown in table VII-4.

Table VII-4
Certain TTR: U.S. importers' end-of-period inventories of subject imports, by source, 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO MARCH 31, 2003

The Commission requested importers to indicate whether they imported or arranged for the importation of certain TTR from France, Japan, or Korea after March 31, 2003. All *** of the responding importers reported that they had imported certain TTR from a subject country subsequent to March 31, 2003. The tabulation below shows the importer, the quantity of certain TTR imported subsequent to March 31, 2003, and the country of origin of the imports.

* * * * * * *

DUMPING IN THIRD-COUNTRY MARKETS

There is no indication that certain TTR from France, Japan, or Korea has been the subject of any other import relief investigations in any other countries.[3]

[3] Petitioner argues that tariffs on foreign certain TTR entering Korea are sufficiently high to constitute a barrier to entry, and that the distribution system in Japan which is heavily dependent on vertical relationships, similarly stifles entry into that market. Finally, it argues that Armor France has a majority market position in the European TTR market which makes it difficult for other manufacturers to sell there effectively. Petition, p. 79.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1039–1041 (Preliminary)]

Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations No. 731–TA–1039–1041 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons,[1] that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by July 14, 2003. The Commission's views are due at Commerce within five business days thereafter, or by July 21, 2003.

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

EFFECTIVE DATES: May 30, 2003.

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.—These investigations are being instituted in response to a petition filed on May 30, 2003, by IIMAK International Imaging Materials, Inc., Amherst, NY.

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

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

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 20, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Christopher Cassise ((202) 708–5408) not later than June 18, 2003, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 25, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document

[1] Products include wax and wax/resin thermal transfer ribbons ("TTR"), in slit or unslit ("jumbo") form, designed for use in printers generating alphanumeric and machine-readable characters, with a total wax (natural or synthetic) content of all the image side layers equal to or greater than 20 percent by weight and a wax content of the colorant layer equal to or greater than 10 percent by weight, and a black color, as defined by industry standards by the Lab color specification such that $L^* < 35$, $-20 > a^* < 35$ and $-40 < b^* < 31$. Excluded from product coverage are: (1) Slitted thermal transfer ribbons for fax or for multi-function thermal transfer printing devices with a width equal to or greater than 212 millimeters ("mm") but not greater than 220 mm (or 8.35 inches and 8.66 inches) and a length of 230 meters or less (including cassettes); (2) pure resin TTR; and (3) color TTR. The products are provided for in heading 3702 and subheadings 3921.90.40 and 9612.10.90 (imported under statistical reporting numbers 3921.90.4025 and 9612.10.9030) of the Harmonized Tariff Schedule of the United States (HTS).

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 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 3, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–14582 Filed 6–9–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-825, A-580-853, A-588-863]

Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea

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

ACTION: Initiation of Antidumping Duty Investigation.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Julio Fernandez (France) at 202-482-0961, Alex Villanueva (Japan) at 202-482-3208, Fred Baker (South Korea) at 202-482-2924 or Robert James at 202-482-0649, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Initiation of Investigation

The Petition

On May 30, 2003, the Department of Commerce (the Department) received a petition filed in proper form by International Imaging Materials, Inc. (IIMAK, or petitioner). On June 2, 13, and 18, 2003, petitioner submitted clarifications of the petition. IIMAK is a domestic producer of thermal transfer ribbons. In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Tariff Act), the petitioner alleges imports of thermal transfer ribbon from France, Japan and the Republic of Korea (South Korea) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act, and that such imports are materially injuring, or threatening material injury to, the U.S. industry.

The Department finds the petitioner filed its petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Tariff Act, and it has demonstrated sufficient industry support with respect to the investigations it is presently seeking. *See*, "Determination of Industry Support for the Petitions," below.

Scope of the Investigations

These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that $L^* < 35$, $-20 > a^* < 35$ and $-40 < b^* < 31$, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and Customs purposes; however, the written description of the scope of the investigation is dispositive.

As discussed in the preamble to the Departments regulations, we are setting aside a period for parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. This period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties

prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Tariff Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (the Commission), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (section 771(10) of the Tariff Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642–44 (Ct. Int'l Trade 1988) ("the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV").

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

In determining whether the domestic petitioner has standing, we considered the industry support data contained in the petition with reference to the domestic like product as defined above in the "Scope of the Investigations" section. To establish standing, petitioner provided its actual production data for the domestic like product for the year 2002. To estimate 2002 production for all other domestic thermal transfer ribbon producers named in the petition, petitioner estimated production data by several means. These estimated production data were added to the actual production data detailed above to arrive at total estimated U.S. production of thermal transfer ribbon for the year 2002 in thousands of square inches (msi). See Petition at Exhibit A-1 and Exhibit A-2 containing an affidavit by an IIMAK thermal transfer ribbon division official describing how the production data were estimated.

Using the data described above, the share of total estimated U.S. production of thermal transfer ribbon in 2002 represented by petitioner (there were no other supporting parties) equals over 50 percent of total domestic production. Therefore, the Department finds the domestic producers who support the Petition account for at least 25 percent of the total production of the domestic like product. In addition, as no domestic producers have expressed opposition to the Petition, the Department also finds the domestic producers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.

With regard to the domestic like product, petitioner's definition of the like product is identical to the scope of these investigations. *See* Petition at 69. Based on our analysis of the information submitted in the Petition we have determined there is a single domestic like product, thermal transfer ribbons in slit or jumbo form, which is defined further in the "Scope of the Investigations" section above, and we have analyzed industry support in terms of that domestic like product. For more information on our analysis and the data upon which we relied, *see* the Antidumping Investigation Initiation Checklist (Initiation Checklist), dated June 19, 2003, at "Industry Support," and Appendix 1.

Therefore, we find that petitioners have met the requirements of section 732(c)(4)(A) of the Tariff Act.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The source or sources of data for the deductions and adjustments relating to U.S. and foreign market prices and cost of production and constructed value have been accorded treatment as business proprietary information. Petitioner's sources and methodology are discussed in greater detail in the business proprietary version of the Petition and in our Initiation Checklist. We corrected certain information contained in the petition's margin calculations; these corrections are set forth in detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Tariff Act in our preliminary or final determinations, we may re-examine this information and revise the margin calculations, if appropriate.

Period of Investigation

The period of investigation for these cases will be April 1, 2002 through March 31, 2003, or the four most-recently completed fiscal quarters as of the month preceding the month in which the petition was filed. *See* 19 CFR 351.204(b).

France

Constructed Export Price

To calculate constructed export price (CEP) petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in the home market. Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a

basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by the respondent's U.S. affiliate, inventory carrying costs in transit, and a figure for CEP profit. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. Petitioner based CEP profit for the respondent, Armor SA, upon the experience of Dai Nippon Printing, a Japanese TTR producer. Petitioner explained this was a reasonable surrogate figure because no sector-specific profit data are available for the French TTR industry. With respect to selling expenses incurred in France, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

With respect to normal value (NV), petitioner relied on foreign market research to obtain information on the prices of two grades of thermal transfer ribbon sold in the French market. This sales information is contemporaneous with the pricing information used as the basis for CEP, and represents products which are either identical or similar to those sold in the United States. *See* Petition Exhibits A-7 and A-8.

The petitioner also provided information demonstrating reasonable grounds to believe or suspect that sales of TTR in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Tariff Act, and requested that the Department initiate a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Tariff Act, COP consists of cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioner calculated COM based on the experience of a U.S. TTR producer, adjusted for known differences based on petitioner's knowledge of French TTR producers' operations and other publically available data. *See* Petition at 64 and Exhibit B-14, and Petitioner's June 13, 2003 submission at 20 through 22 and Exhibit B-27. According to the petitioner, these are the most specific cost data reasonably available. The U.S. producer's figures are reasonable to use to estimate French producers' costs because, according to the petitioner, U.S. and French producers have similar production processes. Petitioner states it was unable to obtain French producers' cost of production data. Petitioner determined French producers' raw materials cost, variable and fixed overhead, SG&A and packing cost based on the costs incurred by the U.S. producer and adjusted for the known differences. *See id.* Petitioner valued labor costs based on the U.S. producer's production experience adjusted for known differences and French hourly wages in U.S. dollars as posted on the Department's web site.

Based upon a comparison of the price of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Tariff Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Tariff Act, the petitioners also based NV for sales in France on constructed value (CV). *See* Petitioner's June 18 submission. The petitioner calculated CV using the same COM, SG&A and interest expense figures used to compute the COP. Consistent with 773(e)(2) of the Tariff Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amounts reported for the Japanese company Dai Nippon Printing's printing business segment for the year ending March 2002. Petitioner states it was unable to obtain specific and detailed financial data for Armor, the French TTR company and believes it reasonable to use the rate for Dai Nippon Printing as a surrogate for a French TTR company. However, we do not believe the Dai Nippon Printing profit rate is a reasonable surrogate for profit on the sales in the ordinary course of trade in France for purposes of this initiation. For initiation purposes, we have recalculated CV without regard to profit, as we have no acceptable surrogate profit rate on the record. Should the need arise to use the profit rate suggested by the petitioners as facts available under section 776 of the Tariff Act in our preliminary or final determination, we may reexamine the information developed on the French TTR industry and, if appropriate, revise the margin calculations.

The estimated dumping margin for subject merchandise from France, based on comparisons of CEP and NV, range between 16.5 and 60.6 percent. The estimated margin for France based on a comparison of CEP to CV is 57.7 percent.

Japan

Constructed Export Price

To calculate CEP petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in the home market. Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by a

respondent's U.S. affiliate, inventory carrying costs in transit, and a figure for CEP profit. *See* Petition at 50 through 55, and Exhibit B-14. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. Petitioner based CEP profit upon the experience of Dai Nippon Printing, a Japanese TTR producer.

With respect to selling expenses incurred in Japan, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

In calculating NV, the petitioner relied upon data provided by foreign market researchers on home market prices of wax and wax resin TTR products. *See* Petition at Exhibit B-10. This sales information is contemporaneous with the pricing information used as the basis for CEP and represents products which are either identical or similar to those sold in the United States. No other adjustments were made to NV, because additional information on home market adjustments was not reasonably available to petitioner.

The estimated dumping margin for subject merchandise from Japan, based on comparisons of CEP and NV, range between 65.9 and 147.3 percent.

South Korea

Constructed Export Price

To calculate CEP petitioner obtained pricing information relating to sales of certain wax products sold to unaffiliated parties in the United States, and comparable to the product sold in the home market. Petitioner made certain adjustments to these selling prices for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by the respondents' U.S. affiliates, inventory carrying costs in transit, and a figure for CEP profit. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. CEP profit for the respondent was based upon the experience of Dai Nippon Printing, a Japanese TTR producer. Petitioner explained this was a reasonable surrogate figure because no sector-specific profit data are available for the South Korean TTR industry. With respect to selling expenses incurred in South Korea, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

With respect to NV, the petitioner relied upon foreign market research to obtain information relating to home market prices for a grade of TTR that is almost identical to the grade for which petitioners obtained U.S. pricing data. Petitioners made no deductions from the home market selling price because estimates of home market expenses were not reasonably available to petitioner. *See* Petition at 50. Thus, petitioners made no deductions for expenses incurred in Korea in its calculations of either net U.S. price or net home market price.

The estimated dumping margin for subject merchandise from South Korea, based on comparisons of CEP and NV, range between 56.6 and 59.9 percent.

Fair Value Comparisons

Based on the data provided by petitioner, there is reason to believe imports of TTR from France, Japan and South Korea are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

With respect to France, Japan and South Korea, petitioner alleges the U.S. industry producing the domestic like product is being materially injured, or threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

Petitioner contends the industry's injured condition is evident in examining net operating income, profit, net sales volumes, production employment, as well as inventory levels, and reduced capacity utilization. *See* Petition at 84 *et seq.* Petitioner asserts its share of the market has declined from 2000 to 2002. Finally, petitioner notes one TTR manufacturer went out of business altogether in 2001, while another closed one of its coating facilities. For a full discussion of the allegations and evidence of material injury, *see* the Initiation Checklist at Appendix II.

Initiation of Antidumping Investigations

Based on our examination of the Petition covering TTR, we find it meets the requirements of section 732 of the Tariff Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of TTR from France, Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Tariff Act, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Tariff Act, a copy of the public version of the Petition has been provided to representatives of the governments of France, Japan and South Korea. We will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided in section 19 CFR 351.203(c)(2).

Commission Notification

The International Trade Commission will preliminarily determine no later than July 14, 2003, whether there is reasonable indication that imports of TTR from France, Japan and South Korea are causing, or threatening, material injury to a U.S. industry. A

negative Commission determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

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

Dated: June 19, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16341 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DS–S

APPENDIX B

LIST OF CONFERENCE WITNESSES

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject:	Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea
Invs. Nos.:	731-TA-1039-1041 (Preliminary)
Date and Time:	June 20, 2003 - 9:30 a.m.

The conference was held in connection with these investigations in Conference Rooms 1 and 2, Office of the U.S. Trade Representative, 1724 F St., NW, Washington, DC

In Support of the Imposition of Antidumping Duties:

Steptoe & Johnson LLP
Washington, DC
on behalf of

IIMAK International Imaging Materials, Inc.

Richard Marshall, President and CEO, IIMAK
Richard O. Kingdon, Executive Vice President & General Manager, IIMAK
John M. Heimback Jr., Financial Analyst, IIMAK

Richard O. Cunningham)
Thomas J. Trendl)
Shannon P. MacMichael)–OF COUNSEL
Tina Potuto Kimble)
Rikard Lundberg)

In Opposition to the Imposition of Antidumping Duties:

Wiley, Rein & Fielding LLP
Masuda Funai Eiffert & Mitchell
Washington, DC
on behalf of

Armor, S.A. and Armor USA, Inc.

Chris Walker, Vice President and General Manager, Armor USA, Inc.
Randale E. Culman, Financial Controller, Armor USA, Inc.
David Landry, Certified Purchasing Manager - Director of Materials, MARKEM Corp.
James W. Cox, President, Perfection Packaging, Inc.

Daniel B. Pickard)–OF COUNSEL
Bradley D. Kaplan)

McDermott, Will & Emery
Washington, DC
on behalf of

Illinois Tool Works, Inc. ("ITW")

James R. Landry, Jr., Vice President, ITW Thermal Films division of ITW
Peter A. Gallette, General Manager, ITW Thermal Films division of ITW
Bruce P. Malashevich, President, Economic Consulting Services

David J. Levine)–OF COUNSEL

Paul, Hastings, Janofsky & Walker LLP
Washington, DC
on behalf of

Dai Nippon Printing Co., Ltd.

Andrew R. Wechsler, Managing Director, LECG LLC
Brett Cameron, VP Sales/Marketing, DNP IMS America
James H. Groh, President & CEO, Fujicopian (USA) Inc.

Hamilton Loeb)–OF COUNSEL
Alexander Koff)

APPENDIX C

SUMMARY DATA

Table C-1
Certain TTR: Summary data concerning the U.S. market, 2000-02, January-March 2002, and January-March 2003

(Quantity=*1,000 msi*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per msi*; and period changes=*percent*, except where noted)

Item	Calendar year			January-March		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-March 2002-Jan.-March 2003
U.S. consumption quantity: Amount	***	***	***	***	***	***	***	***	***
Producers' share	***	***	***	***	***	***	***	***	***
Importers' share: France	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Total subject imports:	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	***	***	***	***	***	***	***	***	***
Producers' share	***	***	***	***	***	***	***	***	***
Importers' share: France	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Total subject imports:	***	***	***	***	***	***	***	***	***
U.S. imports from-- France: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
Japan: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
Korea: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
Total subject imports: Quantity	482,578	475,769	534,099	131,335	124,623	10.7	-1.4	12.3	-5.1
Value	43,631	37,303	37,500	9,685	8,229	-14.1	-14.5	0.5	-15.0
Unit value	$0.09	$0.08	$0.07	$0.07	$0.07	-22.4	-13.4	-10.5	-10.5
Ending inventory	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--*Continued*
Certain TTR: Summary data concerning the U.S. market, 2000-02, January-March 2002, and January-March 2003

(Quantity=*1,000 msi*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per msi*; and period changes=*percent*, except where noted)

Item	Calendar year			January-March		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-March 2002-Jan.-March 2003
U.S. producers'--									
Capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (*1,000 hours*)	***	***	***	***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (*msi/hr.*)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
COGS	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income	***	***	***	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales	***	***	***	***	***	***	***	***	***

Note.--Because of rounding, figures may not add to the totals shown.

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

Table C-1A
Certain TTR: Summary data concerning the U.S. market, including * slitted fax operations, 2000-02, January-March 2002, and January-March 2003**

* * * * * * *

Table C-1B
Certain TTR: Summary data concerning the U.S. market, excluding * coating operations and including *** slitted fax operations, 2000-02, January-March 2002, and January-March 2003**

* * * * * * *

Table C-2
TTR: Summary data concerning producers that only slit/convert certain TTR, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-2A
TTR: Summary data concerning producers that only slit/convert certain TTR, including the slitted fax operations of *, 2000-02, January-March 2002, and January-March 2003**

* * * * * * *

Table C-3
TTR: Summary data concerning the U.S. market, including producers that only slit/convert, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-4
Slitted fax TTR: Summary data concerning U.S. imports and U.S. producers, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-5
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market, including producers that only slit/convert, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-6
TTR (coated and only slitted/converted): U.S. producer data concerning related party firms that coat and/or only slit/convert certain TTR, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-7
TTR (coated, only slitted/converted and slitted fax): U.S. producer data concerning related parties, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-8
TTR (coated and only slitted/converted): Summary data concerning the U.S. market, excluding related parties, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-8
TTR (coated and only slitted/converted): Summary data concerning the U.S. market, excluding related parties, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-9
TTR (coated and slitted fax): Summary data concerning the U.S. market, excluding related parties, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table C-10
TTR (coated, only slitted/converted and slitted fax): Summary data concerning the U.S. market, excluding related parties, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

APPENDIX D

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 on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain TTR from France, Japan, or Korea. (Questions III-9 and III-10). Their responses are as follows:

* * * * * * *