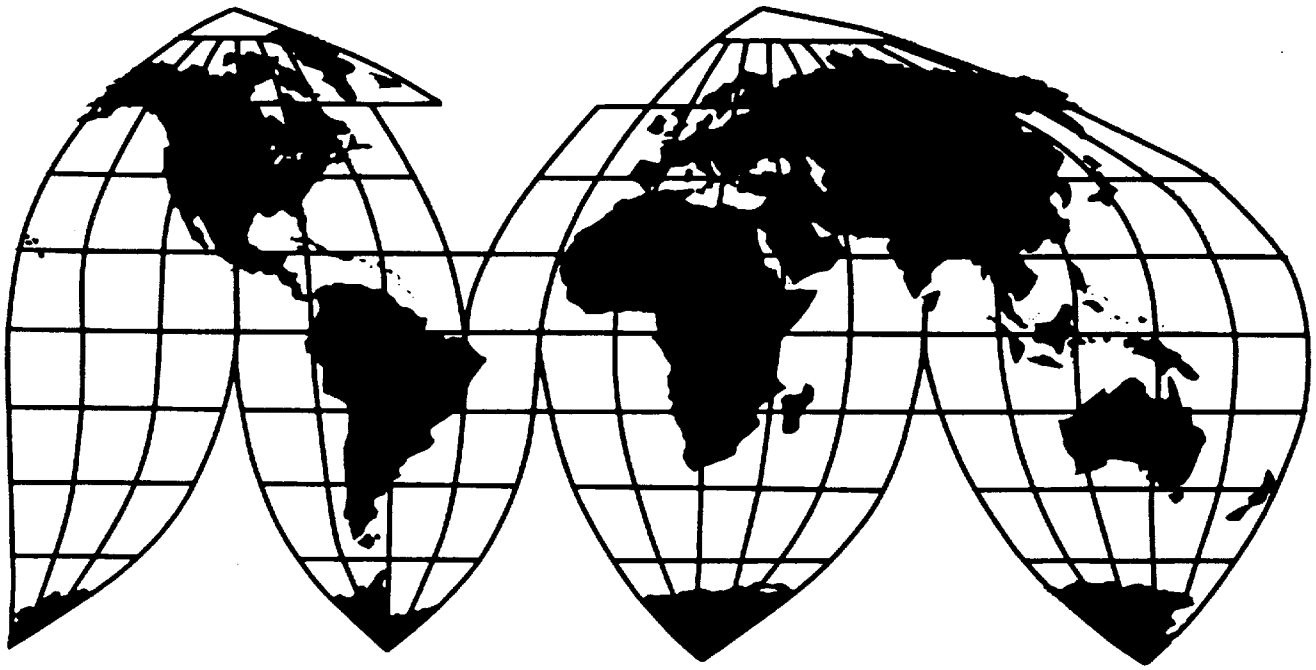
# Polyvinyl Alcohol From Taiwan

Investigation No. 731-TA-1088 (Preliminary)

**Publication 3732** **October 2004**

**U.S. International Trade Commission**



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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-1088 (Preliminary)

POLYVINYL ALCOHOL FROM TAIWAN

## DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of polyvinyl alcohol, provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2] [3]

## BACKGROUND

On September 7, 2004, a petition was filed with the Commission and Commerce by Celanese Chemicals Ltd., Dallas, TX, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of LTFV imports of polyvinyl alcohol from Taiwan. Accordingly, effective September 7, 2004, the Commission instituted antidumping duty investigation No. 731-TA-1088 (Preliminary). Notice of the institution of the Commission's investigation 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 September 15, 2004 (69 FR 55653). The conference was held in Washington, DC, on September 28, 2004, 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 Hillman did not participate in this investigation.

[3] Chairman Koplan and Commissioner Miller dissented, having determined that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly LTFV imports of polyvinyl alcohol from Taiwan.

# VIEWS OF THE COMMISSION

Based on the record as a whole in the preliminary phase of this investigation,[1] we find that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of subject imports of certain polyvinyl alcohol products from Taiwan that are allegedly sold at less than fair value.[2] [3]

## I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[4] 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."[5]

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

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[1] Commissioner Hillman did not participate in this investigation. See Mem. CO73-BB-003 (Sept. 8, 2004).

[2] Chairman Koplan and Commissioner Miller dissent. They find that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports from Taiwan that are allegedly sold at less than fair value. As a result, they join these views only through the discussion in section VI.A.1 unless otherwise indicated (but do not join in section II). The remainder of their analysis is provided in separate dissenting views.

[3] E.I. du Pont de Nemours and Co. ("DuPont") argued that we should exclude certain information from the record in this investigation, which DuPont characterizes as *** and ***. See, e.g., DuPont's Postconference Brief at 4-5; Petition at Exhibit II-5; Celanese's Sept. 20, 2004 submission (containing a revised Exhibit II-5 to the petition). We find no basis for excluding such information but note that it is not particularly probative to the issues before the Commission in this investigation.

DuPont also made several arguments regarding alleged ethical violations by attorneys involved in this investigation. During the preliminary phase of this investigation, a law firm withdrew from representing one of the parties. There is, however, no indication or allegation by DuPont that any of these alleged actions interfered with the Commission's investigation or otherwise compromised the integrity of the record data. We take no position on DuPont's allegations of ethical violations, and have not considered such allegations in our analysis of whether the domestic industry is materially injured or threatened with material injury by reason of subject merchandise from Taiwan.

[4] 19 U.S.C. § 1673b(a); see also, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); Sensient Technologies Corp. v. United States, Slip Op. 04-11 (Ct. Int'l Trade Sept. 10, 2004); Committee for Fair Coke Trade v. United States, Slip Op. 04-68 (Ct. Int'l Trade June 10, 2004); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

injury.[6] It also has noted that, in a preliminary investigation, the "statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[7] Moreover, the Court of International Trade ("CIT") 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."[8] [9]

We note that staff has collected extensive information with respect to domestic production, Taiwan production, and imports of subject merchandise. Staff also collected extensive pricing data on the U.S. market. In addition, the record and the parties' submissions in this investigation have benefitted from the factual findings and analysis from previous investigations on polyvinyl alcohol products (particularly the recently concluded 2002/2003 investigations). Although we recognize that we might obtain additional evidence in any final phase investigation, we see no likelihood that any evidence we obtain in any final investigation would change our findings that the domestic industry is not materially injured or threatened with material injury by reason of subject imports from Taiwan. For example, the pricing data are already comprehensive, accounting for an important portion of U.S. commercial shipments by the domestic industry and U.S. imports of subject polyvinyl alcohol products from Taiwan. Although we could increase the coverage by collecting data on additional pricing products in any final phase investigation, the parties already agree that the pricing data before us are representative.[10] Likewise, although we could try to collect further information and documentation about Celanese's reported financial information, including more detailed documentation about its cost structure and ***, such information was not provided during the preliminary phase of this investigation despite multiple requests.[11] This is not a basis to continue this investigation to a final phase. Instead, we have accepted Celanese's reported information at face value, but we find that factors other than subject imports from Taiwan explain *** the domestic industry as a whole.

## II. SUMMARY[12]

We find that the record as a whole contains clear and convincing evidence that the domestic polyvinyl alcohol industry is neither materially injured nor threatened with material injury by reason of the subject imports. There are only three domestic producers of polyvinyl alcohol, two of which supply the commercial market. One of these two producers, Celanese, is the petitioner, and DuPont opposes the petition and imports subject product to fill out its product line.[13] While subject imports increased over the period of investigation, apparent U.S. merchant market and total apparent U.S. PVA market

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

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

[8] Ranchers-Cattlemen, 74 F. Supp.2d at 1368 (Ct. Int'l Trade 1999).

[9] Chairman Koplan and Commissioner Miller find a reasonable indication of material injury and do not join the following paragraph.

[10] Indeed, staff followed up on ***. See, e.g., Confidential Staff Report, Mem. INV-BB-126 (Oct. 15, 2004), as amended by Mem. INV-BB-127 (Oct. 18, 2004), Mem. INV-BB-129 (Oct. 20, 2004), and Mem. INV-BB-130 (Oct. 21, 2004) ("CR") at V-16 n.53; Public Staff Report, Polyvinyl Alcohol from Taiwan, Inv. No. 731-TA-1088 (Prelim.), Inv. No. 731-TA-1088 (Prelim). USITC Pub. 3732 (Oct. 2004) ("PR") at V-10 n.53.

[11] See, e.g., CR at VI-4 to VI-7; PR at VI-1 to VI-2.

[12] Chairman Koplan and Commissioner Miller find a reasonable indication of material injury and do not join this section.

[13] See, e.g., CR/PR at Tables III-1 and III-4.

consumption also increased.[14] Moreover, the domestic industry's share of the merchant and total U.S. PVA market increased.[15] In addition, non-subject imports accounted for a larger market share than subject imports from Taiwan throughout almost the entire period.[16]

Notwithstanding increasing volumes of subject imports, the record indicates that there is no significant price underselling. The pricing data generally show greater subject import overselling during the relevant time period when subject imports were increasing most rapidly. The record also does not support a finding of significant price depression in part because ***. Although we do find evidence that the domestic industry experienced a cost-price squeeze, we do not find significant price suppression because of the *** cost structures *** and the aforementioned evidence on price trends.

We do not find that there is a reasonable indication that the subject imports have had an adverse impact on the domestic industry. There have been declines and improvements in the domestic industry's performance factors. Many of the declines in the domestic industry's performance factors (such as declines in U.S. shipment value and unit value, production-related workers, hours worked, and net sales unit value) occurred between 2001 and 2002,[17] as the volume of subject imports was declining and during a time when the Commission found material injury by reason of cumulated subject imports from China, Korea, and Japan. Between 2002 and 2003, when subject imports from Taiwan experienced their largest relative volume increases, domestic producers gained some market share, increased production, increased their capacity utilization, increased U.S. shipments, continued to experience declining inventories, and experienced increased domestic unit sales values.[18] After PVA imports from China, Korea, and Japan became subject to antidumping duty orders in mid to late 2003, the domestic industry's performance for interim 2004 was at levels that were better than or similar to levels in interim 2003 for many of these same factors, notwithstanding the continued presence of subject imports from Taiwan.[19] The domestic industry's *** cannot be attributed to subject imports. In addition to the factors on price and performance noted above, we cannot ignore the effects of ***, and the fact that the domestic industry consistently exported large volumes of PVA at average unit values ***.[20]

Finally, we find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports primarily because the rate of increase in the volume of subject imports has moderated during a time period when non-subject import levels have declined following the imposition of antidumping duty order on China, Japan and Korea and because future subject imports are likely to continue the recent trend of generally overselling the domestic like product.

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[14] See, e.g., CR/PR at Tables C-2, C-1.

[15] See, e.g., CR/PR at Tables C-2, C-1.

[16] See, e.g., CR/PR at Tables C-2, C-1. In mid to late 2003, current non-subject imports of polyvinyl alcohol from Japan (July 2003) and Korea and China (October 2003) became subject to antidumping duty orders. In the previous investigation, petitioners emphasized that cumulated subject import volumes from China, Korea, and Japan generally increased notwithstanding the filing of the petition. See, e.g., Polyvinyl Alcohol from Germany and Japan, USITC Pub. 3604 at 27 n.150.

[17] See, e.g., CR/PR at Tables C-2, C-1.

[18] See, e.g., CR/PR at Tables C-2, C-1.

[19] See, e.g., CR/PR at Tables C-2, C-1.

[20] See, e.g., CR/PR at Tables C-2, C-1.

## III. BACKGROUND

Polyvinyl alcohol is a water-soluble synthetic polymer, often sold as a white granular solid or in powdered form. Polyvinyl alcohol is used primarily as an intermediate product in the production of polyvinyl butyral ("PVB"), which is an adhesive used in the manufacture of automotive safety glass and load-resistant architectural glass. Polyvinyl alcohol is also used in the textile and paper industries in sizing formulations; as a binder in adhesive and soil binding formulations; and as an emulsion or polymerization aid in colloidal suspensions, water-soluble films, cosmetics, and joint compounds.[21] The large majority of all polyvinyl alcohol sold in the United States, whether domestically produced or imported, is either internally transferred or sold directly to end-user customers.[22] Distributors, while present in the U.S. market, have a very limited role.[23]

There have been two previous investigations involving polyvinyl alcohol products. In response to March 9, 1995 antidumping duty petitions filed by Air Products and Chemicals, Inc. ("Air Products"), the predecessor of the petitioner in this investigation (Celanese),[24] the Commission determined that an industry in the United States was threatened with material injury by reason of less than fair value imports from China, Japan, and Taiwan. On April 2, 2001, Commerce initiated a five-year review of those antidumping duty orders, but, because of lack of participation by domestic producers in the five-year review, Commerce revoked the orders on May 14, 2001.[25]

On September 5, 2002, Celanese and DuPont filed antidumping duty petitions alleging that the domestic industry was materially injured and threatened with material injury by reason of less than fair value imports of certain polyvinyl alcohol products from China, Germany, Japan, and Korea.[26] Commerce issued affirmative preliminary and final antidumping duty determinations regarding imports of those products from Germany and Japan in February and April 2003, respectively.[27] In March 2003, Commerce issued a negative preliminary antidumping duty determination regarding products exported by Chinese producer Sinopec Sichuan Vinylon Works ("SSVW") after finding only a de minimis dumping margin for this company that accounted for virtually all of China's reported subject exports to the United

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[21] See, e.g., Confidential Staff Report, Mem. INV-BB-126 (Oct. 15, 2004), as amended by Mem. INV-BB-127 (Oct. 18, 2004), Mem. INV-BB-129 (Oct. 20, 2004), and Mem. INV-BB-130 (Oct. 21, 2004) ("CR") at I-6; Public Staff Report, Polyvinyl Alcohol from Taiwan, Inv. No. 731-TA-1088 (Prelim.), Inv. No. 731-TA-1088 (Prelim). USITC Pub. 3732 (Oct. 2004) ("PR") at I-4.

[22] In the U.S. commercial market for polyvinyl alcohol, U.S. producers and importers from Taiwan reported that *** of their U.S. commercial shipments went directly to end users.

[23] See, e.g., CR at I-10; PR at I-6.

[24] Celanese acquired the polyvinyl alcohol business of Air Products on September 29, 2000. See, e.g., CR at III-2; PR at I-1.

[25] See, e.g., CR at I-2 to I-3; PR at I-2.

[26] See, e.g., CR at I-3; PR at I-3. The petitions also included certain polyvinyl alcohol imports from Singapore, but the Commission made a negative preliminary determination concerning those imports after finding them to be negligible. Moreover, although polyvinyl alcohol products from Taiwan were being imported into the U.S. market at that time, imports from Taiwan were not included in those antidumping duty petitions.

[27] See, e.g., 68 Fed. Reg. 8203 (Feb. 20, 2003) (Japan prelim.); 68 Fed. Reg. 7980 (Feb. 19, 2003) (Germany prelim.); 68 Fed. Reg. 19510 (Apr. 21, 2003) (Japan final); 68 Fed. Reg. 19509 (Apr. 29, 2003) (Japan amended final); 68 Fed. Reg. 19509 (Apr. 21, 2003) (Germany final); 68 Fed. Reg. 22680 (Apr. 29, 2003) (Germany amended final).

States during that investigation.[28] At that time, Commerce issued affirmative preliminary antidumping duty determinations regarding all other Chinese producers and for imports from Korea.[29]

As a result of the Commission's June 2003 negative injury determination concerning imported polyvinyl alcohol products from Germany (which the Commission did not cumulate with other subject imports), and its affirmative threat determination regarding imports from Japan (which the Commission cumulated with subject imports from Korea),[30] Commerce issued an antidumping duty order regarding imported polyvinyl alcohol products from Japan in July 2003.[31] By the time of the Commission's September 2003 vote regarding polyvinyl alcohol products from China and Korea, Commerce had issued in August 2003 final affirmative antidumping duty determinations concerning imports from China and Korea, including a final affirmative antidumping duty determination regarding exports by Chinese producer SSVW.[32] For its final injury determinations on China and Korea, the Commission cumulated subject imports from China, Korea, and Japan and found present material injury by reason of polyvinyl alcohol products from China and Korea.[33] Commerce issued antidumping duty orders regarding polyvinyl alcohol products imported from China and Korea in October 2003.[34]

Certain public factual findings and analysis from these previous investigations concerning all aspects of this industry, including information about the product, purchasing behavior, the domestic and foreign producers, and other conditions of competition in this industry have been incorporated into the record of this investigation.

The petition in this investigation was filed on September 7, 2004 by Celanese, one of three known domestic producers of polyvinyl alcohol.[35] All domestic producers provided questionnaire responses to the Commission. Of the two remaining domestic producers, DuPont[36] opposed the petition and Solutia[37] ***.[38] Domestic producers' shipments accounted for *** percent of the volume of the total U.S. market for polyvinyl alcohol and *** percent of the volume of the U.S. commercial market over the period examined.[39] Shipments of non-subject imports accounted for between *** percent and *** percent of the volume of the total U.S. market for polyvinyl alcohol and between *** percent and *** percent of the volume of the U.S. commercial market over the period examined. Shipments of subject

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[28] See, e.g., Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015 to 1016 (Final), USITC Pub. 3604 at VII-1 (June 2003).

[29] See, e.g., 68 Fed. Reg. 13674 (Mar. 20, 2003) (China); 68 Fed. Reg. 13681 (Mar. 20, 2003) (Korea).

[30] See, e.g., Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015 to 1016 (Final), USITC Pub. 3604 (June 2003). In addition to a negative injury determination concerning Germany, Commissioner Hillman made a negative determination concerning imported products from Japan.

[31] See, e.g., 68 Fed. Reg. 39518 (Jul. 2, 2003).

[32] See, e.g., 68 Fed. Reg. 47540 (Aug. 11, 2003) (Korea); 68 Fed. Reg. 47538 (Aug. 11, 2003) (China); 68 Fed. Reg. 52183 (Sept. 2, 2003) (China amended final). Commerce assigned a dumping margin of 6.91 percent to SSVW.

[33] See, e.g., Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final), USITC Pub. 3634 (Sept. 2003).

[34] See, e.g., 68 Fed. Reg. 56621 (Oct. 1, 2003) (Korea); 68 Fed. Reg. 56620 (Oct. 1, 2003) (China); 68 Fed. Reg. 58169 (Oct. 8, 2003) (China amended).

[35] CR at I-1; PR at I-1.

[36] DuPont *** imports polyvinyl alcohol products from Taiwan. CR at III-11; PR at III-4.

[37] *** of the polyvinyl alcohol produced by Solutia is internally consumed in the production of PVB. Solutia also ***. CR at III-9; PR at III-4.

[38] See, e.g., CR/PR at Table III-1.

[39] (Derived from CR/PR at Tables C-1, C-2).

polyvinyl alcohol from Taiwan accounted for a smaller volume than shipments of non-subject imports throughout the period examined (between *** percent and *** percent of the volume of the U.S. market for polyvinyl alcohol and between *** percent and *** percent of the volume of the U.S. commercial market over the period examined). Only one firm is known to have produced polyvinyl alcohol products in Taiwan during the period of investigation, Chang Chun Petrochemical Co., Ltd. ("CCPC").[40]

## IV. DOMESTIC LIKE PRODUCT

### A. In General

To determine 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."[41] 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."[42] 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 ... ."[43]

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.[44] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[45] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[46] Moreover, the Commission has repeatedly stated that it "normally does not find separate like products based on different grades of chemical or mineral products."[47] Although the Commission must accept the determination of the U.S. Department of Commerce ("Commerce") as to the scope of the

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[40] See, e.g., CR at I-1; PR at I-1.

[41] 19 U.S.C. § 1677(4)(A).

[42] Id.

[43] 19 U.S.C. § 1677(10).

[44] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) consumer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and where appropriate, (6) price. See, e.g., Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[45] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess., at 90-91 (1979).

[46] See, e.g., Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 249 at 90-91 (Congress has indicated that the domestic 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.")

[47] See, e.g., Bulk Acetylsalicylic Acid (Aspirin) from China, Inv. No. 731-TA-828 (Final), USITC Pub. 3314 at 5-6 (June 2000); Bulk Acetylsalicylic Acid (Aspirin) from China, Inv. No. 731-TA-828 (Prelim.), USITC Pub. 3211 at 5 (July 1999).

imported merchandise allegedly sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[48] The Commission must base its domestic like product determination on the record in this investigation. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.[49]

### B. Product Description

#### 1. In General

Commerce's notice of initiation identified the imported merchandise within the scope of this investigation as consisting of all polyvinyl alcohol products (hereinafter "PVA")

> hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form is not included in the scope of this investigation. The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.[50]

PVA has characteristics that make it useful in a wide range of applications, as noted above. PVA includes a wide variety of standard and specialty grades that have varying molecular weights and degrees of hydrolysis.[51] In addition, PVA products are also identified and differentiated according to particle type and size, tackification, defoamer type and level, percentage of ash, percentage of volatiles, product clarity in solution, acidity (PH), boric acid content, and iron content.[52] The various grades available offer specific performance properties, such as water solubility, abrasion resistance, tensile strength, adhesive and bonding properties, and grease or oil resistance.

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

[49] See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp.2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

[50] 59 Fed. Reg. 59204, 59204 (Oct. 4, 2004).

[51] Molecular weight is generally expressed in terms of solution viscosity. The viscosities are classified as ultra low, low, medium, and high, while the degree of hydrolysis is commonly denoted as super (99+ percent hydrolyzed), fully (98-99 percent hydrolyzed), intermediate (90-98 percent hydrolyzed), and partially hydrolyzed (80-89 percent hydrolyzed). These definitions vary somewhat within the industry. See, e.g., CR at I-5; PR at I-4.

[52] See, e.g., Petition at 21; CR at I-5; PR at I-4.

### 2. Previous Investigations

In its first investigation of polyvinyl alcohol products, the Commission defined the domestic like product coextensively with the scope.[53] In the recent investigations of polyvinyl alcohol from China, Germany, Japan, and Korea, Commerce defined the imported merchandise within the scope of those investigations as all polyvinyl alcohol "hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid."[54] Commerce specifically excluded fifteen products from the scope of those investigations.[55]

In those investigations, the Commission considered and rejected the argument that PVA formulated for use in the production of PVB ("PVB-grade PVA") was a separate domestic like product from the other types of PVA hydrolyzed in excess of 80 percent. The Commission observed that all PVA has a similar chemical composition, and that while PVB-grade PVA may have tighter and more specific parameters than other types of PVA, several other grades of PVA must meet specialized requirements of end users, including quality and safety requirements. It further found that while all grades of PVA are not completely interchangeable with other grades, more than one grade may be sold for a specific end-use application. Thus, while PVB-grade PVA is used primarily for optical applications such as windshields and architectural glass, it is also used for applications in which other types of PVA are used (although only PVB-grade PVA can be used to make PVB). In terms of channels of distribution, both PVB-grade PVA and other types of PVA are sold in the merchant market directly to end users. The Commission also found that production processes, equipment, and employees were similar for both PVB-grade PVA and other types of PVA. While it observed that there were both differences and similarities between PVB-grade PVA and other types of PVA, it concluded that "the differences do not warrant treating PVB-

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[53] Polyvinyl Alcohol from China, Japan, and Taiwan, Invs. Nos. TA-726, 729, and 729 (Final), USITC Pub. 2960 at 3-9 (May 1996). Commerce had defined the scope of that investigation as all polyvinyl alcohol hydrolyzed in excess of 85 percent, except for polyvinyl alcohol in fiber form and certain copolymers. Polyvinyl Alcohol from Taiwan, 61 Fed. Reg. 14064, 14065 (Mar. 29, 1996).

[54] See, e.g., 68 Fed. Reg. 19509 (Apr. 21, 2003) (Germany), 68 Fed. Reg. 19510, 19511 (Apr. 21, 2003) (Japan).

[55] The excluded products were: (1) PVA in fiber form; (2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles; (3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps; (4) PVA with hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application; (5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification; (6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent; (7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application; (8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material; (9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent; (10) PVA covalently bonded with silan (sic) uniformly present on all polymer chains certified for use in paper coating applications; (11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; and (15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application. See, e.g., 68 Fed. Reg. at 19509-10 (Germany), 19511 (Japan). None of those products was produced domestically.

grade PVA as a separate domestic like product instead of as a part of the continuum of PVA products."[56] Therefore, the Commission found a single domestic like product, encompassing all domestically produced PVA meeting the specifications stated in Commerce's scope.

### C. Arguments of the Parties

Petitioner Celanese argues that there have been no fundamental changes in the relevant factual criteria since the Commission's 2003 PVA investigation. It argues that the Commission should find that all PVA hydrolyzed in excess of 80 percent constitutes a single domestic like product.[57] DuPont agrees.[58] CCPC does not dispute petitioner's proposed definition of the domestic like product.[59]

### D. Analysis and Conclusion

Because there is no factual information on the record of this investigation to call into question the Commission's analysis or conclusion in the 2003 investigation, and absent any party arguments to the contrary, we find, based on the record in this preliminary phase investigation, a single domestic like product defined coextensively with the scope of this investigation, consisting of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, but not including PVA in fiber form.

## V. DOMESTIC INDUSTRY

### A. In General

The domestic industry is defined as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[60] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[61]

PVA is generally manufactured by hydrolyzing the acetate groups of the vinyl acetate monomer ("VAM") with methanol in the presence of anhydrous sodium methylate or aqueous sodium hydroxide at moderate temperatures and pressures. In this continuous "belt process," the VAM is polymerized to polyvinyl acetate, which is then converted to PVA. Fully hydrolyzed PVA is produced by running the saponification process to completion, whereas partially hydrolyzed PVA is produced by interrupting the saponification process with a neutralizer.[62] The degree of hydrolyzation is controlled by regulating how

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[56] See Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015 to 1016 (Final), USITC Pub. 3604 at 3-6 (June 2003); Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final), USITC Pub. 3634 at 6 (Sept. 2003).

[57] See, e.g., Petition at 30-31; Conf. Tr. at 6.

[58] See, e.g., DuPont's Postconference Brief at 7; Conf. Tr. at 95-96.

[59] See, e.g., Conf. Tr. at 95.

[60] 19 U.S.C. § 1677(4)(A).

[61] See, e.g., 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).

[62] Saponification is the chemical reaction in which an ester is heated with aqueous alkali to form an alcohol and the sodium salt of the acid corresponding to the ester.

much time elapses between the start of the saponification process and the addition of the neutralizer. At the end of the saponification process, PVA is a hard solid, suitable for grinding into granular or powder form.[63] Celanese and Solutia employ such a continuous belt process.[64]

DuPont, however, employs a unique manufacturing process, a "reactor process," in which hydrolysis goes to completion after the raw material and inputs are combined. As a result of the production process that it employs, DuPont is able to produce only fully hydrolyzed PVA on its existing equipment.[65]

Based on our definition of the domestic like product, there are three companies that are producing PVA in the United States (Celanese, DuPont, and Solutia).[66]

### B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). 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 importers.[67] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[68]

Petitioner argues that DuPont is a related party by virtue of its imports of subject PVA from Taiwan as well as its relationships with CCPC, and it asserts that appropriate circumstances exist to exclude DuPont from the domestic industry as a related party.[69] Although DuPont concedes that it is an importer of subject merchandise from Taiwan, DuPont argues that it is not otherwise a related party under the statute because there is no direct or indirect control relationship between DuPont and CCPC.

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[63] See, e.g., CR at I-7; PR at I-5.

[64] See, e.g., CR at I-8; PR at I-5. Taiwan producer CCPC also uses a continuous belt process in which it is possible to control the degree of hydrolysis. See, e.g., CR at I-8; PR at I-5.

[65] See, e.g., CR at I-8; PR at I-5.

[66] See, e.g., CR at I-7 to I-8, III-1; PR at I-5 to I-6, III-1; CR/PR at Table III-1.

[67] 19 U.S.C. § 1677(4)(B).

[68] See, e.g., Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd mem., 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 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 mem., 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, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14 n.81 (Feb. 1997).

[69] See, e.g., Celanese's Postconference Brief at 1-2, 28-32, Answers to Commission Staff's Questions at 3-4.

DuPont argues that appropriate circumstances do not exist to exclude it from the domestic industry.[70] CCPC concurs with DuPont's arguments.[71]

We find that DuPont is a related party by virtue of its imports of subject PVA from Taiwan.[72] Contrary to petitioner's allegations, however, there does not appear to be a separate basis for finding DuPont to be a related party by virtue of any direct or indirect control relationship between DuPont and CCPC,[73] although the two companies do appear to have various buyer/supplier arrangements with one another, including outside the context of their PVA operations.

While it is true that DuPont opposes the petition in this case,[74] it has had PVA production facilities in the United States since 1972.[75] DuPont is able to produce only fully hydrolyzed PVA on its existing equipment because of the "reactor process" that it employs, as noted above.[76] Because of these limitations (***), DuPont imports partially hydrolyzed PVA from Taiwan *** to complement its U.S. PVA production with products that it is unable to produce in the United States.[77] According to DuPont, the two alternatives to importing, namely ***, are ***.[78] Although DuPont is ***,[79] the ratio of its subject imports to its domestic production *** from *** percent in 2001 to *** percent in 2002 and *** percent in 2003; the ratio was *** percent in interim 2004 compared to *** percent in interim 2003.[80] DuPont accounts for a sizeable share of U.S. PVA production (*** percent in 2003),[81] and is one of only three known PVA producers with U.S. production operations[82] (and one of only two that supply the U.S. merchant market). Therefore, a domestic industry that does not include DuPont would not be

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[70] See, e.g., DuPont's Postconference Brief at 3, 9-11.

[71] See, e.g., CCPC's Postconference Brief at 1-2.

[72] See, e.g., CR/PR at Table III-5.

[73] No DuPont official is an officer or director of CCPC nor does DuPont directly or indirectly own, control or hold any voting shares of CCPC. DuPont does not have an exclusive right to purchase PVA from CCPC for the U.S. market, nor is DuPont CCPC's exclusive distributor for any market. DuPont Advanced Fiber Systems has licensed one of CCPC's affiliates (Chang Chun Plastics Co., Ltd) to produce and market Thermount® products, which are used to laminate printed circuit boards and semiconductor packaging widely used in mobile phones and other telecommunications equipment, but the license is not exclusive and there are at least six other licensed laminators. It does not appear that this licensing arrangement regarding Thermount® makes DuPont legally or operationally in a position to exercise restraint or direction over CCPC regarding Thermount®, let alone with respect to PVA. Moreover, petitioner is *** that Dupont Performance Coating – Changchun is *** by DuPont and CCPC. DuPont has had *** of this company since February 2004, and there is ***. See, e.g., DuPont's Postconference Brief at 8-11.

[74] See, e.g., CR/PR at Table III-1.

[75] See, e.g., CR at III-2; PR at III-1.

[76] See, e.g., CR at I-8; PR at I-5; CR/PR at Table III-3 (reporting hydrolysis range of U.S. producers, including DuPont).

[77] See, e.g., CR at II-5, III-13; PR at II-2 to II-3, III-4. The composition of DuPont's imported PVA products from Taiwan in terms of hydrolysis level is reported at CR/PR at Table IV-3.

[78] Since 1999, ***. DuPont also reports that it has been ***. See, e.g., CR at III-11.

[79] See, e.g., CR at IV-3; PR at IV-1. DuPont accounted for *** percent of the total quantity of PVA imports from Taiwan over the period of investigation ***. See, e.g., id.

[80] See, e.g., CR/PR at Table III-5.

[81] Petitioner Celanese accounted for *** percent and Solutia accounted for *** percent of U.S. PVA production, respectively, in 2003. See, e.g., CR/PR at Table III-1.

[82] See, e.g., CR/PR at Table III-1.

representative. In terms of financial performance, DuPont ***.[83] [84] Based on these considerations, we conclude that appropriate circumstances do not exist to exclude DuPont from the domestic industry.

Accordingly, we find that the domestic industry consists of PVA producers DuPont, Celanese, and Solutia.[85]

## VI. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM TAIWAN[86] [87]

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.[88] 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.[89] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[90] 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

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[83] See, e.g., CR/PR at Table VI-2.

[84] In any final phase investigation, Chairman Koplan and Commissioner Miller would have explored the extent, if any, to which DuPont may have benefitted from its PVA imports.

[85] DuPont and CCPC agree that Solutia is part of the domestic industry, as the Commission has already determined in two previous proceedings. See, e.g., DuPont's Postconference Brief at n.3; CCPC's Postconference Brief at 3. Petitioner, however, argues that Solutia should not be included in the domestic industry. According to petitioner, Solutia's production process includes a PVA stage, but to the best of Celanese's knowledge, Solutia does not produce any PVA for use in the merchant market. Celanese also believes that PVA is never commercially isolated from Solutia's PVB production process. See, e.g., Petition at 18. Celanese and DuPont, who were co-petitioners in the 2003 PVA investigation, made the same arguments in the preliminary phase of that case as Celanese is making now. See Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore, Invs. Nos. 731-TA-1014 to 1018 (Prelim.), USITC Pub. 3553 at 10-11 (Oct. 2002). There is no factual information on the record of this investigation to call into question the Commission's analysis or conclusion in the 2003 investigation. Celanese once again concedes in this investigation that Solutia produces the domestic like product, namely PVA. See, e.g., Conf. Tr. at 6. Based on the record in this investigation and our definition of the domestic like product, and consistent with the Commission's practice of including in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, we do not find any basis to exclude Solutia from the domestic industry.

[86] We do not find that the subject imports from Taiwan were negligible. Subject imports from Taiwan accounted for *** percent, or more than three percent of the volume of all PVA corresponding to the scope of this investigation that was imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition. (Derived from CR/PR at Table IV-1 for the period July 2003 to June 2004); see also 19 U.S.C. § 1677(24).

[87] Because Chairman Koplan and Commissioner Miller find a reasonable indication of material injury by reason of the subject imports from Taiwan, they only join in section VI.A.1 of this discussion on the issue of captive production.

[88] 19 U.S.C. § 1673b(a).

[89] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor ... [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[90] 19 U.S.C. § 1677(7)(A).

in the United States.[91] 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."[92]

### A. Conditions of Competition and the Business Cycle

We have taken the following conditions of competition into account when assessing whether there is a reasonable indication of material injury or threat of material injury to the domestic PVA industry by reason of the subject imports from Taiwan.

#### 1. Captive Production[93]

Petitioner argues that the Commission recently applied the captive production provision to the PVA industry and found that all of the statutory criteria were met. It argues that there have been no major developments that should result in a different conclusion here.[94] CCPC urges the Commission to revisit applying the captive production provision in this investigation. For the first statutory criterion in particular, CCPC advocates examining "whether the type or category of domestic like product that is internally transferred also enters the merchant market." Under that articulation, CCPC argues that the first statutory criterion is not met. CCPC also argues that the third statutory criterion is not met in this investigation.[95]

We determine that the threshold criterion for application of the captive production provision has been met in this investigation because internal transfers accounted for *** percent of the reported volume of U.S. producers' domestic shipments of PVA in 2003 and commercial (merchant market) sales accounted for the remaining *** percent. The percentage of domestic shipments that was internally

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[91] 19 U.S.C. § 1677(7)(C)(iii).

[92] 19 U.S.C. § 1677(7)(C)(iii).

[93] The captive production provision, 19 U.S.C. § 1677(7)(C)(iv), which was added to the statute by the URAA, provides:

> (iv) CAPTIVE PRODUCTION – If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that –
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> (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
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> (II) the domestic like product is the predominant material input in the production of that downstream article, and
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> (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,
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> then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.

The SAA indicates that where a domestic like product is transferred internally for the production of another article coming within the definition of the domestic like product, such transfers do not constitute internal transfers for the production of a "downstream article" for purposes of the captive production provision. SAA at 853.

[94] See, e.g., Celanese's Postconference Brief at Answers to Commission Staff Questions at 2-3.

[95] See, e.g., CCPC's Postconference Brief at 3-5.

transferred was *** percent in 2001 and *** percent in 2002.[96] *** reported transfers to related firms in the United States.[97]

We also determine that the first statutory criterion has been met. This criterion focuses on whether any of the domestic like product that is transferred internally for further processing is in fact sold on the merchant market.[98] The record indicates that *** internal transfers by current domestic producers are by ***.[99] These internal transfers are *** used in the production of PVB; *** entered the merchant market for PVA.[100]

In applying the second statutory criterion, we generally consider whether the domestic like product is the predominant material input into a downstream product by referring to its share of the raw material cost of the downstream product.[101] The record indicates that *** of the PVA internally consumed by *** is used to produce PVB sheet, which is used as an interlayer in laminated safety glass for such applications as automotive safety glass and architectural safety glass.[102] For ***, PVA accounted for *** percent of the total raw material cost of its downstream PVB sheet product in 2003; no other raw material was responsible for more than *** percent of total raw material costs. For ***, raw material costs in 2003 were *** percent purchased PVA, *** percent internally consumed PVA, and ***.[103] In this investigation, as in the last PVA investigation, the question arises whether the second statutory criterion is satisfied if, ***, the domestic like product constitutes the largest individual raw material input in a downstream product, but is responsible for *** of total raw material costs. In the last PVA investigation, the Commission construed "predominant" material input to mean the main or strongest element, and not necessarily a majority, of the individual inputs by value,[104] and we follow the same approach here. Consequently, PVA accounts for a significant percentage of the total raw material costs for PVB – *** – and is unquestionably larger than any other individual input. In these circumstances, we conclude that the second statutory criterion is satisfied.

In applying the third statutory criterion, we inquire into whether the merchant market purchaser is generally using the domestic like product in the production of the same downstream article or articles

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[96] See, e.g., CR at III-9; PR at III-3.

[97] See, e.g., CR at III-9; PR at III-3. ***. See, e.g., CR/PR at Table VI-1 at n.2.

[98] See, e.g., Hot Rolled Steel Products from Argentina and South Africa, Inv. Nos. 701-TA-404, 731-TA-898, 905 (Final), USITC Pub. 3446 at 15-16 (Aug. 2001); Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Turkey and Venezuela, Invs. Nos. 701-TA-393 and 731-TA-829 to 840 (Final) (Remand), USITC Pub. 3691 at 2 & n.19 (May 2004).

[99] In 2003, DuPont internally transferred *** percent of its shipments of PVA for the production of PVB, and Solutia internally transferred *** percent for the production of PVB. See, e.g., CR at III-9 n.4; PR at III-4 n.4.

[100] See, e.g., CR at III-9; PR at III-4.

[101] See generally Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415, 731-TA-933-934 (Final), USITC Pub. 3518 at 11 & n.51 (June 2002); Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Turkey and Venezuela, Invs. Nos. 701-TA-393 and 731-TA-829 to 840 (Final) (Remand), USITC Pub. 3691 at 2 & n.19 (May 2004).

[102] See, e.g., CR at III-10; PR at III-4.

[103] See, e.g., CR at III-10; PR at III-4. In the last PVA investigation, the Commission aggregated Solutia's raw materials expenses relating to internally-consumed PVA with its expenses relating to purchased PVA. Because the statutory provision concerns whether "the domestic like product is the predominant material input in the production of that article downstream article" and not whether "the domestic like product *that is internally consumed for processing* is the predominant material input in the production of that article," we again aggregate all of Solutia raw material costs relating to the domestic like product (PVA).

[104] See, e.g., USITC Pub. 3604 at 15 n.69 (June 2003) citing 2 New Shorter Oxford English Dictionary 2329 (1993).

as the integrated domestic producer.[105] If the merchant market purchaser is not generally using the domestic like product in the production of the same downstream article or articles as the integrated domestic producer, then the statutory criterion is satisfied. The record in this investigation indicates that approximately *** percent of U.S. commercial shipments of PVA in 2003 were used to produce PVB. By contrast, *** of the PVA that was internally transferred in 2003 was used to produce PVB.[106] In prior investigations, we have found the like product was not "generally" used in the production of the downstream article when even higher percentages of commercial shipments of the domestic like product than the *** percent figure here were used to produce the relevant downstream products.[107] We accordingly conclude that the third statutory criterion is satisfied.

Because we conclude that all elements of the statutory captive production provision are met, we focus primarily on the merchant market for the domestic like product in determining market share and the factors affecting financial performance, although we analyze these factors with respect to the whole market as well.[108]

### 2. Supply Conditions

The U.S. PVA market is supplied by three sources: domestic producers, non-subject imports, and imports from Taiwan. The domestic industry consists of three PVA producers, Celanese, DuPont, and Solutia, of which only DuPont and Celanese produce PVA for the merchant market.[109] Domestic producers are the principal suppliers of the U.S. market, accounting, according to questionnaire responses, in 2003 for *** percent of U.S. merchant market consumption and *** percent of total apparent U.S. consumption, measured by quantity.[110] The next largest source of supply in 2003, accounting for *** percent of apparent U.S. merchant market consumption and *** percent of total apparent U.S. consumption, was non-subject imports.[111] Although there were a total of 19 non-subject countries exporting to the U.S. market during the period of investigation, according to Commerce statistics, the top three non-subject countries in decreasing order were Japan, China, and the United Kingdom.[112] As the Commission noted in its previous determinations, no party contended that the filing of the antidumping duty petitions in September 2002 served to reduce cumulated import volumes from

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[105] See, e.g., Certain Hot-Rolled Steel Products from Japan, Inv. No. 731-TA-807 (Final), USITC Pub. 3202 at 33-34, 37-38 (June 1999).

[106] See, e.g., CR at III-10; PR at III-4.

[107] See Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 at 22-23 (Sept. 2002) (third criterion satisfied when overlap was 15.3 percent); Hot Rolled Steel Products from Argentina and South Africa, USITC Pub. 3446 at 16 (third criterion satisfied when overlap was between 2.6 and 22.4 percent); Certain Hot-Rolled Steel Products from Japan, USITC Pub. 3202 at 34 (third criterion satisfied when overlap was between 3.7 and 17.7 percent).

[108] We have also considered the data regarding the domestic industry's production of PVA for internal consumption.

[109] See, e.g., CR/PR at Table III-4.

[110] The domestic industry accounted for *** percent of U.S. merchant market consumption in interim 2003 and *** percent of U.S. merchant market consumption. Its share of the total PVA market was *** percent in interim 2003 and *** percent in interim 2004. See, e.g., CR/PR at Tables C-2, C-1.

[111] Non-subject imports accounted for *** percent of U.S. merchant market consumption in interim 2003 and *** percent of U.S. merchant market consumption in interim 2004. Their share of the total PVA market was *** percent in interim 2003 and *** percent in interim 2004. See, e.g., CR/PR at Tables C-2, C-1.

[112] See, e.g., CR at II-9; PR at II-6.

China, Korea, and Japan.[113] To the contrary, DuPont and Celanese emphasized in those investigations that cumulated subject import volumes from China, Korea, and Japan generally increased notwithstanding the filing of the petition.[114] Cumulative imports into the United States of PVA from China, Korea, and Japan have declined since those imports became subject to antidumping duty orders (as of July 2, 2003 (Japan) and October 1, 2003 (China and Korea)).[115] Subject PVA imports from Taiwan accounted for the remaining *** percent of U.S. merchant market consumption and *** percent of total apparent U.S. consumption, measured by quantity, in 2003.[116]

While we consider the domestic U.S. industry as a whole, given that there are only three U.S. producers, we also have taken into consideration several differences among the domestic producers that affect their ability and willingness to supply the U.S. merchant market. As noted above, DuPont employs a different production process than Celanese and Solutia, and Solutia internally consumes *** of its PVA production to produce PVB. Although ***, DuPont internally consumes some PVA to produce PVB but Celanese does not internally consume any PVA.[117]

The reported principal raw material inputs used to produce PVA in the United States are VAM and ethanol/methanol/sodium methylate.[118] Total raw material costs accounted for almost *** percent of the three U.S. producers' total costs (as measured by reported costs of goods sold) to produce PVA during the period of investigation. Natural gas or its derivative ethane are the principal feedstocks used by U.S. PVA producers to produce VAM and the principal energy source to produce PVA.[119]

There are also differences among the domestic producers in terms of their cost structures. The three U.S. producers reported in their questionnaire responses variable costs that averaged about *** percent of their combined total costs to produce PVA during 2003, while fixed costs were about *** percent. The significant fixed costs suggest that low output levels could lead to increased unit costs, although equally significant variable costs likely moderate such an increase in unit costs.[120] Record data indicate that ***. Natural gas, which is the primary cost component in the PVA production chain as well as the ***, accounts for approximately *** percent of Celanese's other factory costs, and Celanese also reported *** than its domestic counterparts.[121]

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[113] When asked during those investigations why Taiwan was not included in the petitions, Celanese and DuPont insisted that they had no evidence that polyvinyl alcohol from Taiwan was being dumped into the U.S. market. See, e.g., 2002 Conf. Tr. at 40-52, 74-75, 79-81, 124, 180-81.

[114] See, e.g., Polyvinyl Alcohol from Germany and Japan, USITC Pub. 3604 at 27 n.150.

[115] See, e.g., CR at I-4, II-9; PR at I-3, II-6.

[116] See, e.g., CR/PR at Tables C-1, C-2. Subject imports accounted for *** percent of U.S. merchant market consumption in interim 2003 and *** percent of U.S. merchant market consumption in interim 2004. Their share of the total PVA market was *** percent in interim 2003 and *** percent in interim 2004. See, e.g., CR/PR at Tables C-1, C-2.

[117] See, e.g., CR at II-12, III-5, III-9 to III-10.

[118] The record indicates that Celanese sold VAM to *** during the period of investigation, ***. Celanese reports that ***. See, e.g., Celanese's Postconference Brief at Answers to Questions from the Commission Staff at 1.

[119] See, e.g., CR at V-2; PR at V-1. Quarterly prices of natural gas first fell from a period high of $7.45 per thousand cubic feed ("Mcf") in the first quarter 2001 to a period low of $3.58 per Mcf by the fourth quarter 2001 and then increased to $6.61 per Mcf by first quarter 2003. Natural gas prices then moderated somewhat to $5.24 per Mcf by fourth quarter 2003 before increasing to $6.30 per Mcf in first quarter 2004, where they remained in second quarter 2004. High prices of natural gas are expected to continue into the future. See, e.g., CR at V-2; PR at V-2.

[120] See, e.g., CR at II-6; PR at II-4.

[121] See, e.g., CR at VI-4 to VI-6; CR/PR at Tables VI-2 to VI-5.

In addition, there are also differences among the domestic producers in terms of their reported rates of capacity utilization. PVA production is reported to be highly capital intensive.[122] *** capacity utilization rate of the three domestic PVA producers during the period of investigation.[123] Celanese reported that it must achieve at least a ***-percent capacity utilization rate in a 12-month period to achieve acceptable economies of scale, *** DuPont reported requiring a minimum capacity utilization rate of *** percent. Based on each firm's reported actual capacity utilization rates during January 2001 to June 2004, Celanese operated *** its minimum required capacity utilization rate, whereas DuPont operated *** its minimum required capacity utilization rate.[124] In 2003, for example, Celanese's ***.[125]

Another supply consideration is that the domestic industry exported a large quantity of PVA during the period of investigation. *** of the exports, *** percent.[126] To put the volume of the domestic industry's exports in perspective, in 2003, U.S. commercial shipments accounted for *** percent of the volume of U.S. producers' total shipments of PVA, captive shipments accounted for *** percent, and exports accounted for *** percent.[127] The quantity of export shipments made by the domestic industry increased from *** pounds in 2001 to *** pounds in 2002 before declining somewhat to *** pounds in 2003.[128] The average unit value of the domestic industry's export shipments was ***.[129]

### 3. Demand Conditions

Overall U.S. demand for PVA is primarily affected by sectoral economic activity as well as by overall U.S. economic activity.[130] Rather than exhibiting its own business cycle, demand for PVA is derived from demand for the downstream products that use this product as one of their inputs.[131] These include PVB, textiles, emulsion polymerization, adhesives, building materials, and paper products.[132] The highest-volume application in the United States has been for the production of PVB, an application that has been supplied *** by captive consumption ***.[133] The two next largest applications in the

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[122] See, e.g., Conf. Tr. at 12.

[123] See, e.g., CR at II-6; PR at II-4. *** reported a period-low capacity utilization rate of *** percent in *** and a period-high rate of *** percent ***. In contrast, *** reported capacity utilization rates that remained at or near *** percent ***. *** reported capacity utilization rates that ranged from a period low of *** percent during *** to a period high of *** percent during ***. CR at II-5 n.12.

[124] See, e.g., CR at II-5; PR at II-4; CR/PR at Table III-2. Moreover, the domestic industry's capacity throughout the period of investigation was *** greater than the corresponding apparent U.S. consumption observed in each such year or interim period. Compare, e.g., CR/PR at Table III-2 with, e.g., CR/PR at Table IV-4.

[125] See, e.g., CR at VI-5; PR at VI-1 to VI-2.

[126] See, e.g., CR at II-7; PR at II-4.

[127] See, e.g., CR at III-5; CR/PR at Table C-1.

[128] See, e.g., CR/PR at Table III-4.

[129] See, e.g., CR/PR at Table III-4. Although we recognize the limitations of average unit values in this industry due to product mix considerations, other evidence also indicates that the domestic industry's exports ***. See, e.g., ***.

[130] See, e.g., CR at II-9; PR at II-6.

[131] See, e.g., CR at II-1; PR at II-1.

[132] See, e.g., CR at I-6, II-2 to II-4; PR at I-5, II-1 to II-2.

[133] See, e.g., CR at I-6, II-2 to II-4; PR at I-5, II-1 to II-2.

United States in 2003, which were supplied exclusively by sales in the merchant market, were textiles and emulsion polymerization.[134]

Apparent U.S. merchant market consumption of PVA increased from 2001 to 2002 and declined from 2002 to 2003, although the 2003 level was above that of 2001; apparent U.S. merchant market consumption increased between interim 2003 and interim 2004.[135] Overall U.S. demand reportedly was adversely impacted by continuing retrenchment in U.S. textile operations during January 2001 through June 2004, while demand was augmented by increased PVB use.[136]

### 4. Substitutability Considerations

The degree of substitution in demand between PVA produced in the United States and that imported from Taiwan depends upon such factors as relative prices, types of customers, conditions of sales, purchaser supply requirements, and product differentiation. Product differentiation depends on factors such as the range of products, quality, availability, reliability of supply, and the market perception of these latter three factors. Based on the reported information in this investigation, we find there is substitutability in demand between the PVA produced domestically and that imported from Taiwan, but some reported product differentiation and other differences may limit the degree of this demand substitution.[137]

Because it is a synthetic water soluble polymer with unique characteristics, PVA has few substitutes for most end-use applications.[138] Although all grades of PVA are not interchangeable with other grades, more than one grade may be sold to specific end-use markets. For example, fully hydrolyzed PVA can be used in many of the same end use categories in which intermediate or partially hydrolyzed PVA can be used, such as textiles, paper, and adhesives. On the other hand, ***.[139] The same grade of PVA is frequently sold for different commercial uses, and many end users are able to use a wide range of grades. Many applications have evolved using particular grades, however, and although substitution of grades is possible, it requires cost and time to reformulate. Thus, end users tend to avoid changing the grade of PVA they use in their applications.[140]

Based on questionnaire responses for U.S. PVA production and imports of PVA from Taiwan and all other sources, during 2003 PVB use accounted for *** percent of the total reported quantity, textile uses accounted for *** percent, adhesive uses accounted for *** percent, emulsion-polymerization uses accounted for *** percent, paper uses accounted for *** percent, and other uses, including pharmaceuticals and building materials, accounted for the remaining *** percent. Shipments of domestically produced PVA by end-use application in 2003 ***.[141] In 2003, there *** imported PVA from Taiwan in the largest end-use category, for use in PVB production, and there were *** differences

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[134] See, e.g., CR at I-6, II-2 to II-4; PR at I-5, II-1 to II-2; CR/PR at Figures I-1, II-1.

[135] See, e.g., CR/PR at Table C-2. The trends were similar for total U.S. apparent domestic consumption over the period of investigation. See, e.g., CR/PR at Table C-1.

[136] See, e.g., CR at II-9; PR at II-6.

[137] See, e.g., CR at II-13; PR at II-8 to II-9.

[138] See, e.g., CR at II-10 to II-12; PR at II-6 to II-7.

[139] See, e.g., CR at II-12; PR at II-7. According to DuPont, ***. See, e.g., CR at I-9 n.22; PR at I-6 n.22.

[140] See, e.g., CR at I-9; PR at I-6.

[141] See, e.g., CR at II-2 to II-3; PR at II-1 to II-2; CR/PR at Figure II-1. In quantity terms, *** percent of domestic producers' production of PVA in 2003 was used for the production of PVB, *** percent was used in textile end-use applications, and *** percent was used for emulsion polymerization. See, e.g., CR at I-6; PR at I-5; Figure I-1.

in the relative presence of subject imports from Taiwan and domestically produced PVA products. The relative presence of the imported Taiwan PVA was *** percent in four end-use categories (textiles, emulsion polymerization, paper, and all other end uses), and was *** percent in the remaining category (adhesives). ***, the relative presence of domestically produced PVA was *** percent for PVB, above *** percent for the four other end-use categories, and *** percent in the remaining category (adhesives).[142]

The Commission collected data on the production of U.S. producers and CCPC in terms of hydrolysis level. Celanese produced ***. In its U.S. facility, DuPont produced ***, and Solutia produced ***.[143] *** of the subject imports from Taiwan consisted of PVA products ***.[144]

U.S. producers tended to sell PVA subject to *** whereas U.S. importers of the subject merchandise sold mainly ***. According to record information, *** percent of the total U.S. sales quantity of domestically produced PVA of Celanese and DuPont was on a long-term basis during the period of investigation, *** was on a spot basis, and *** percent was on a short-term basis. *** percent of total U.S. sales quantity of PVA imported from Taiwan as reported by subject importers DuPont, ***, ***, and Perry Chemical was on a long-term basis, *** percent was on a spot basis, and *** percent was on a short-term basis.[145]

*** asserted that PVA produced in the United States, imported from Taiwan, and imported from third countries were always or frequently interchangeable with one another. On the other hand, *** asserted that PVA produced domestically and imported from Taiwan was sometimes interchangeable, and ***, asserted that the domestic and imported Taiwan PVA were never interchangeable with each other. Domestic producers and importers agreed that factors other than price among PVA products produced in the United States, imported from Taiwan, and imported from third countries were relevant.[146]

### 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."[147]

As measured by quantity, the absolute volume of subject imports from Taiwan decreased from *** million pounds in 2001 to *** pounds in 2002, and then increased to *** pounds in 2003, an overall increase of *** percent between 2001 and 2003.[148]

Measured by quantity, the share of apparent U.S. merchant market consumption attributed to subject imports from Taiwan declined from *** percent in 2001 to *** percent in 2002, and then

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[142] See, e.g., CR at II-2 to II-3; PR at II-1 to II-2; CR/PR at Table II-1. Information on the relative presence of non-subject imports for these end-use categories may be underestimated.

[143] See, e.g., CR/PR at Table III-3.

[144] See, e.g., CR/PR at Table IV-3.

[145] See, e.g., CR at V-7 to V-8; PR at V-5 to V-6.

[146] See, e.g., CR at II-14 to II-16; CR/PR at Tables II-2, II-3.

[147] 19 U.S.C. § 1677(7)(C)(i).

[148] See, e.g., CR/PR at Table IV-1. Subject imports from Taiwan were *** million pounds in interim 2004 compared to *** million pounds in interim 2003. See, e.g., CR/PR at Table IV-1.

increased to *** percent in 2003.[149] Taiwan's share of total apparent U.S. consumption declined from *** percent in 2001 to *** percent in 2002, and then increased to *** percent in 2003.[150]

As a ratio to U.S. production, subject imports from Taiwan declined from *** percent in 2001 to *** percent in 2002 and then increased to *** percent in 2003.[151]

We find that the volume of subject imports and the increase in that volume, both in absolute terms and relative to domestic production and consumption, is significant. We note, however, that this increase in volume did not have a significant effect on the market for several reasons. First, apparent U.S. merchant market and total apparent U.S. PVA market consumption increased over the period of investigation.[152] Second, the domestic industry's share of the merchant and total U.S. PVA market increased over the period of investigation.[153] Third, non-subject imports, which accounted for a larger market share than subject imports from Taiwan throughout almost the entire period of investigation, gained market share during the earlier portion of the period of investigation but then ultimately lost market share in both the merchant and total U.S. PVA market over the period of investigation, as they became subject to antidumping duty orders.[154]

Notwithstanding the removal of the previous antidumping duty order on imports from China, Taiwan, and Japan in May 2001, the volume of subject imports from Taiwan did not increase in 2002. Instead, as we observed in our final determinations in the last investigations, the volume of imports from now non-subject sources (i.e., the cumulated volume from China, Korea, and Japan) increased in 2002, whether measured in terms of U.S. merchant market or total U.S. market share. The data indicate that there was an increase in subject import volume from Taiwan, but it did not occur until the first six months of 2003. As explained below, however, we do not find that increased subject imports from Taiwan were responsible for significant price effects or significant impact on the domestic industry. Indeed, although there was a large decline in non-subject import volume at the end of the period of investigation, as imports from China, Japan, and Korea became subject to antidumping duty orders in

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[149] See, e.g., CR/PR at Table C-2. Their share of apparent U.S. merchant market consumption was *** percent in interim 2004 compared to *** percent in interim 2003. See, e.g., CR/PR at Table C-2.

[150] See, e.g., CR/PR at Table C-1.

[151] (Derived from CR/PR at Table IV-1). As a ratio to U.S. production, subject imports from Taiwan were *** percent in interim 2004 compared to *** percent in interim 2003. See, e.g., CR/PR at Tables III-2, IV-1).

[152] Apparent U.S. merchant market consumption increased from *** million pounds in 2001 to *** million pounds in 2002 before declining to *** million pounds in 2003, for an overall increase of *** percent between 2001 and 2003. Apparent U.S. merchant market consumption was *** million pounds in interim 2004 compared to *** million pounds in interim 2003. See, e.g., CR/PR at Table C-2. Total apparent U.S. consumption increased from *** million pounds in 2001 to *** million pounds in 2002 before declining to *** million pounds in 2003, for an overall increase of *** percent between 2001 and 2003. Total apparent U.S. consumption was *** million pounds in interim 2004 compared to *** million pounds in interim 2003. See, e.g., CR/PR at Table C-1.

[153] The domestic industry's share of apparent U.S. merchant market consumption increased from *** percent in 2001 to *** percent in 2002 and *** percent in 2003 and was *** percent in interim 2004 compared to *** percent in interim 2003. See, e.g., CR/PR at Table C-2. The domestic industry's share of total apparent U.S. consumption increased from *** percent in 2001 to *** percent in 2002 and *** percent in 2003, and was *** percent in interim 2004 compared to *** percent in interim 2003. See, e.g., CR/PR at Table C-1.

[154] Non-subject imports' share of apparent U.S. merchant market consumption increased from *** percent in 2001 to *** percent in 2002 but then declined to *** percent in 2003, and their market share in interim 2004 was *** percent compared to *** percent in interim 2003. See, e.g., CR/PR at Table C-1. Non-subject imports' share of total apparent U.S. consumption was unchanged at *** percent in 2001 and 2002 but then declined to *** percent in 2003, and their market share in interim 2004 was *** percent compared to *** percent in interim 2003. See, e.g., CR/PR at Table C-1.

July 2003 (Japan) and in October 2003 (China and Korea), subject imports from Taiwan did not appear to take advantage of this opportunity. Their market share levels in interim 2004 are similar to their levels in interim 2003, and are not much higher than the market share held by subject imports from Taiwan in 2001, when they were covered by an antidumping duty order for the first five months of that year. Furthermore, there was no significant decrease in the domestic industry's market share over the interim periods.[155]

Accordingly, while we find a reasonable indication that the volume of subject imports both absolutely and relative to production and consumption in the United States is significant, the effect of this volume is muted in light of the conditions of competition and the fact that we do not find increased subject imports from Taiwan were responsible for significant price effects or significant impact on the domestic industry.

### C. Price Effects of the Subject Imports

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

> the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[156]

The Commission requested U.S. producers and importers of PVA to provide quarterly net U.S. f.o.b. selling value and quantity data for sales to unrelated U.S. customers for five non-specialty PVA products suggested by petitioner that are produced in the United States and imported from Taiwan.[157] Both petitioner, who recommended these pricing products, and DuPont agreed that these products were representative of both the domestic and subject imported PVA products.[158] Pricing data were representative of both U.S. commercial shipments by the domestic industry and U.S. shipments of imported PVA products from Taiwan, accounting for *** percent of total reported U.S. commercial shipments of the domestic industry and *** percent of total U.S. commercial shipments of PVA imported from Taiwan during the period of investigation.[159]

The price comparison data for these five products generally indicate that there has been a mixed pattern of underselling and overselling by subject imports. While the data show generally declining

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[155] See, e.g., CR/PR at Tables C-1, C-2.

[156] 19 U.S.C. § 1677(7)(C)(ii).

[157] These products were as follows: (1) PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 3-6 (centipois), standard granular particle size, and non-tackified; (2) PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 20-39 (centipois), standard granular particle size, and non-tackified; (3) PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 40-70 (centipois), standard granular particle size, and non-tackified; (4) PVA for use in paper applications with a range of hydrolysis between 98-99 percent, a viscosity between 3-12 (centipois), standard granular particle size, and non-tackified; (5) PVA for use in textile applications with a range of hydrolysis between 87-97 percent, a viscosity between 12-39 (centipois), standard granular particle size, and non-tackified. CR at V-14 to V-15; PR at V-9.

[158] See, e.g., CR at V-14 n.47; PR at V-9 n.47.

[159] See, e.g., CR at V-15 to V-16; PR at V-9 to V-10.

prices, there are an even number of instances of under- and overselling.[160] In isolation, this underselling could be viewed as significant; the pattern in the earlier portion of the period examined, however, generally has given way to overselling. We do not find a reasonable indication that this pattern of underselling by subject imports from Taiwan is significant.[161]

For several of the pricing products, there was fairly widespread overselling. For sales to purchasers of product 1 (an adhesive product), pricing comparisons show underselling by subject PVA from Taiwan, but only *** overselling throughout the remainder of the period of investigation when the volume of subject imports from Taiwan was increasing.[162] Pricing comparisons for product 2 (another adhesive product) also show mostly overselling during the period of investigation, with underselling limited to ***.[163] Pricing comparisons for product 3 (a third adhesive product) also showed mostly overselling during the period of investigation, with the *** instances of underselling occurring in ***.[164] In other words, for the market segment where we would expect there to be the greatest price competition between subject imports from Taiwan and the domestic industry (to the extent that *** percent of the shipments to the adhesives sector were of subject imports from Taiwan compared to *** percent supplied by the domestic industry), there was actually widespread overselling.[165]

Although pricing comparisons for product 4 (a paper product) showed widespread underselling by subject imports from Taiwan during the period of investigation (in *** possible quarters), the ***.[166]

There was also fairly consistent underselling for product 5 (a textile product) by subject imports from Taiwan during the period of investigation (in *** of the *** possible quarters). This was ***.[167] Textile applications *** DuPont's U.S. commercial sales, accounting for *** percent of DuPont's U.S. PVA production in 2003, *** Celanese's U.S. commercial sales.[168] DuPont, of course, opposed the petition and did not identify any adverse effects from subject imports from Taiwan.[169] In addition, we note that in the recent period, prices for product 5 generally have been rising.[170]

We also examined the extent to which imported PVA from Taiwan was sold to the same customers as the domestic industry, and we found attenuated competition between the relevant domestically produced product and subject imports from Taiwan. We compared the top ten customers in the U.S. market reported by domestic producers DuPont and Celanese and for imported PVA from

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[160] See, e.g., CR/PR at Tables V-1 to V-5.

[161] As is our normal approach, for our assessment of whether there have been significant price effects by subject imports from Taiwan, we have given more weight to the pricing data in this investigation than average unit value data. Indeed, as Celanese testified at the preliminary staff conference, selling prices of PVA, not average unit values, are the proper level of PVA distribution to measure prices in this market. See, e.g., CR at V-15; PR at V-9.

[162] See, e.g., CR/PR at Table V-1.

[163] See, e.g., CR/PR at Table V-2.

[164] See, e.g., CR/PR at Table V-3.

[165] See, e.g., CR at II-3; PR at II-3; CR/PR at Table II-1.

[166] See, e.g., CR/PR at Table V-4, n.52; questionnaire responses.

[167] See, e.g., CR/PR at Tables V-5, E-5; CR at II-3; PR at II-3.

[168] See, e.g., CR at II-3; PR at II-3.

[169] See, e.g., CR/PR at Table III-1, Apps. D, F.

[170] See, e.g., CR/PR at Table V-5.

Taiwan as reported by subject importers DuPont, ***, Perry Chemical, ***.[171] This evidence, like the pricing data, also indicates the absence of any significant underselling.

Although there was overlap in terms of sales to ***.[172]

*** reported *** for its imported PVA from Taiwan during the period of investigation, ***.[173]

The only reported overlap between ***[174] ***.[175]

In the case of ***.[176] Likewise, in the case of ***. Other confirmed lost sales/lost revenue allegations concerned relatively small transaction volumes and/or involved products for which there were only limited volumes of subject imports from Taiwan (such as ***) imported into the United States during the period of investigation.[177]

Indeed, follow up conversations with purchasers named in lost sales/lost revenue allegations revealed that while price is an important factor, other factors were important in their consideration such as the need to source from more than one supplier (***), product quality of the domestic product (***), *** in the market where the purchaser competed (***), or *** requirements (***) or *** than the purchaser was comfortable negotiating (***).[178] These statements are consistent with other evidence offered by DuPont as well as with data reported by purchasers in the most recent investigation regarding the importance of quality, the need for multiple and reliable suppliers, and the importance of pre-qualification.[179]

In sum, there are factors in addition to price that are also important in this industry, underselling by subject imports from Taiwan was not at times nor for products that were significant, nor was there meaningful overlap in the larger customers served by both the domestic industry and subject imports from Taiwan, nor evidence of significant underselling where there was overlap. Based on these considerations, we do not find a reasonable indication of significant underselling by subject imports from Taiwan.

As noted above in our discussion of the data collected on five pricing products, while there were declines in PVA prices in the U.S. market over the period of investigation, these declines largely occurred in the earlier portion of the period (between 2001 and 2002) when subject imports from Taiwan were declining. Generally, prices began to increase or stabilized during the latter part of the period of

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[171] Celanese's top ten customers accounted for *** percent of the quantity of its total U.S. commercial shipments of its U.S.-produced PVA during 2003, and DuPont's top 10 customers accounted for *** percent and *** percent of its respective total U.S. commercial shipments of domestic and imported Taiwan PVA during 2003. See, e.g., CR at V-6 n.15; PR at V-4 n.15.

[172] See, e.g., Memorandum INV-BB-130 (Oct. 21, 2004) (alphabetically compiling questionnaire responses); CR at V-6 to V-7; PR at V-4 to V-5; questionnaire responses.

[173] See, e.g., CR at V-6 to V-7; PR at V-4 to V-5; Memo. INV-BB-130 (Oct. 21, 2004); questionnaire responses.

[174] ***.

[175] See, e.g., CR at V-6 to V-7; PR at V-4 to V-5; Memo. INV-BB-130 (Oct. 21, 2004); questionnaire responses.

[176] See, e.g., CR/PR at Table V-8, V-9; CR at V-34.

[177] See, e.g., CR/PR at Tables V-8 to V-9; CR at V-35.

[178] See, e.g., CR at V-7 to V-9, V-30 to V-39; PR at V-5 to V-6, V-13 to V-14; CR/PR at Table V-9.

[179] For example, DuPont asserted that U.S. end users of PVA have been shifting to multiple-sourcing of their PVA, and in its questionnaire responses, DuPont asserted that some of its PVA customers such as ***, have made ***. DuPont also asserted that other behavior by Celanese has contributed to any problems that it may be suffering. See, e.g., CR at II-13 to II-14, V-12 to V-14; PR at II-8 to II-9, V-7 to V-8; see also, e.g., USITC Pub. 3604 at Tables II-3, II-5; DuPont's Postconference Brief at Exhibits 5, 6, 7.

investigation, notwithstanding an increase in the volume of subject imports between 2002 and 2003.[180] Furthermore, over the entire period of investigation, there were ***.[181] ***.[182] ***.[183] We also find ***.[184]

The data indicate that other factors played an important role in explaining price declines in this market during the period of investigation, including demand factors. Although prices of PVA for use in the *** used to be ***, prices for these products began to *** in the second half of 2001, following revocation of the 1996 antidumping duty orders on PVA from China, Japan, and Taiwan.[185] There is also some evidence that indicates that the PVA industry has become increasingly global in nature and that PVA prices have converged across different regions and applications as large multinational firms have greater access to price information and are able to secure global contracts for their PVA needs.[186] Finally, much of the price declines that took place earlier in the period of investigation can be attributed to the low-priced unfairly traded imports from China, Korea, and Japan that were competing in the U.S. market at least until the imposition of antidumping duty orders in mid- and late 2003. The Commission found significant and widespread underselling by these cumulated imports including for each of the three main end-use applications for which the Commission collected data in those investigations. It also found other evidence of direct head-to-head price competition between those imports and the domestically produced PVA.[187]

We also obtained extensive information during this investigation concerning the domestic industry's ability to increase prices. While ***. Both Celanese and DuPont submitted information regarding announced PVA price increases during the period of investigation. From this information, it appears that Celanese's announced price increases in the earlier part of the period of investigation (of $0.05 per pound effective February 1, 2001 and of $0.05 per pound effective June 15, 2002), when subject imports from Taiwan were declining but PVA imports from China, Korea, and Japan were increasing, were ***. The third announced price increase for PVA (of $0.05 per pound effective March 1, 2003) was reportedly initiated by DuPont, and this increase was ***. Celanese attempted a fourth announced price increase shortly thereafter (of $0.20 per pound effective April 1, 2003), and according to DuPont, U.S. PVA customers ***. Celanese asserted that after initially obtaining a $*** per pound

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[180] See, e.g., CR/PR at Tables V-1 to V-5.

[181] Compare, e.g., CR/PR at Tables V-1 to V-3 with, e.g., CR/PR at Tables V-4 to V-5.

[182] See, e.g., CR/PR at Tables V-1 to V-5.

[183] See, e.g., CR/PR at Tables V-1 to V-3.

[184] See, e.g., CR/PR at Tables V-5, E-5; CR at II-3. Although we have examined price effects on the domestic industry as a whole, we also examined the prices of subject imports from Taiwan compared to the prices of Celanese's commercial U.S. shipments. ***. See, e.g., CR/PR at Tables V-5, E-5.

[185] See, e.g., CR at V-1; PR at V-1. The decline in U.S. production of textiles since at least 2001 may have contributed to soft PVA pricing in that demand sector. The U.S. paper industry reportedly has undergone consolidation, which likely led to at least some increase in buying power by U.S. paper companies for their inputs, including PVA. See, e.g., CR at V-1 n.3; PR at V-1 n.3. Two market segments that reportedly *** are the *** and *** sectors. According to DuPont, ***. See, e.g., CR at V-2; PR at V-2; see also, e.g., USITC Pub. 3604 at II-5.

[186] See, e.g., CCPC's Postconference Brief at 6.

[187] As the Commission explained in those investigations, "although there were instances where non-subject imports from Germany and Taiwan undersold the domestic like product, such instances were less frequent and generally involved smaller margins of underselling than with respect to subject imports. Moreover, in 2002 when domestic prices were declining, cumulated subject import volume was increasing both absolutely and relative to merchant market consumption and total U.S. consumption, but the volume of non-subject imports was declining." (citations omitted). See USITC Pub. 3634 at 16. For the final phase of those investigations, the Commission's period of investigation was calendar years 2000 through 2002. See, e.g., USITC Pub. 3604; USITC Pub. 3634.

increase, it reduced prices by $*** per pound and thus obtained *** percent of the attempted price increase, which, according to Celanese did not even cover the increased cost of VAM. DuPont initiated the fifth announced price increase for PVA (of $0.07 per pound effective June 1, 2004), an increase that was reportedly ***. Celanese, however, asserted that it was only able to obtain about $*** of the proposed price increase.[188]

For all of these reasons, although there were declines in prices over the period of investigation, due to the timing of the price declines, the fact that prices generally began to increase towards the end of the period, the role of other factors, and based on evidence that domestic producers ***, we do not find a reasonable indication of significant price depression by subject imports from Taiwan.

Celanese also argued that there was significant price suppression by subject imports from Taiwan. In the merchant market, as in the total U.S. PVA market, the unit cost of goods sold declined relatively significantly between 2001 and 2002 before increasing back to similar levels in 2003 and continuing to increase between interim 2003 and interim 2004. These trends are consistent with quarterly trends of natural gas prices discussed above. Cost of goods sold as a ratio to sales declined between 2001 and 2002 as natural gas prices fell during a time of declining PVA prices, but the ratio of cost of goods sold to sales increased between 2002 and 2003 and continued to increase between interim 2003 and interim 2004, as increases in prices in the U.S. market were unable fully to keep pace with increasing costs.[189] Although we do find evidence that the domestic industry experienced a cost-price squeeze, we do not find a reasonable indication of significant price suppression by subject imports from Taiwan. Individual firm data reveal that ***.[190] Given this cost information, evidence that there was more overselling occurring at the end of the period of investigation when subject import volume was rising, and evidence that factors other than subject imports had important adverse effects on prices during the period of investigation, as noted above, we do not find a reasonable indication that subject imports from Taiwan significantly suppressed prices in the U.S. market.

For all of these reasons, we do not find a reasonable indication that there has been significant price underselling of the domestic like product by subject imports, that subject imports have depressed domestic prices to a significant degree, or that there has been significant price suppression by subject imports from Taiwan.

### D. Impact of the Subject Imports[191]

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."[192] 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

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[188] See, e.g., CR at V-10 to V-12; PR at V-6 to V-7. DuPont ***. Id.

[189] See, e.g., CR/PR at Table C-1, C-2.

[190] See, e.g., CR at VI-4 to VI-7; PR at VI-1 to VI-2.

[191] In its notice of initiation, Commerce estimated, based on a comparison of export price derived from U.S. average unit values to adjusted constructed value, a dumping margin of 39.83 percent for PVA from Taiwan. 69 Fed. Reg. 59204, 59206 (Oct. 4, 2004).

[192] 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.

relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[193]

We do not find that there is a reasonable indication that the subject imports have had an adverse impact on the domestic industry during the period of investigation. In making this finding, we observe that while there have been declines in some of the domestic industry's performance factors, there have been improvements in several others. Many of the declines in the domestic industry's performance factors (such as declines in U.S. shipment value and unit value, production related workers, hours worked, net sales unit value) occurred between 2001 and 2002,[194] a time when the volume of subject imports from Taiwan was declining and a time when the Commission found material injury by reason of cumulated subject imports from China, Korea, and Japan. Between 2002 and 2003, when subject imports from Taiwan experienced their largest relative volume increases during the period of investigation, domestic producers gained some market share, increased their capacity utilization from period lows in 2001, continued to experience declining inventories, did not lose as many production and related workers, and experienced increased net unit sales values.[195] After PVA imports from China, Korea, and Japan became subject to antidumping duty orders in July 2003 (Japan) and October 2003 (China and Korea), the domestic industry's performance for interim 2004 was at levels that were better than or

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[193] 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).

[194] In terms of the U.S. merchant market, the domestic industry's U.S. shipment values declined from $*** in 2001 to $*** in 2002 and $*** in 2003. The unit value of the domestic industry's U.S. merchant market shipments declined from $*** in 2001 to $*** in 2002 and $*** in 2003. The number of production-related workers declined from *** in 2001 to *** in 2002 and *** in 2003. Hours worked declined from *** in 2001 to *** in 2002 and *** in 2003, and from *** in interim 2003 to *** in interim 2004. The domestic industry's net sales unit values declined from $*** in 2001 to $*** in 2002. See, e.g., CR/PR at Table C-2. In terms of the total U.S. PVA market, the domestic industry's U.S. shipment values increased from $*** in 2001 to $*** in 2002 and declined *** to $*** in 2003. The unit value of the domestic industry's U.S. shipments to the total market declined from $*** in 2001 to $*** in 2002 before increasing to $*** in 2003. The number of production-related workers declined from *** in 2001 to *** in 2002 and *** in 2003. Hours worked declined from *** in 2001 to *** in 2002 and *** in 2003, and from *** in interim 2003 to *** in interim 2004. The domestic industry's net sales unit values declined from $*** in 2001 to $*** in 2002. See, e.g., CR/PR at Table C-1.

[195] The domestic industry's share of the U.S. merchant market for PVA increased from *** percent in 2002 to *** percent in 2003. The domestic industry's net unit sales values increased from $*** in 2002 to $*** in 2003. The domestic industry's capacity utilization increased from *** percent in 2002 to *** percent after recording period lows in 2001 of *** percent. The domestic industry's end-of-period inventories declined from *** in 2001 to *** in 2002 and continued to decline to *** in 2003. Although the number of production and related workers in the domestic industry declined from *** in 2002 to *** in 2003, the magnitude of the decline was not as great (*** percent as opposed to *** percent). The domestic industry's hourly wages continued to climb, from $*** in 2001 to $*** in 2002 and $*** in 2003. See, e.g., CR/PR at Table C-2. The domestic industry's share of the total U.S. PVA market increased from *** percent in 2002 to *** percent in 2003. The domestic industry's net unit sales values increased from $*** in 2002 to $*** in 2003. The domestic industry's capacity utilization declined from *** percent in 2002 to *** percent after recording period lows in 2001 of *** percent. The domestic industry's end-of-period inventories declined from *** in 2001 to *** in 2002 and continued to decline to *** in 2003. Although the number of production and related workers in the domestic industry declined from *** in 2002 to *** in 2003, the magnitude of the decline was not as great (*** percent as opposed to *** percent). The domestic industry's hourly wages continued to climb, from $*** in 2001 to $*** in 2002 and $*** in 2003. See, e.g., CR/PR at Table C-1.

similar to levels in interim 2003 for many of these same factors, notwithstanding the continued presence of subject imports from Taiwan in the market.[196]

We acknowledge that the domestic industry's operating margin declined *** between 2002 and 2003 from *** percent in 2002 to *** percent in 2003, but then largely stabilized between interim 2003 (*** percent) and interim 2004 (*** percent). While subject imports from Taiwan may have contributed to these ***, we do not find that subject imports, as opposed to other factors, contributed materially to this or other declines in domestic industry's performance factors. In addition to our findings concerning subject import volume and the absence of significant price effects by subject imports from Taiwan, discussed above, we cannot ignore the effects of ***, and the fact that the domestic industry ***.[197]

The domestic industry's ***. A close comparison of the cost structures of DuPont (***) and Celanese (***) shows ***. In 2003, the year of greatest subject import penetration, in terms of merchant market sales, Celanese's unit costs of good sold were ***. Celanese's unit raw material costs of ***. However, Celanese's unit labor costs of *** than DuPont's unit labor costs of ***. Celanese's unit other factory costs, ***.[198] Finally, Celanese's unit byproduct revenue of ***.[199]

DuPont's ***, and Celanese's *** are largely attributable to the ***. The *** are entirely unrelated to imports of subject PVA from Taiwan.[200]

We have also taken into account the continuing presence of significant volumes of then unfairly-traded cumulated imports from China, Korea, and Japan in the U.S. market throughout a significant portion of 2002 and 2003. Although we recognize that in the second of two sequential investigations involving imports of the same product from different countries, the Commission may base its injury determination with respect to the second country on sales at less than fair value that continue injury due to subject imports from the first country(ies),[201] we also have an obligation to ensure that there is a reasonable indication of "material injury" that is "by reason of" the subject imports at issue in this

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[196] The domestic industry's share of the U.S. PVA merchant market was relatively stable between interim 2003 (*** percent) and interim 2004 (*** percent). The domestic industry's production quantity increased from *** pounds in interim 2003 to *** pounds in interim 2004. The domestic industry's capacity utilization levels jumped from *** percent in interim 2003 to *** percent in interim 2004. The domestic industry's U.S. shipments to the merchant market increased from *** pounds in interim 2003 to *** pounds in interim 2004, and unit values increased from $*** in interim 2003 to $*** in interim 2004. End-of-period inventories continued to decline, from *** pounds in interim 2003 to *** pounds in interim 2004. Productivity levels also climbed to near record levels, increasing from *** pounds per hour in interim 2003 to *** pounds per hour in interim 2004. See, e.g., CR/PR at Table C-2. The domestic industry's share of the total U.S. PVA market was relatively stable between interim 2003 (*** percent) and interim 2004 (*** percent). The domestic industry's production quantity increased from *** pounds in interim 2003 to *** pounds in interim 2004. The domestic industry's capacity utilization levels jumped from *** percent in interim 2003 to *** percent in interim 2004. The domestic industry's U.S. shipments to the total U.S. PVA market increased from *** pounds in interim 2003 to *** pounds in interim 2004, and unit values increased from $*** in interim 2003 to $*** in interim 2004. End-of-period inventories continued to decline, from *** pounds in interim 2003 to *** pounds in interim 2004. Productivity levels increased from *** pounds per hour in interim 2003 to *** pounds per hour in interim 2004. See, e.g., CR/PR at Table C-1.

[197] See, e.g., CR/PR at Tables C-2, C-1.

[198] As discussed above, ***.

[199] ***.

[200] We note that ***.

[201] See, e.g., City Lumber Co. v. United States, 311 F. Supp. 340, 347-48 (Cust. Ct. 1970), aff'd, 457 F.2d 991 (C.C.PA. 1972).

investigation,[202] namely subject imports from Taiwan. Because of differences in terms of the volume, price effects, and impact of subject imports from Taiwan and the volume, price effects, and impact of the imports that were cumulated in the last investigations (i.e., PVA imports from China, Korea, and Japan), including timing, as well as our examination of other economic factors that are relevant to this investigation discussed above, we reach a different result in this investigation.[203] Based on the facts on this record, we are unable to conclude that there is a reasonable indication of material injury by reason of subject imports from Taiwan.

For all of the reasons discussed above, including our findings concerning subject import volume from Taiwan and the lack of significant price effects we are unable to conclude that there is a reasonable indication that subject imports are having adverse impact on the domestic industry.

We find that the record as a whole contains clear and convincing evidence that there is no reasonable indication of material injury by reason of subject imports of PVA from Taiwan and no likelihood exists that contrary evidence will arise in a final investigation.

## VII. NO REASONABLE INDICATION OF A THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM TAIWAN

Section 771(F) of the Act directs the Commission to determine whether there is a reasonable indication that 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."[204] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[205] In making our determination, we have considered all factors that are relevant to this investigation.[206] Based on an evaluation of the relevant

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[202] See generally Nippon Steel Corp. v. USITC, 345 F.3d 1379 (Fed. Cir. 2003); Taiwan Semiconductor Industry Ass'n. v. United States, 266 F.3d 1339 (Fed. Cir. 2001); Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997); Committee for Fair Beam Imports v. United States, 2003 WL 21555105 (CIT), 25 ITRD 1699 (Ct. Int'l Trade); R-M Industries, Inc. v. United States, 848 F. Supp. 204 (Ct. Int'l Trade 1994); General Motors, Corp. v. United States, 827 F. Supp. 774 (Ct. Int'l Trade 1993); Trent Tube Div. v. United States, 741 F. Supp. 921 (Ct. Int'l Trade 1990).

[203] Thus, this case is distinguishable from the factual scenario apparently at issue in City Lumber, where subject imports from Portugal were apparently competing on identical terms as imports from Sweden and Belgium, imports for which there were already affirmative injury determinations.

[204] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[205] 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).

[206] 19 U.S.C. § 1677(7)(F). These factors include: 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; a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports; whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on the domestic prices and are likely to increase demand for further imports; inventories of the subject merchandise; and the actual and potential negative effects on the existing development and production efforts of the domestic industry.

(continued...)

statutory factors, we find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports of PVA from Taiwan that are allegedly sold in the United States at less than fair value.

As an initial matter, we find that the domestic industry is vulnerable. We base this finding solely on the fact that the industry is ***. As discussed above, however, many important performance factors have shown improvements. These include the fact that domestic producers gained some market share, increased their capacity utilization from period lows in 2001, continued to experience declining inventories, and experienced increased net unit sales values. Moreover, in the most recent period, the domestic industry has increased production (*** percent), U.S. shipments (*** percent), and U.S. shipment unit sales values between the two interim periods.[207]

Notwithstanding our findings regarding a reasonable indication of a significant absolute volume of subject imports from Taiwan and significant increases in subject import volume from Taiwan relative to apparent U.S. consumption or production during the period of investigation, the effect of this volume is muted in light of the conditions of competition, and the fact that we do not find increased subject imports from Taiwan were responsible for significant price effects or significant impact on the domestic industry.[208] Based on these considerations and our findings below, we do not find in the imminent future a reasonable indication of a significant rate of increase of the volume or market penetration of subject imports from Taiwan indicating the likelihood of substantially increased imports.

CCPC has had *** production capacity ***. While CCPC ***, we do not find that *** would lead to significant volumes in the imminent future. CCPC's exports to the United States accounted for *** of its total shipments during the period of investigation (ranging from *** percent) while its shipments to the home market coupled with its internal consumption (ranging from *** percent) as well as its exports to all other markets were significantly higher throughout the period of investigation (ranging from *** percent to *** percent). These patterns are projected to remain the same. Likewise, end-of-period inventories in Taiwan of subject PVA have declined throughout the period of investigation and are projected to continue declining in 2004 and 2005. Importers' end-of-period inventories of subject PVA in the United States have been relatively stable throughout the period of investigation and are projected to remain stable in 2004 and 2005.[209] Furthermore, there are no known dumping findings or investigations on PVA from Taiwan in other markets that might impede exports from Taiwan to those markets.[210]

While we found a reasonable indication of a significant increase in subject import volume during the period of investigation, we noted that the conditions of competition in the U.S. market muted the impact that this increase in volume had on the domestic industry. There is no evidence that conditions of competition in the U.S. market would change in such a way that any increases in the imminent future

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[206] (...continued)
19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (I) is inapplicable, as no countervailable subsidies are involved, statutory threat factor (VI) is inapplicable, as there is no evidence of production facilities in Taiwan that are currently being used to produce other products that can be used to produce the subject merchandise, and statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved. Id.

[207] CR and PR at Table C-2.

[208] We note in particular the fact that subject import volumes from Taiwan did not increase significantly during the period of investigation and the most recent period when they had opportunities to do so, such as shortly after the termination of the antidumping duty order on PVA imports from Taiwan in May 2001 or after the imposition of the antidumping duty orders on PVA imports from China, Korea, and Japan in July 2003 (Japan) and October 2003 (China and Korea).

[209] See, e.g., CR/PR at Tables VII-1, VII-2.

[210] See, e.g., CR at VII-4.

would have an adverse impact on the domestic industry. We reach this conclusion in particular based on the fact that subject imports generally have oversold domestic product in the recent period and in light of our findings below on the likely price effects in the future. Accordingly, we do not find a reasonable indication of the likelihood of substantially increased imports of the subject merchandise into the United States in the imminent future.

Based on the standard for preliminary determinations, we also find it unlikely that subject imports will enter the U.S. market at prices that are likely to have a significant depressing or suppressing effect on domestic prices or that are likely to increase demand for further imports. Coupled with our findings on the lack of likely substantially increased subject imports, the record evidence indicates that subject import prices had no significant adverse effects on domestic prices during the period of investigation. Prices began to rise toward the end of the period of investigation notwithstanding the continued presence of subject imports from Taiwan in the U.S. market, and evidence indicating that much of the underselling by subject imports from Taiwan occurred during the earlier portion of the period of investigation.[211]

We have also taken into account U.S. importers' reporting of imports subsequent to June 30, 2004. Four of the responding importers indicated that they imported or arranged for importation of PVA from Taiwan for delivery after June 30, 2004. Through December 2004, the imports and projected imports of PVA from Taiwan ***.[212] Therefore, the composition of these imports and projected imports by the two firms that accounted for a majority of the subject imports during the period of investigation is ***. This fact reinforces our findings of a lack of likely significant price effects in the imminent future. Based on these considerations, we find it unlikely that subject imports will enter the U.S. market at prices that are likely to have a significant depressing or suppressing effect on domestic prices or that are likely to increase demand for further imports.

We also do not find a reasonable indication that subject imports are likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts. The domestic industry ***.[213]

Accordingly, we find that the record as a whole contains clear and convincing evidence that there is no reasonable indication of a threat of material injury by reason of subject imports of PVA from Taiwan, and no likelihood exists that contrary evidence will arise in a final investigation.

## CONCLUSION

For the reasons stated above, we 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 subject imports of PVA from Taiwan that are allegedly sold in the United States at less than fair value.

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[211] As we noted previously, DuPont ***. See, e.g., CR at V-10 to V-12; PR at V-6 to V-7.

[212] See, e.g., CR at IV-3, VII-4.

[213] See, e.g., CR at Table VI-7, Appendix F.

## DISSENTING VIEWS OF CHAIRMAN STEPHEN KOPLAN AND COMMISSIONER MARCIA E. MILLER

Based on the record developed in the preliminary investigation, we find that there is a reasonable indication that the domestic industry is materially injured by reason of imports of polyvinyl alcohol ("PVA") from Taiwan that allegedly are sold in the United States at less than fair value ("LTFV").

To summarize the bases for our affirmative determination, subject imports from Taiwan increased significantly in terms of volume and market share particularly from 2002 to 2003, and into 2004, largely replacing imports from China, Korea, and Japan that the Commission had previously found to be causing injury or threat of injury to the U.S. industry and that became subject to duties. There is evidence of mixed underselling and overselling, of price depression and suppression, and of lost sales and revenues. Although the domestic industry's sales volumes and market shares have increased over the period investigated, shipment values have declined along with profitability. As domestic producers' costs rose, they were not able to raise prices commensurately and were caught in a cost-price squeeze. The industry did not experience the recovery that might have been expected following the imposition of duties on the nonsubject countries found to have been dumping in the previous investigations of PVA.

In any final phase investigation, we would have explored several important issues more fully, including: the extent to which domestic producers compete with each other and with subject imports for sales of PVA; the extent to which the various types of PVA are interchangeable; input from purchasers' questionnaires on why they may have shifted to subject imports from domestic product and whether they seek multiple supply sources; differences among the U.S. producers with respect to production methods and cost structure; and factors other than imports that may have affected U.S. producers' ability to raise prices and recover costs.

We join the majority's views on domestic like product, domestic industry, and captive consumption, but express dissenting views on other conditions of competition and reasonable indication of material injury.

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

While we recognize that one purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the standard requires more than a "possibility" of material injury,[3] we find that the "reasonable indication" standard is clearly met in this case and that the record does not contain clear and convincing evidence of either no material injury or threat thereof by the subject imports.

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[1] 19 U.S.C. § 1673b(a); *see also* American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

[2] American Lamb, 785 F.2d at 994, 1001 (Fed. Cir. 1986); *see also* Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

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

## II. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM TAIWAN

In the preliminary phase of an antidumping duty investigation, 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.[4] 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.[5] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[6] 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.[7] 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."[8]

### A. Conditions of Competition

As noted, we join the majority in applying the captive production provision and focus primarily on the merchant market for our analysis. In addition, we find the following conditions of competition pertinent to our analysis.

We note that market participants commonly perceive the PVA market by reference to the different applications for which it is sold, including polyvinyl butyral ("PVB"), textiles, adhesives/emulsifiers, building materials, and paper products. The highest-volume application in the United States has been as an intermediate product in the production of PVB, an adhesive used in the manufacture of automotive and architectural safety glass.[9] This application, however, has been supplied *** by captive consumption. The two next largest applications in the United States in 2003, which were supplied exclusively by sales in the merchant market, were for sizing in the textiles industry and in the manufacture of adhesives.[10] Celanese, DuPont, and Perry Chemical, the three largest suppliers of domestic and imported PVA to the U.S. merchant market, typically sell their PVA directly to U.S. end users and generally in the same end-use applications, particularly adhesives and textiles.[11]

Apparent U.S. consumption of PVA, whether measured in terms of the merchant market or the total market, increased over the three-year period of investigation ("POI") and during the first half of 2004, although it was somewhat higher in 2002 than in 2003.[12] Demand for PVA for textile uses has

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[4] 19 U.S.C. § 1673b(a).

[5] 19 U.S.C. § 1677(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 R.3d 1478 (Fed. Cir. 1998).

[6] 19 U.S.C. § 1677(7)(A).

[7] 19 U.S.C. § 1677(7)(C)(iii).

[8] 19 U.S.C. § 1677(7)(C)(iii).

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

[10] CR at I-6 and II-2-3, PR at I-5 and II-2.

[11] CR at II-13, PR at II-8-9.

[12] CR/PR at Tables C-1 and C-2 (as revised by INV-BB-130, October 21, 2004) (hereinafter, "Table C-2"). Apparent U.S. consumption by quantity in the merchant market increased by *** percent, from *** pounds in 2001 to *** pounds in 2003. It increased a further *** percent between interim 2003 and interim 2004. Apparent U.S. consumption by quantity in the total U.S. market increased by *** percent, from *** pounds in 2001 to *** pounds

(continued...)

decreased, but demand for PVB-grade PVA has remained strong.[13]

The domestic industry consists of three PVA producers: DuPont, Celanese, and Solutia. Only DuPont and Celanese produce PVA for the merchant market.[14] The Petitioner, Celanese, acquired the PVA business–including U.S. production facilities–of former producer Air Products in September 2000.[15] DuPont is only able to produce fully hydrolyzed PVA on its existing equipment, as it employs a unique manufacturing process, a "reactor process." Both Celanese and Solutia utilize a "belt process" which, unlike DuPont's reactor process, allows the manufacturer to control the amount of hydrolysis. Thus, Celanese and Solutia are able to produce partially-hydrolized PVA.[16] There is only one known producer of PVA in Taiwan, Chang Chun Petrochemical Co., Ltd. ("CCPC"). The two *** importers of subject imports from Taiwan over the period of investigation, Perry Chemicals and DuPont, accounted for the *** of subject imports.[17]

Petitioner characterizes PVA production as highly capital intensive. Petitioner contends that this industry can only remain healthy if it achieves high levels of capacity utilization because of the high levels of fixed costs.[18]

The principal raw material input used to produce PVA is vinyl acetate monomer ("VAM"). Natural gas or its derivative ethane are the principal feedstocks used by U.S. PVA producers to produce VAM and the principal energy source to produce PVA.[19] Beginning in mid-2002, prices of natural gas have increased significantly and are expected to continue to be high into the future.[20]

The U.S. PVA market is supplied principally by the domestic industry. In 2003, domestic producers accounted for *** percent of U.S. merchant market consumption and *** percent of total apparent U.S. consumption, measured by quantity. The next largest source of supply in 2003, accounting for *** percent of apparent U.S. merchant market consumption and *** percent of total apparent U.S. consumption, was nonsubject imports. Subject imports accounted for *** percent of the merchant market in 2003 and *** percent of total consumption.[21]

Respondent CCPC argues that "PVA customers increasingly strive to secure multiple sources of PVA in order to protect themselves from disruptions in supply."[22] DuPont makes the same argument.[23] Celanese disputes this contention.[24] Without the opportunity to issue purchaser questionnaires in a final investigation, it is difficult for us to evaluate this argument.

On September 5, 2002, Celanese and DuPont filed an antidumping petition alleging that an industry in the United States was materially injured and threatened with further material injury by reason of LTFV imports of PVA from China, Germany, Japan, and Korea. The Commission determined that an industry in the United States was materially injured by reason of imports of PVA from China and Korea; threatened with material injury by reason of LTFV imports from Japan; and was not materially injured or

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[12](...continued)
in 2003. It further increased by *** percent between interim 2003 and interim 2004.

[13] CR at II-10, PR at II-6.

[14] CR/PR at III-1, n.1.

[15] CR at III-2 and VI-1, PR at III-1 and VI-1.

[16] CR at I-8, PR at I-5.

[17] CR/PR at I-1.

[18] Conference Transcript at p. 12 (Mr. Massa).

[19] CR at V-2, PR at V-1.

[20] CR at V-2 and V-3, PR at V-2.

[21] CR/PR at Tables C-1 and C-2.

[22] Post-Conference Brief of CCPC at p. 5.

[23] CR at II-13-14, PR at II-9.

[24] Post-Conference Brief of Celanese at 24, 26; Conference Transcript at 118 (Mr. Bruno).

threatened with material injury by reason of imports from Germany. Antidumping duty orders were imposed on subject imports of PVA from Japan on July 2, 2003 and on subject imports of PVA from China and Korea on October 1, 2003.[25]

### 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."[26]

The volume of subject imports increased both absolutely and relative to apparent U.S. consumption over the POI. The increases were sharpest from 2002 to 2003 and into 2004, after PVA imports from other major foreign sources became subject to antidumping duties and began to leave the U.S. market.[27] U.S. shipments of PVA imports from Taiwan increased overall from 2001 to 2003 by *** percent, and from 2002 to 2003, by *** percent. U.S. shipments of subject imports in January-June 2004 were *** percent higher than during the same period in 2003.[28] The volumes of subject imports were *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, and *** pounds in the first half of 2004 (as compared to *** pounds in the first half of 2003). As a percentage of total PVA imports, subject merchandise from Taiwan grew from *** percent in 2001 to *** percent in 2003, and was *** percent in interim 2004.[29]

As a portion of the merchant market, subject imports also increased, most notably from 2002 to 2003, when their market share by quantity grew from *** percent to *** percent. Subject imports share of the merchant market was even higher in interim 2004, at *** percent, as compared to *** percent in interim 2003.[30] Subject imports share of the total market increased as well over the POI.[31]

U.S. producers' production, U.S. shipments and market share also increased over the period as apparent U.S. consumption was higher in 2003 than in 2001, although apparent consumption was at its highest level in 2002, and continued to grow in interim 2004.[32] The gain in market share by subject imports was therefore at the expense of nonsubject imports, a large portion of which had been found in 2003 to be causing material injury or threat thereof to the same domestic industry. The volume of nonsubject imports declined by *** percent from 2001 to 2003, and by *** percent from 2002 to 2003, and their share of U.S. open market consumption dropped from *** percent in 2002 to *** percent in

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[25] CR at I-3-4, PR at I-3.

[26] 19 U.S.C. § 1677(7)(C)(I).

[27] Antidumping duties were imposed on imports of PVA from Japan in July 2003, and on imports of PVA from China and Korea in October 2003. The petition in that case was filed in September 2002, and the Commission's final phase period of investigation was calendar years 2000 through 2002. CR at I-3-4, PR at I-3.

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

[29] CR/PR at Table IV-1.

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

[31] Subject imports' share of the total U.S. market increased overall from 2001 to 2003, and rose sharply from 2002 to 2003. Subject imports as a share of the total U.S. market were, by quantity, *** percent in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004 (as compared to *** percent in interim 2003). CR/PR at Table C-1.

[32] Total U.S. open market shipments were *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, and *** pounds in interim 2004, as compared to *** pounds in interim 2003. CR/PR at Table C-2. Total U.S. shipments, including internal consumption, were *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, and *** pounds in interim 2004, as compared to *** pounds in interim 2003. CR/PR at Table C-1.

2003.[33]

In sum, the volume of subject imports increased both absolutely and relative to consumption over the POI, and most notably as imports previously found by the Commission to be injurious began to leave the market. Accordingly, we find the volume, and the increase in volume, of the subject imports to be significant.

### 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.[34]

*** the pricing data for subject imports was supplied by importers Perry Chemical and DuPont,[35] which accounted for *** percent and *** percent of imports, respectively, in 2003.[36] Perry Chemical accounted for *** of the import pricing data. ***.[37] The pricing data collected show *** instances of underselling and *** instances of overselling.[38] Pricing data by company show that, for Perry as importer, there were *** out of *** instances of underselling, while for DuPont as importer, the majority of comparisons show ***.[39] For all companies combined, the margins of underselling ranged from *** percent to *** percent.[40] The margins of overselling were in similar ranges. In a market where the majority of U.S. producers and importers characterize the U.S. product and subject imports as always or frequently interchangeable, we would expect prices to track each other closely and to converge. We therefore do not find a record of mixed underselling and overselling to be unusual and find the observed instances of underselling to be significant.

The record also shows that U.S. prices for PVA were depressed and suppressed during the period of investigation. Prices for all U.S. products, except product 5, were lower at the end of the period than at the beginning. Prices for all the Taiwan products, including product 5, showed similar trends and were highest at the beginning of the period.[41] From 2001 to mid-2003, the downward pressure on U.S. prices was influenced, not only by the low-priced imports from Taiwan, but also by low-priced imports from China, Japan, and Korea, which the Commission found in the previous investigations were having adverse price effects and injuring the U.S. industry.[42] After duties were imposed on these imports and their volumes declined, the volumes of PVA from Taiwan continued to increase, U.S. prices never fully

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[33] CR/PR at Table C-2. Nonsubject imports as a share of the total market similarly declined by *** percentage points from 2001 to 2003, and also by *** percentage points from 2002 to 2003. CR/PR at Table C-1.

[34] 19 U.S.C. § 1677(7)(C)(ii).

[35] CR at V-15, n.51, PR at V-9, n.51.

[36] CR at IV-3 (as revised by INV-BB-129, October 20, 2004), PR at IV-1.

[37] CR at V-15, n.52, PR at V-9, n.52.

[38] CR/PR at Table V-6.

[39] CR/PR at E-3, n.2.

[40] CR/PR at Tables V-1-5.

[41] CR/PR at Tables V-1-5.

[42] CR at V-27, PR at V-12.

recovered, and the injury found in the previous investigations simply continued by reason of the PVA imports from Taiwan.[43]

Seven of 17 purchasers responding to Commission questionnaires stated that they had shifted purchases of PVA from U.S. sources to Taiwan, four for price reasons, and 10 of 17 purchasers stated that their U.S. source had reduced its prices to compete with the prices of subject imports from Taiwan.[44] The record therefore indicates that low-priced subject imports contributed to the price depression and suppression occurring in the U.S. market. Thus, it is reasonable to conclude from the record that domestic producers lowered prices to hold on to market share as a response to pricing pressure from the subject imports.[45] Although raw material costs rose, particularly in 2003,[46] and apparent consumption increased somewhat or remained steady,[47] U.S. producers were not able to raise their prices sufficiently to recover their costs and any price increases that did occur did not allow them to ***.

The confirmed lost sales and lost revenue allegations are consistent with the evidence of underselling and price depression and suppression by the subject imports. The Commission staff confirmed about one third, or ***, of the total lost revenue allegations of ***, and over one-third, or *** of the total lost sales allegations in the amount of ***.[48]

Based on the record in this preliminary phase, we conclude that U.S. prices were depressed and suppressed during the period of investigation and U.S. producers could not raise their prices sufficiently to recover increasing costs despite steady or rising demand and the duties placed on nonsubject imports toward the end of the POI. These negative price effects occurred as low-priced imports from Taiwan continued to increase over the period and replace imports from other countries previously found to be injurious. The record therefore indicates that the subject imports had significant negative price effects. We would explore further, in any final phase investigation, other factors that may have contributed as well to any suppression or depression of domestic prices during the POI.

Based on the foregoing, we find, for purposes of this preliminary investigation, underselling of the domestic like product by subject imports that is significant and a reasonable indication that subject imports have depressed and suppressed domestic prices to a significant degree.

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[43] See City Lumber Co. v. United States, 311 F. Supp. 340, 347-48 (Cust. Ct. 1970) (in the second of two sequential investigations involving imports of the same product from different countries, the Commission may base its injury determination with respect to the second country on sales at less than fair value that continue injury due to subject imports from the first country), aff'd, 457 F.2d 991 (C.C.PA. 1972).

[44] CR at V-36, PR at V-14.

[45] DuPont claims that, rather than subject imports, Celanese's flawed pricing strategy, including negotiating long-term fixed price contracts that did not allow for recovery of raw material costs, caused ***. CR at V-13, PR at V-8. Celanese, however, counters that, *** CR at V-8, PR at V-5. We view the record as inconclusive on this matter and, in any final phase investigation, we would have explored more fully domestic producers' pricing practices and contract terms, including price adjustment mechanisms that would have allowed them to raise prices to cover increased raw material costs.

[46] Total raw material costs accounted for almost *** percent of U.S. producers' total costs to produce PVA during January 2001 through June 2004, with the price of natural gas being a significant factor in U.S. PVA production costs. Quarterly prices of natural gas fell from a period high of $7.54 per thousand cubic feet (Mcf) in January-March 2001 to a period low of $3.58 per Mcf by October-December 2001, increased to $6.61 per Mcf by January-March 2003, declined to $5.24 per Mcf by October-December 2003 and then rose to $6.30 per Mcf for January-June 2004. CR/PR at V-2-3.

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

[48] CR/PR at Tables V-7-8. Staff received no responses to many of the allegations and would have continued efforts to verify them in any final phase investigation.

### 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."[49] 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."[50]

We find that the subject imports have had a significant adverse impact on the domestic industry. As noted above, in the face of rising costs, particularly natural gas costs, domestic producers were not able to raise prices sufficiently and the industry as a whole *** and has been performing ***. Although industry production and shipment volumes and market shares increased, the value of U.S. shipments declined. The industry's cost of goods sold increased by *** percent from 2001 to 2003 and its SG&A expenses rose by *** percent, while at the same time the value of U.S. shipments decreased by *** percent.[51]

The *** recorded by the domestic industry in 2001 and 2002, when imports from the countries previously found to be injurious were still a major presence in the U.S. market, not only continued but worsened in 2003 and the first half of 2004, when imports from Taiwan increased as the other imports receded. The industry's operating *** in 2001, *** in 2002, *** in 2003, and *** in interim 2004, as compared to *** in interim 2003. Its operating ratio was *** percent in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004, as compared to *** percent in interim 2003.[52]

Other industry indicators declined as well, such as the number of production workers.[53] While capital expenditures increased from 2001 to 2003 before declining when the interim periods are compared, some capital spending was reportedly restricted to health, safety, environmental and other maintenance purposes, rather than used for improving capacity and developing new product lines.[54]

The industry's productivity, capacity utilization, production quantities and shipment volumes did increase. However, U.S. prices, as discussed in the previous section, as well as the unit values of U.S. shipments and net sales, showed an overall decline from 2001 to 2003, and in interim 2004 remained below levels at the beginning of the POI.[55] These factors indicate that, given the capital intensive nature of PVA production, domestic producers strove to increase output to retain market share but these efforts did not return the industry to *** because raw material and other costs rose and prices eroded during the

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[49] 19 U.S.C. § 1677(7)(C)(iii).

[50] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce estimated the dumping margin to be 39.83 percent for PVA from Taiwan.

[51] CR/PR at Table C-2. The results for the market as a whole show that costs rose by *** percent from 2001 to 2003, SG&A expenses rose by *** percent, and the values of U.S. shipments rose by only *** percent. CR/PR at Table C-1.

[52] CR/PR at Table C-2. Industry data based on the total U.S. market show similar results. Operating *** were *** in 2001, *** in 2002, *** in 2003, and *** in interim 2004, as compared to *** in interim 2003. Operating margins were *** throughout the period, at *** percent in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004, as compared to *** percent in interim 2003. CR/PR at Table C-1.

[53] For merchant market shipments, the number of production workers dropped by *** percent from 2001 to 2003. CR/PR at Table C-2. For the total market, the number of workers dropped by *** percent over the same period. CR/PR at Table C-1.

[54] CR/PR at Table VI-7, F-3.

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

period. In 2001 and 2002, low-priced imports from other countries, as well as imports from Taiwan, caused U.S. prices to fall. Although some price increases reportedly did take effect,[56] prices continued at suppressed levels, even after the other imports became subject to antidumping duties, because the imports from China, Korea, and Japan were largely replaced by increased volumes of low-priced imports from Taiwan. We thus find that the subject imports from Taiwan continued the injury caused by the previous unfairly traded imports and prevented the industry from raising its prices sufficiently to recover rising costs and expenses and improve its performance.

In any final phase investigation, we would have explored more fully other factors that may have contributed to the industry's *** performance throughout the period, such as sharply rising energy costs. While we are directed by statute to analyze the industry as a whole, we also would have examined differences in the performance of the two major U.S. producers and factors that may have accounted for these differences, such as production methods and pricing strategies, to gain a better understanding of the role of subject imports in the industry's ***.

In sum, the increasing volume of subject imports, at prices which undersold the domestic like product in half of the pricing observations, contributed to the depression and suppression of domestic prices even as costs rose, resulting in the industry's *** financial performance. We therefore find that the subject imports have had a significant adverse impact on the domestic industry producing PVA.

## III. CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry is materially injured by reason of imports of PVA from Taiwan that allegedly are sold in the United States at less than fair value.

[56] CR at V-10-12, PR at V-6-7.

# PART I: INTRODUCTION

## BACKGROUND

This investigation results from a petition filed by Celanese Chemicals Ltd. ("Celanese"), Dallas, TX, on September 7, 2004, 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 polyvinyl alcohol ("PVA")[1] from Taiwan. Information relating to the background of the investigation is provided below.[2]

| *Date* | *Action* |
|---|---|
| September 7, 2004 . . | Petition filed with Commerce and the Commission;[3] institution of Commission investigation (69 FR 55653, September 15, 2004) |
| September 28, 2004 . | Commission's conference[4] |
| October 4, 2004 . . . . | Commerce's notice of initiation (69 FR 59204) |
| October 21, 2004 . . . | Commission's vote |
| October 22, 2004 . . . | Commission's determination transmitted to Commerce |
| October 29, 2004 . . . | Commission's views transmitted to Commerce |

## MAJOR FIRMS INVOLVED IN THE U.S. PVA MARKET

Three firms produced PVA in the United States during 2001 through June 2004, the period for which data were collected in this investigation: the petitioner Celanese; E.I. du Pont de Nemours and Co. ("DuPont"), Wilmington, DE; and Solutia, St. Louis, MO. (DuPont opposes the petition and is a respondent in this investigation; Solutia *** the petition). Only one firm is known to have produced PVA in Taiwan: Chang Chun Petrochemical Co., Ltd. ("CCPC"), a respondent in this investigation. Two U.S. firms accounted for *** of subject imports from Taiwan: DuPont and Perry Chemicals, Whitestone, NY.

## ORGANIZATION OF THE REPORT

Information on the subject merchandise, the production process, and the domestic like product is presented in Part I. Information on conditions of competition and other economic factors is presented in Part II. Information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment, is presented in Part III. Information on the volume of imports of the subject merchandise, apparent U.S. consumption, and market shares is presented in Part IV. Part V presents data on prices in the U.S. market. Part VI presents information on the financial condition of

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[1] For purposes of this investigation, PVA is defined as all polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form is not included in the scope of this investigation. PVA is provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule ("HTS") with a normal trade relations tariff rate of 3.2 percent *ad valorem*, applicable to imports from Taiwan.

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

[3] The petitioner's alleged LTFV margin for imports from Taiwan, as adjusted by Commerce in its notice of initiation (based on export prices compared with adjusted constructed value), is 39.83 percent.

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

U.S. producers. Information on the subject country foreign producers and U.S. importers' inventories is presented in Part VII.

## SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of three firms that accounted for 100 percent of U.S. production of polyvinyl alcohol during the period January 2001 through June 2004. U.S. imports from Taiwan are based on questionnaire responses which are believed to cover over 90 percent of PVA imports from Taiwan,[5] and on official Commerce statistics for all other countries.

## PREVIOUS INVESTIGATIONS

PVA has been the subject of prior antidumping investigations in the United States. On March 9, 1995, Air Products and Chemicals, Inc. ("Air Products"), the predecessor of Celanese, filed an antidumping petition alleging that an industry in the United States was materially injured and threatened with further material injury by reason of LTFV imports of PVA[6] from China, Japan, Korea, and Taiwan. The Commission determined that an industry in the United States was threatened with material injury by reason of LTFV imports from China, Japan, and Taiwan.[7] [8] Antidumping duty orders were imposed on imports of PVA from China, Japan, and Taiwan on March 29, 1996. On April 2, 2001, Commerce initiated a five-year review of the antidumping orders (66 FR 17524, April 2, 2001). However, because of the lack of participation by domestic producers, the orders were revoked effective May 14, 2001 (66 FR 22145, May 3, 2001).

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[5] Official import statistics compiled by Commerce were not used for imports from Taiwan due to concerns about volume and value accuracy. DuPont reports that it made clerical errors in import documentation to U.S. Customs and Border Protection ("Customs") which, if corrected, would lower the total volume of PVA imports from Taiwan and raise the average unit value. (DuPont's postconference brief, pp. 18-20.) DuPont also presented in its postconference brief (exh. 4) supplemental information letters to Customs regarding the errors.

[6] PVA was defined as PVA hydrolyzed in excess of 85 percent and excluded copolymers, more specifically described as: (1) PVA covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent; and (2) PVA covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form was also excluded.

[7] The Commission found imports from Korea to be negligible.

[8] *Polyvinyl Alcohol from China, Japan, and Taiwan*, Invs. Nos. 731-TA-726, 727, and 729 (Final), USITC Pub. 2960, May 1996, p. 1.

On September 5, 2002, Celanese and DuPont filed an antidumping petition alleging that an industry in the United States was materially injured and threatened with further material injury by reason of LTFV imports of PVA[9] from China, Germany, Japan, and Korea.[10] The Commission determined that an industry in the United States was materially injured by reason of imports of PVA from China and Korea; threatened with material injury by reason of LTFV imports from Japan; and was not materially injured or threatened with material injury by reason of imports from Germany.[11] Antidumping duty orders were imposed on subject imports of PVA from Japan on July 2, 2003[12] and on subject imports of PVA from China and Korea on October 1, 2003.[13] U.S. producers' and importers' verbatim comments on the significance of the antidumping duty orders on imports of PVA from China, Japan, and Taiwan that were revoked in mid-2001 and of the antidumping duty orders on imports of PVA from China, Japan, and Korea that were imposed in 2003 are presented in appendix D.

## THE SUBJECT PRODUCT AND THE DOMESTIC LIKE PRODUCT

The imported product from Taiwan covered by the scope of this investigation is all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid; PVA in fiber form is not included in the scope of this investigation.

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[9] For purposes of the investigations in 2002, PVA was defined as all polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as excluded from the definition. The following forms of polyvinyl alcohol were excluded from the definition of PVA: (1) PVA in fiber form; (2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles; (3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps; (4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application; (5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification; (6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent; (7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application; (8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material; (9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent; (10) PVA covalently bonded with silan (*sic*) uniformly present on all polymer chains certified for use in paper coating applications; (11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; (14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent, and (15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent.

[10] The petition also alleged a threat of material injury by reason of U.S. imports of PVA from Singapore. In the preliminary phase of the Singapore investigation (investigation No. 731-TA-1018) the Commission determined that subject imports from Singapore were negligible and terminated its investigation pursuant to section 733(a) of the Act. *See Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore*, Invs. Nos. 731-TA-1014-1018 (Preliminary), USITC Pub. 3553, October 2002, p. 1.

[11] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003, p. 1, and *Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final)*, USITC Pub. 3634, September 2003, p. 1.

[12] 68 FR 39518.

[13] 68 FR 56620.

The Commission's decision regarding the appropriate domestic product or products that are "like" the 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. In the 2002-03 antidumping investigations on PVA, the Commission determined that there was one domestic like product encompassing all domestically produced PVA meeting the specifications stated in Commerce's scope definition.[14] The scope definition in those investigations excluded 14 PVA products that are not excluded from the scope of the current investigation. In the current investigation, Celanese requested in the petition that the Commission define the domestic like product coextensively with the scope of the petition. No party contested this issue or otherwise raised domestic like product issues at the conference or in their postconference briefs.

**Physical Characteristics and Uses**

PVA is a water-soluble synthetic polymer, often sold as a white granular solid or in powdered form. It is nontoxic and therefore considered to be safe to handle and relatively environmentally friendly. PVA is very stable in dry form; however, care must be taken to minimize airborne dust concentrations during shipping and storage to reduce the potential for dust explosions.

PVA can be categorized based on a variety of characteristics including the degree of hydrolysis, the viscosity of an aqueous solution,[15] the average molecular weight of the finished product, tackification, percentage of ash, product clarity in solution, acidity, boric acid content, and iron level. Hydrolysis, however, is the primary characteristic used to identify various types of PVA. According to the petitioner, the degree of hydrolysis is commonly denoted as super (more than 99 percent hydrolyzed), fully (98-99 percent hydrolyzed), intermediate (90-98 percent hydrolyzed), and partially (85-89 percent hydrolyzed).[16] The degree of hydrolysis is determined by the percentage of acetate groups in the polyvinyl acetate feedstock that are replaced by hydroxyl groups in the finished PVA. The degree of hydrolysis of PVA affects a variety of PVA properties, such as solution interfacial tensions, compatibility, reaction kinetics, rheology, and water solubility.

For most applications, PVA is dissolved in an aqueous solution and its solubility behavior depends on several factors, including degree of polymerization, degree of hydrolysis, drying temperature, particle size, and molecular weight. PVA polymers are unique in that they possess unusual solubility properties, ranging from solubility in cold (room temperature) water to solubility in only hot water. For example, PVA of 88 percent hydrolysis is soluble in both cold and hot water, whereas 98-percent hydrolyzed PVA is soluble only in hot water. All other characteristics being equal, the higher the degree of hydrolysis, the lower the solubility. By altering certain product characteristics, however, solubility

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[14] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003, p. 6, and *Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final)*, USITC Pub. 3634, September 2003, p. 6.

[15] The viscosity (a function of mass) of an aqueous solution of PVA increases as the molecular weight of the PVA increases. The molecular weight is determined by the average length of the polymer chain in the finished product in terms of monomer units. Low-viscosity grades tend to have PVA chain lengths as low as 300 monomer units, with average molecular weights around 45,000 to 55,000, whereas high-viscosity, fully-hydrolyzed grades have PVA chain lengths up to 3,500 monomer units and average molecular weights around 200,000 to 225,000.

[16] The definitions of fully, intermediate, and partially hydrolyzed PVA in terms of degrees of hydrolysis vary somewhat within the industry. For example, in its product literature, DuPont has defined fully hydrolyzed PVA as 98 percent or greater and partially hydrolyzed PVA as less than 98 percent hydrolyzed.

can be changed. All standard grades of PVA, regardless of degree of hydrolysis, must be "cooked" to achieve complete solubility.[17]

PVA is used primarily as an intermediate product in the production of PVB, which is an adhesive used in the manufacture of automotive safety glass and load-resistant architectural glass. PVA is also used in the textile and paper industries in sizing formulations; as a binder in adhesive and soil binding formulations; and as an emulsion or polymerization aid in colloidal suspensions, water-soluble films, cosmetics, and joint compounds. In terms of end-use applications, *** percent[18] of U.S. producers' production of PVA in 2003 was used for the production of PVB, *** for internal domestic captive production of PVB (figure I-1). The textile industry was the next-largest market for PVA at *** percent, followed by the emulsion polymeritization market at *** percent.

**Figure I-1**
**PVA: U.S. production by end-use application (*in percent*), 2003**

* * * * * * *

## Manufacturing Process

PVA is generally manufactured by hydrolyzing the acetate groups of the vinyl acetate monomer ("VAM") with methanol in the presence of anhydrous sodium methylate or aqueous sodium hydroxide at moderate temperatures and pressures. This is a continuous process in which the VAM is polymerized to polyvinyl acetate, which is then converted to PVA. Fully hydrolyzed PVA is produced by running the saponification process[19] to completion, whereas partially hydrolyzed PVA is produced by interrupting the saponification process with a neutralizer. The degree of hydrolyzation is controlled by regulating how much time elapses between the start of the saponification process and the addition of the neturalizer. At the end of the saponification process, PVA is a hard solid, suitable for grinding into granular or powder form.

DuPont is only able to produce fully hydrolyzed PVA on its existing equipment, as it employs a unique manufacturing process, a "reactor process," in which hydrolysis goes to completion after the raw material and inputs are combined. All other known manufacturers, including Celanese, Solutia, and the Taiwan producer CCPC, utilize a "belt process" in which it is possible to control the amount of hydrolysis.[20]

DuPont produces PVA on *** in Wilmington, DE and *** other products produced on the same equipment and machinery. Celanese produces PVA on *** at a manufacturing plant in Calvert City, KS and on *** at a manufacturing plant in Pasadena, TX. At both plants, acetic acid is produced as a byproduct of the PVA production process, but no other products are produced on the equipment. Solutia produces PVA at manufacturing facilities in Trent, MI, Springfield, MA, and at a subsidiary in Antwerp, Belgium. *** the equipment designated for the production of PVA.

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[17] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003, p. I-6.

[18] Figure does not include ***.

[19] Saponification is the chemical reaction in which an ester is heated with aqueous alkali to form an alcohol and the sodium salt of the acid corresponding to the ester.

[20] Conference transcript (Ms. McCord), p. 90.

## Interchangeability and Customer and Producer Perceptions

PVA is sold in a variety of standard and specialty grades, each grade varying according to its molecular weight and the degree of hydrolysis. The specific performance of various grades of PVA varies with the degree of hydrolysis and viscosity. For example, the greater the degree of hydrolysis, the better the water resistance. For this reason, in adhesive applications that require water resistance, a fully hydrolyzed grade of PVA is used, whereas in adhesive applications that do not require water resistance, a partially hydrolyzed PVA may be used. Similarly, paper manufacturers select a specific grade of PVA depending on the property required for the paper. Grease and water resistance, ink receptivity, and other components of the size solution determine grade selection. In the textile market, where PVA is used as a warp sizing for yarns to prevent breakage during weaving, various grades of PVA are selected for use depending on the yarn, machine type, other components of the sizing solution (e.g., starch), required viscosity, abrasion resistance, and ease of solution removal after fabric weaving.

Because it is a synthetic water soluble polymer with unique characteristics, PVA has few substitutes for most end-use applications and all grades of PVA are not interchangeable.[21] Although all grades of PVA are not completely interchangeable with other grades, more than one grade may be sold to specific end-use markets. For example, fully hydrolyzed PVA can be used in many of the same end uses in which intermediate or partially hydrolyzed PVA can be used, such as textiles, paper, and adhesives. The same grade of PVA is frequently sold for different commercial uses, and many end users are able to use a wide range of grades. Many applications have evolved using particular grades, and although substitution of grades is possible, it requires cost and time to reformulate. Thus, end users tend to avoid changing the grade of PVA they use in their applications.[22]

Additional information on the interchangeability of PVA and customer and producer perceptions is presented in Part II of this report.

## Channels of Distribution

PVA sold on the open market is either delivered in bulk (railroad cars) or packed in bags. The large majority of all PVA sold in the United States, whether domestically produced or imported, is either internally transferred or sold directly to end-user customers.[23] Distributors, while present in the U.S. market, have a very limited role.

## Price

PVA prices for the same grade may vary according to the end-use market for which the product is sold. For more information concerning prices, see Part V of this report entitled *Pricing and Related Information*.

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[21] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003 and *Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final)*, USITC Pub. 3634, September 2003.

[22] According to DuPont, ***.

[23] In the U.S. commercial market for PVA, U.S. producers and importers from Taiwan reported that *** of their U.S. commercial shipments went directly to end users.

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

## CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

The two U.S. producers of PVA with U.S. commercial shipments (U.S. merchant market sales), Celanese and DuPont,[1] and the four reporting U.S. importers of PVA from Taiwan with U.S. commercial shipments, DuPont, ***, Perry Chemical, and *** ,[2] [3] shipped their PVA *** to U.S. end users during January 2001-June 2004, with the remainder of the domestic and subject imported PVA shipped to distributors.[4] Celanese and DuPont reported shipping *** percent of their U.S.-produced PVA to U.S. end users and the remaining *** percent to U.S. distributors during January 2001–June 2004,[5] while *** percent of the reported subject imported PVA sold into the U.S. merchant market was shipped to end users and *** percent to distributors.[6]

The PVA supply to the U.S. market is dominated by Celanese, DuPont, Solutia, and Perry Chemical. Because of the multifunctional characteristics of PVA, it is used in a wide variety of products and a large number of different PVA products are produced to satisfy this varied demand. Accordingly, demand for PVA is derived from demand for the downstream products that use this product as one of their inputs.

PVA reportedly involves a variety of standard products and specialty products.[7] Based on questionnaire responses,[8] Celanese reported that standard PVA products are *** products referred to in the petition; DuPont reported that standard PVA products involve grades that ***; and Perry Chemical considered standard products to be those with a hydrolysis range of *** percent and a viscosity range of *** centipois. Celanese reported that specialty PVA products are those that are ***; DuPont considered specialty PVA products to be those that are ***;[9] and Perry Chemical considered specialty products to be ***. The reported shipment information showed that *** percent of the U.S.-produced PVA and ***

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[1] Solutia is the remaining U.S. PVA producer, but has no merchant market sales of PVA; Solutia used all of its PVA to produce PVB during January 2001-June 2004. In addition to merchant market sales, DuPont also produced PVB with about *** percent of its U.S.-produced PVA during January 2001-June 2004.

[2] *** is the remaining reporting U.S. importer of PVA from Taiwan, but it also had no merchant market sales of PVA; *** is an end user of PVA that imported *** PVA from Taiwan for its own consumption during January 2001-June 2004.

[3] DuPont and Perry Chemical are believed to be the largest U.S. importers of Taiwan PVA.

[4] *** reported shipping *** of its imported Taiwan PVA to distributors, whereas *** reported shipping all of its imported Taiwan PVA to ***.

[5] Combining reported U.S. PVA producers' commercial shipments with their internal consumption shipments of the domestically produced PVA, resulted in *** percent of all such shipments to end users and the remaining *** percent to distributors during January 2001-June 2004.

[6] Because ***'s imports of PVA from Taiwan amounted to *** pounds during January 2001-June 2004, combining reported U.S. importers' commercial shipments with their imports for internal consumption for the Taiwan PVA *** the shipment shares shown above by type of customer.

[7] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003, p. I-6, and petition in the current investigation, p. 21.

[8] Responding U.S. producers and importers reported in their questionnaire responses what each considered to be standard PVA products and specialty PVA products; the firms then reported the quantity of their U.S. commercial shipments of the domestic PVA and imported PVA from Taiwan during January 2001-June 2004 that involved standard and specialty products. Celanese, DuPont, and Perry Chemical reported the requested information.

[9] As an example, DuPont sells liquid grades of PVA in addition to the dry grades. According to DuPont, each liquid grade is ***. DuPont also noted that *** grades exist.

percent of the imported PVA from Taiwan were shipped as standard products during January 2001-June 2004, and the remaining *** percent and *** percent, respectively, were shipped as specialty products.[10]

Important U.S. demand sectors for PVA include textile sizing, paper sizing and coatings, adhesive formulations, emulsion-polymerization aid, and PVB feedstock.[11] Based on questionnaire responses for U.S. PVA production and imports of PVA from Taiwan and all other sources during 2003, PVB use accounted for *** percent of the total reported quantity, textile uses accounted for *** percent, adhesive uses accounted for *** percent, emulsion-polymerization uses accounted for *** percent, paper uses accounted for *** percent, and other uses, including pharmaceuticals and building materials, accounted for the remaining *** percent (figure II-1).

**Figure II-1**
**PVA: U.S. sectoral demand for PVA during 2003**

* * * * * * *

Except for ***, PVA imported from Taiwan supplied the same sectors with PVA as the U.S. producers during 2003 (table II-1). The relative presence of the imported Taiwan PVA, ***, was *** percent in four end-use categories–textiles, emulsion polymerization, paper, and all other uses--but *** percent in the remaining category--adhesives. On the other hand, the relative presence of U.S.-produced PVA was *** percent for PVB, above *** percent for the four other end-use categories, and *** percent in the remaining category–adhesives.

**Table II-1**
**PVA: Shares (*in percent*) of total U.S. production and imports of PVA, by demand sector and country of origin, 2003**

* * * * * * *

Although not evident in table II-1, some differences exist among U.S. PVA producers across the end-use categories for their domestically produced PVA. For instance, in the PVB sector, DuPont *** percent of U.S. PVA production in 2003 directed to this end-use sector, *** Solutia at *** percent, and Celanese at *** percent. In the textiles sector, DuPont *** percent of U.S. PVA production in 2003 directed to this end-use sector, and Celanese accounted for *** percent. ***, Celanese accounted for *** percent of U.S. PVA production in 2003 directed to the emulsion polymerization sector. In addition, Celanese *** paper, adhesives, and all other uses sectors with *** percent, *** percent, and *** percent, respectively, of U.S. PVA production in 2003 directed to each of these end-use sectors; DuPont accounted for *** percent, *** percent, and *** percent, respectively.

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[10] Celanese's position as *** PVA producer selling into the U.S. merchant market *** the sales profile of U.S.-produced PVA. Individual company figures show that Celanese sold *** percent of its U.S.-produced PVA as specialty products in the U.S. market, whereas DuPont sold *** percent of its U.S.-produced PVA as specialty products in the U.S. market.

[11] Petition, p. 22.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

### U.S. Production

Based on available information, U.S. producers had the ability to respond to changes in demand with at least moderate changes in the quantity of shipments of U.S.-produced PVA to the U.S. market during January 2001-June 2004. The main factors contributing to this degree of responsiveness was the reported unused U.S. production capacity, especially that during ***,[12] inventories of PVA, and possible diversion of exports of Celanese and DuPont to the U.S. market. DuPont reported that it also imported PVA from Taiwan to complement its U.S. PVA production with products that it is unable to produce in the United States,[13] although Celanese asserted that DuPont's imports of the Taiwan PVA compete with Celanese's U.S.-produced PVA.[14] The relevant domestic supply factors are discussed below.

#### *Industry capacity*

Total U.S. production capacity to produce PVA fluctuated but increased during January 2001-June 2004, as did total production and capacity utilization. Celanese and DuPont were requested to report the minimum capacity utilization rates that their firms required to achieve acceptable economies of scale. Celanese reported that it must achieve at least a ***-percent capacity utilization rate in a 12-month period,[15] while DuPont reported requiring a minimum capacity utilization rate of *** percent.[16] Based on each firm's reported actual capacity utilization rates during January 2001-June 2004, Celanese operated *** its minimum required capacity utilization rate, whereas DuPont operated *** its minimum required capacity utilization rate.

The three U.S. PVA producers reported in their questionnaire responses[17] variable costs that averaged about *** percent of their combined total costs to produce PVA during 2003, while fixed costs were about *** percent.[18] The significant fixed costs suggest that low output levels could lead to increased unit costs, although equally significant variable costs likely moderate such an increase in unit costs. *** capacity utilization rate of the three U.S. PVA producers during January 2001-June 2004 and, as the *** U.S. PVA producer, could have experienced *** impact on its unit costs from fluctuations in

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[12] The total industry figures mask *** capacity utilization rates for each of the three U.S. PVA producers. *** reported a period-low capacity utilization rate of *** percent in *** and a period-high rate of *** percent during ***. On the other hand, *** reported capacity utilization rates that remained at or near *** percent ***. *** reported capacity utilization rates that ranged from a period low of *** percent during *** to a period high of *** percent during ***.

[13] Conference transcript (Ms. McCord), pp. 71, 73, and 97- 98.

[14] Celanese's postconference brief, p. 1.

[15] Celanese's postconference brief, Answers to Questions from the Commission Staff, p. 6.

[16] DuPont's postconference brief, exhibit 8, p. 9.

[17] Question IV-D-3b of the U.S. producer questionnaire. The U.S. PVA producers were also requested to identify which costs they considered variable and which they considered fixed (question IV-D-3a). The U.S. PVA producers identified ***.

[18] Differences existed among the three U.S. PVA producers in their reported 2003 cost structures. *** reported a fixed cost share of *** percent and variable costs of *** percent; *** reported a *** fixed cost share of *** percent and variable costs of *** percent; and *** reported a *** fixed cost share of *** percent and variable costs of *** percent.

its capacity utilization rates than the other two U.S. PVA producers. Existing excess capacity enabled *** to increase production in the short run in response to an increase in U.S. PVA demand during the period examined.

***Inventory levels***

Although U.S. PVA producers reported combined end-of-period inventories that declined during January 2001-June 2004, they averaged *** pounds or *** percent of total domestic U.S. PVA shipments (includes internal consumption) of the producers during this period. Celanese accounted for *** percent of these inventories, whereas DuPont accounted for *** percent, and Solutia accounted for the remaining *** percent. Therefore, Celanese and, ***, DuPont and Solutia, had an ability to use their inventory to increase shipments of their PVA to the U.S. market and/or increase internal transfers during this period.

***Export markets***

Celanese and DuPont reported combined exports of their U.S.-produced PVA that fluctuated but increased during Janury 2001-June 2004 and averaged *** pounds annually,[19] or *** percent of total domestic shipments (includes internal consumption) of U.S.-produced PVA during this period. Celanese accounted for *** percent of the exports, whereas DuPont accounted for the remaining *** percent. Therefore, Celanese and, ***, DuPont, had an ability to use their export shipments to increase shipments of their PVA to the U.S. market and/or increase internal transfers during this period. These data indicate that *** Celanese and, ***, DuPont, may have had some ability to increase shipments of their U.S.-produced PVA to the U.S. market in the short run during this period by diverting their exports to the U.S. market, but only to the extent that export supply agreements would not restrict such shipment diversions.

***Production alternatives***

Celanese, DuPont, and Solutia reported in their questionnaire responses that they *** other products in their plants that produce PVA.[20] Based on this response, it is *** that U.S. producers would be able to shift their U.S. production of PVA to or from any other products; any ability to switch production among alternative products would enhance the domestic producers' supply response to a change in price.

**Taiwan**

Based on available information, the lone producer of PVA in Taiwan, CCPC, had at least a moderate ability to respond to changes in the price of PVA with changes in the quantity of shipments of the Taiwan PVA to the U.S. market during January 2001-June 2004; this supply flexibility appears likely to continue into the future. The main factors contributing to this degree of responsiveness were ***.

***Industry capacity***

CCPC reported capacity utilization rates to produce PVA that fluctuated between *** percent

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[19] ***.

[20] ***. Celanese reported that it was the world's largest producer of VAM and exports significant quantities of this product (conference transcript (Mr. Massa), pp. 30-31). ***.

and *** percent during January 2001-June 2004. Capacity utilization rates were projected to remain at *** percent in 2004 and 2005. These data indicate that there was unused capacity for CCPC to expand production of PVA for sale in the U.S. market during January 2001-June 2004, and this ability to expand production is expected to continue into 2004 and 2005.

***Inventory levels***

CCPC reported that its end-of-period inventories of PVA in Taiwan declined during January 2001-June 2004, averaging *** pounds or *** percent of CCPC's average annual total shipments of PVA during this period.[21] These data indicate that CCPC had an ability to use its Taiwan inventory of PVA to increase shipments of PVA to the U.S. market during January 2001-June 2004. CCPC reported projected inventory levels of PVA in Taiwan for 2004 and 2005 that are somewhat less than the levels during the historic period.

***Alternate markets***

CCPC sold its PVA principally to *** markets, secondarily to *** market, thirdly to the *** market, and the remainder was used for internal consumption during January 2001-June 2004; this shipment pattern was projected to *** in 2004 and 2005. During the period examined, CCPC's sales to third-country markets averaged *** percent of its total shipment quantities of PVA; shipments in its home market averaged *** percent of the total; exports to the U.S. market averaged *** percent of the total, and internal consumption accounted for the remaining *** percent. These data indicate that CCPC may have had the flexibility to shift shipments of PVA from/to alternate markets to increase or decrease shipments to the U.S. market in response to price changes in the United States during January 2001-June 2004. This flexibility may be restrained to the extent that CCPC's sales of PVA in its home market and exported to third-country markets were not used/acceptable in the U.S. market. In addition, any binding supply agreements longer than 12 months that CCPC may have with customers in its home market and third-country markets would also reduce CCPC's ability to shift PVA sales among the home, third-country markets, and the U.S. market in the short term.

**Nonsubject Imports**

Based on import quantities reported by Commerce for HTS subheading 3905.30.00, a total of 20 countries exported PVA to the United States during January 2001-June 2004, with the 19 nonsubject countries accounting for *** percent of these imports. The top three nonsubject countries in decreasing order were China, Japan, and the United Kingdom, which together accounted for *** percent of the total quantity of such imports, and, with Taiwan, collectively accounted for *** percent of the total quantity of these imports. U.S. imports of PVA from China, Japan, and Korea have been subject to U.S. antidumping duties on PVA since mid-2003.

## U.S. Demand

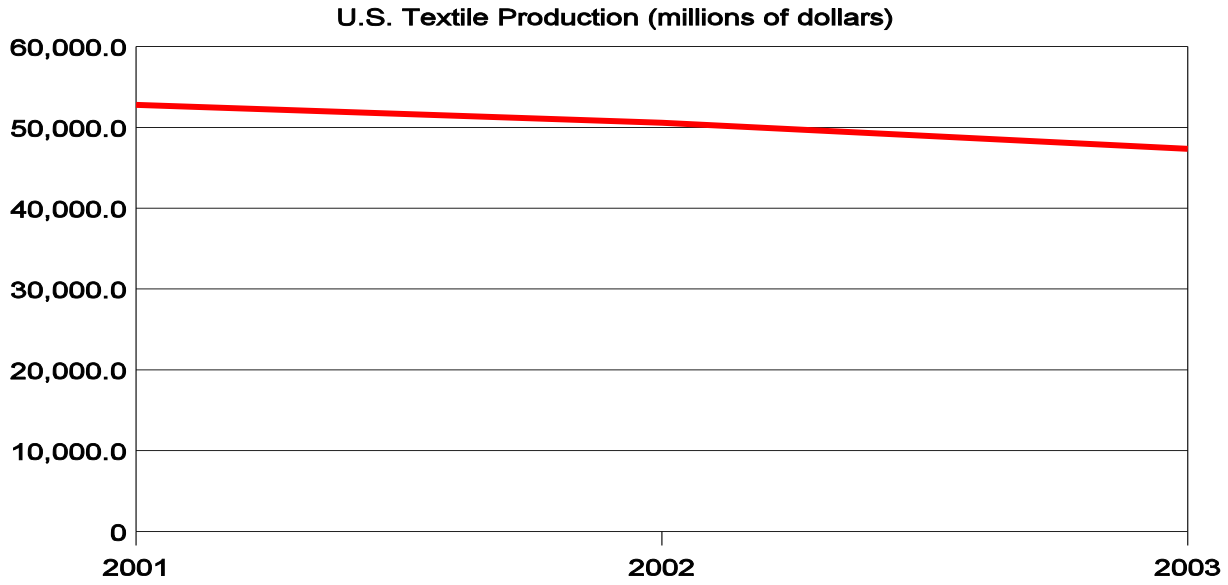
The overall U.S. demand for PVA is primarily affected by sectoral economic activity and reportedly was adversely impacted by continuing retrenchment in U.S. textile operations during January

[21] CCPC's average end-of-period inventory levels equaled about *** percent of its annual shipments of PVA to the United States during January 2001-June 2004.

2001-June 2004, while demand was augmented by increased PVB use.[22] In addition, demand for PVA is also affected by overall U.S. economic activity.[23] Demand for PVA, as measured by U.S. apparent consumption during January 2001-June 2004, increased by a total of *** percent during 2001-03, then continued to increase somewhat during January-June 2004, or by *** percent from the level in January-June 2003.

Celanese reported that demand for PVA in the U.S. sectors using this product move in disparate directions.[24] Increased use of PVB in automotive and architectural glass reportedly has enhanced domestic demand for PVA in that segment,[25] while the drop in U.S. textile production has constrained the overall growth of the U.S. PVA market.[26] The annual shipment value of U.S. textile production fell continuously from $52.8 billion in 2001 to $47.3 billion in 2003 (the most recent period for which data were available), or by a total of 10.4 percent (figure II-2).

**Figure II-2**
**U.S. textile production: Annual values of combined U.S. shipments and exports of domestically produced textiles, 2001-03**




Note: U.S. production is approximated by summing U.S. producers' domestic shipments of U.S.-produced textiles and exports of the U.S.-produced textiles, based on the NAICS 313 textile category.

Source: Domestic shipment data (not se*asonally adjusted)* are based on the U.S. Census Bureau, M3 Series–Value of Manufacturers' Shipments, and exports are from the DataWeb.

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[22] Conference transcript (Mr. Klett), p. 51 and Mr. Neuheardt, p. 34.

[23] Conference transcript (Mr. Klett), p. 51. U.S. real gross domestic product (GDP) rose by 0.8 percent in 2001, 1.9 percent in 2002, and 3.0 percent in 2003. U.S. real GDP is forecast to increase by 4.4 percent in 2004 and 3.5 percent in 2005 (*Blue Chip Economic Indicators*, Vol. 29, No. 10, October 10, 2004).

[24] Petition, p. 35.

[25] Conference transcript (Mr. Neuheardt), p. 53.

[26] Petition, p. 35.

Celanese asserted that total U.S. demand for PVA was relatively price inelastic because there were few substitutes for PVA.[27] Respondents argued, however, that ***.[28] The following discussion of substitute products is based on the responses in the postconference briefs of Celanese and DuPont to staff questions at the conference.[29]

*** starch as a substitute for PVA and *** carboxymethylcellulose (CMC) as a substitute for PVA. ***.

***. *** percent of PVA can be replaced by polyvinyl alcohol copolymer,[30] up to *** percent can be replaced by starch, and up to *** percent can be replaced by dextrin, but the latter only in *** applications.

***.[31] *** identified protein as a substitute for PVA in this end-use category, and asserted that this substitute can replace up to *** percent of the PVA used in this application.

*** starch, CMC, and cellulose material as potential substitutes for PVA, but asserted that *** percent of the PVA can be replaced by any of these substitutes in this end-use application.

***.[32]

U.S. producers and importers of PVA were requested in their questionnaire responses to estimate, to the extent known, the cost share that PVA accounts for in the total cost to produce the downstream products for their two largest selling PVA products. For U.S.-produced PVA, *** reported cost shares of PVA in the production of PVB that ranged from *** percent. In addition, *** reported cost shares of U.S.-produced PVA in the production of *** products that ranged from *** to *** percent. For imported PVA from Taiwan, only *** reported cost share information. This end user did not identify the end-use applications, but noted for two of its downstream products that the imported PVA from Taiwan accounted for *** percent of the production costs.

## SUBSTITUTABILITY ISSUES

The degree of substitution in demand between PVA produced in the United States and that imported from Taiwan depends upon such factors as relative prices, types of customers, conditions of sales, purchaser supply requirements, and product differentiation. Product differentiation depends on factors such as the range of products, quality, availability, reliability of supply, and the market perception of these latter three factors. Based on the reported information in these investigations, there appears to be substitutability in demand between the PVA produced domestically and that imported from Taiwan, but some reported product differentiation and other differences may limit the degree of this demand substitution.

Celanese, DuPont, and Perry Chemical, the three largest suppliers of domestic and imported Taiwan PVA to the U.S. merchant market, *** sell their PVA directly to U.S. end users and generally in

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[27] Conference transcript (Mr. Klett), p. 49.

[28] DuPont's postconference brief, appendix 8, p. 3. DuPont asserted that *** (Ibid.).

[29] Celanese's postconference brief, Answers to Questions from the Commission Staff, p. 5, and DuPont's postconference brief, exh. 8, p. 4.

[30] ***.

[31] ***.

[32] Celanese's postconference brief, Answers to Questions from the Commission Staff, p. 5, and DuPont's postconference brief, exh. 8, p. 5.

the same end-use applications, ***.[33] A significant exception was PVB, the single largest use of PVA in the U.S. market, where the imported Taiwan PVA was *** in U.S. production of PVB during January 2001-June 2004. Although DuPont reported that its imported PVA from Taiwan consisted of products that it was not able to produce domestically,[34] CCPC may export PVA to other U.S. distributors that compete with DuPont's U.S.-produced PVA.[35] In addition, Celanese asserted that Taiwan PVA imported by DuPont and others, such as Perry Chemical, competes with Celanese-produced PVA.[36] [37] DuPont asserted that U.S. end users of PVA have been shifting to multiple-sourcing of their PVA[38] and, in its questionnaire responses, DuPont asserted that some of its PVA customers, such as ***, have made ***.

**Factors Affecting Sales and Purchases**

The U.S. producers and importers were requested in their questionnaires to report on the extent of interchangeability (products from different countries physically capable of being used in the same applications) of PVA produced domestically, imported from Taiwan, and imported from third countries. They were also asked to report the extent of any non-price differences that would affect sales in the U.S. market among these various sources of PVA.[39] Responses of the U.S. producers and importers regarding the degree of interchangeability between domestic and imported PVA are summarized in table II-2, and their responses regarding differences other than price affecting competition are summarized in table II-3. U.S. producers and importers were also requested in their questionnaires to provide any comments where products are sometimes or never interchangeable and where nonprice factors were always or frequently significant in competition between the domestic and imported PVA. These comments are included in the text that follows.

For responses regarding the degree of interchangeability, the three U.S. PVA producers and four U.S. importers–DuPont, ***, Perry Chemical, and ***–replied, but not necessarily for every country-pair (table II-2).[40] *** asserted that PVA produced in the United States, imported from Taiwan, and imported from third countries was always or frequently interchangeable among each other. On the other hand, *** asserted that PVA produced domestically and imported from Taiwan was sometimes interchangeable,[41] and *** asserted that the domestic and imported Taiwan PVA were never interchangeable with each other.

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[33] Although Celanese asserted that there exist a wide variety of standard and specialized PVA products (petition, p. 21), the majority of PVA produced domestically and imported from Taiwan reportedly involved standard products. In addition, questionnaire responses of Celanese and DuPont reported that *** can substitute for each other in certain end uses.

[34] Conference transcript (Ms. McCord), pp. 97-98.

[35] Conference transcript (Ms. McCord), p. 73.

[36] Celanese's postconference brief, p. 1.

[37] On the other hand, as discussed in Part V, questionnaire responses showed *** in the top customers of Celanese, DuPont, and Perry Chemical for the domestic and imported Taiwan PVA.

[38] Conference transcript (Mr. Kaplan), pp. 83 and 85.

[39] Nonprice factors referred to in the questionnaire request included quality, availability, transportation network, product range, and technical support, but nonprice factors were not necessarily restricted to only these factors.

[40] *** is an end user of PVA and imported *** PVA from Taiwan, reportedly ***, for its own use.

[41] *** commented that PVA must undergo a qualification and testing process to be used by *** for the production of PVB. According to ***, this process is extensive and time-consuming. PVA from Taiwan is ***. According to ***, it is ***. *** also indicated that PVA from other countries (e.g., Japan and Germany) ***.

**Table II-2**
**PVA: Perceived degree of interchangeability of product produced in the United States, imported from Taiwan, and imported from third countries and sold in the U.S. market**

*  *  *  *  *  *  *

**Table II-3**
**PVA: Perceived importance of differences in factors other than price between product produced in the United States, imported from Taiwan, and imported from third countries and sold in the U.S. market**

*  *  *  *  *  *  *

For responses regarding differences in factors other than price affecting competition, the three U.S. PVA producers and two U.S. importers–DuPont and Perry Chemical--replied, but not necessarily for every country-pair (table II-3). *** asserted that differences in nonprice factors among PVA produced in the United States, imported from Taiwan, and imported from third countries were sometimes significant among sales of the domestic and imported products, whereas *** reported that such factors were always significant,[42] and *** asserted that such factors were frequently significant.[43]

[42] ***.

[43] *** asserted that significant nonprice factors included defoamer added to the PVA, packing of PVA in supersacks, and particle-size distribution.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of three firms that accounted for 100 percent of U.S. production of polyvinyl alcohol during 2003.

## U.S. PRODUCERS

The Commission sent producers' questionnaires to all three firms identified as U.S. producers of PVA in the petition. Table III-1 presents the list of U.S. producers, with each company's production location(s), share of U.S. production in 2003, and position on the petition. DuPont opposes the petition and Solutia *** the imposition of antidumping duties on PVA from Taiwan.

**Table III-1**
**PVA: U.S. producers, positions on the petition, shares of U.S. production in 2003, and U.S. production locations**

| Firm | Production locations | Shares of production (*percent*) | Positions on the petition |
|---|---|---|---|
| Celanese[1] | Calvert City, KY<br>Pasadena, TX | *** | Petitioner |
| DuPont[2] | La Porte, TX | *** | Oppose |
| Solutia[3] | Springfield, MA<br>Trenton, MI | *** | *** |

[1] Celanese acquired the PVA business of Air Products on September 29, 2000. Celanese is the wholly owned subsidiary of Celanese A.G. of Germany.
[2] DuPont is not owned, in whole or in part, by any other firm.
[3] Solutia is not owned, in whole or in part, by any other firm. Solutia has a wholly owned subsidiary in Belgium, Solutia Europe S.A., ***.

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

Celanese acquired the PVA business of Air Products on September 29, 2000. Celanese reported plant shutdowns and reductions in workforce since 2001. Combining its Pasadena and Calvert City plants, Celanese cited shutdowns that resulted in *** that totaled ***. In addition, Celanese reported cuts in workforce, reducing the number of employed workers from *** in 2001 to *** in 2003, and to *** by June 2004.

DuPont began operating its present PVA manufacturing facility in LaPorte, TX in 1972. DuPont reported that it has experienced plant closings and reductions in workforce since 2001. ***. The average number of workers decreased from *** in 2001 to *** in 2003, and decreased *** between the interim periods (January to June) from *** in 2003 to *** in 2004.

Solutia ***.[1]

## U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Total U.S. production of PVA rose by *** percent from 2001 to 2002 and then decreased *** by *** percent from 2002 to 2003, resulting in an increase in total U.S. production of *** percent from 2001 to 2003. Capacity utilization increased by *** percentage points from *** percent in 2001 to *** percent in 2003. A further increase of *** percentage points in capacity utilization occurred between the interim periods of January-June of 2003 and 2004. Information on the production of PVA by hydrolysis ranges for each of the three producers is presented in table III-3.

**Table III-2**
**PVA: U.S. producers' capacity, production, and capacity utilization, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

**Table III-3**
**PVA: U.S. production, by firm and by hydrolysis ranges, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

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

U.S. producers' shipments of PVA consist of commercial U.S. shipments, captive (internally consumed) U.S. shipments, and exports. In 2003, commercial U.S. shipments accounted for *** percent of the volume of U.S. producers' total shipments of PVA, captive shipments accounted for *** percent, and exports accounted for *** percent (table III-4). The volume of U.S. producers' shipments to each of the three categories of shipments increased between 2001 and 2003: commercial U.S. shipments increased by *** percent, captive U.S. shipments increased by *** percent, and exports increased by *** percent. The volume of U.S. producers' total U.S. shipments (commercial plus captive) increased by *** percent and the volume of U.S. producers' total shipments (U.S. shipments plus exports) increased by *** percent. Between January-June 2003 and January-June 2004, the volume of U.S. producers' commercial U.S. shipments increased by *** percent, captive U.S. shipments decreased by *** percent, total U.S. shipments were virtually unchanged, export shipments increased by *** percent, and total shipments increased by *** percent.

The values of the various categories of U.S. producers' shipments also increased between 2001 and 2003 and between January-June 2003 and January-June 2004, except for the value of U.S. producers' commercial U.S. shipments, which decreased by *** percent between 2001 and 2003.

The unit values (*per pound*) of U.S. producers' U.S. commercial shipments, U.S. producers' total U.S. shipments (commercial plus captive), and U.S. producers' total shipments decreased between 2001 and 2003. The unit value of U.S. producers' captive U.S. shipments increased and the unit value of their

[1] Although Solutia and 14 of its U.S. subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code on December 17, 2003, Solutia states it has, and will continue, to operate its business (*http://www.solutia.com/reorganization/*).

exports remained the same. The unit value of exports was *** the unit value of the other categories of shipments throughout the period for which data were collected. Between January-June 2003 and January-June 2004, the unit values of each of the categories of shipments increased, but unit values in January-June 2004 were below those of 2001 for U.S. producers' commercial shipments and U.S. producers' total U.S. shipments (commercial plus captive), and were unchanged for their total shipments.

**Table III-4**
**PVA: U.S. producers' shipments, by type, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

## CAPTIVE CONSUMPTION

Section 771(7)(C)(iv) of the Act states that–

*If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that–*

*(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,*

*(II) the domestic like product is the predominant material input in the production of that downstream article, and*

*(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,*

*then the Commission, in determining market share and the factors affecting financial performance . . ., shall focus primarily on the merchant market for the domestic like product.*[2]

In 2003, internal U.S. transfers accounted for *** percent of the reported volume of producers' U.S. shipments of PVA and commercial (merchant) shipments accounted for the remaining *** percent.[3] *** reported transfers to related firms. The percentage shares for internal transfers were *** percent in 2001 and *** percent in 2002.

[2] 19 U.S.C. § 1677(7)(C)(iv).

[3] As indicated in table III-4, ***.

### The First Statutory Criterion

The first requirement for application of the captive consumption provision is that the domestic like product that is internally transferred for processing into a downstream article not enter the merchant market for the domestic like product. Both DuPont and Solutia captively produce PVB-grade PVA. *** used in their production of PVB.[4] *** internal transfers of PVA entered the merchant market for PVA.[5]

### The Second Statutory Criterion

The second criterion of the captive consumption provision concerns whether the domestic like product is the predominant material input in the production of the downstream article that is captively produced. Both of the captive producers use PVB-grade PVA to manufacture PVB sheet that is used as an interlayer in laminated safety glass for such applications as automotive safety glass and architectural safety glass. Solutia reported that *** constituted *** percent of the raw material cost of its downstream PVB sheet in 2003. Of Solutia's remaining raw material costs to produce PVB sheet, ***.[6] For 2003, DuPont reported that PVA accounted for *** percent of its raw material costs for producing downstream products. DuPont's remaining raw materials consisted of ***,[7] at *** percent; ***, at *** percent; and other miscellaneous chemicals at *** percent.[8]

### The Third Statutory Criterion

The third criterion of the captive consumption provision is that the production of the domestic like product sold in the merchant market is not generally used in the production of the downstream article produced from the domestic like product that is internally transferred for processing (captively produced). In 2003, *** percent of DuPont's volume of commercial U.S. shipments of PVA were used for the production of PVB by customers;[9] approximately *** percent of U.S. producers' commercial U.S. shipments in 2003 were used for the production of PVB.

## U.S. PRODUCERS' IMPORTS AND PURCHASES

Data on U.S. producers' imports and purchases are presented in table III-5. DuPont imports partially hydrolyzed PVA ***. DuPont cites as its reason for importing, ***.[10] DuPont argues that the two alternatives to importing, namely ***, are not ***. Since 1999, ***.[11] DuPont also reports that it has been ***.[12]

---

[4] In 2003, DuPont internally transferred *** percent of its shipments of PVA for the production of PVB, and Solutia internally transferred *** percent for the production of PVB.

[5] *Producer questionnaire* responses of DuPont and Solutia.

[6] *Producer questionnaire* response of Solutia.

[7] Butacite is DuPont's trade name for its PVB sheet.

[8] *Producer questionnaire* response of DuPont.

[9] *Producer questionnaire* response to question II-15.

[10] For further elaboration on DuPont's manufacturing facilities, please refer to the section entitled "Manufacturing Process" in Part I of this report. See also conference transcript (Ms. McCord) pp. 89-91.

[11] *Importer questionnaire* response, DuPont, question II-4, p. 7.

[12] Postconference brief, exh. 8.

**Table III-5**
**PVA: U.S. producers' production and imports from Taiwan, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

## U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories are presented in table III-6. Inventories decreased by *** percent from 2001 to 2003, and decreased further by January-June 2004.

**Table III-6**
**PVA: U.S. producers' end-of-period inventories, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

## U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers engaged in the production of PVA, the total hours worked by such workers, and wages paid to such PRWs from 2001 through June 2004 are presented in table III-7.

**Table III-7**
**PVA: Average number of production and related workers producing PVA, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

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

The Commission sent importer questionnaires to 16 firms believed to be importers of PVA from Taiwan; in addition, each of the three domestic producers received importer questionnaires.[1] Questionnaire responses were received from seven companies accounting for well over 90 percent of U.S. imports from Taiwan in 2003, as reported in official Commerce statistics. U.S. import data on Taiwan presented herein are based on questionnaire responses,[2] and U.S. import data on all other countries are from official Commerce statistics.

## U.S. IMPORTS

The data on U.S. imports by source are provided in table IV-1. Data on U.S. imports from Taiwan by importer are provided in table IV-2. The quantity of imports from Taiwan increased by *** percent between 2001 and 2003; an increase of *** percent was reported between January-June 2003 and January-June 2004. During 2001-03, the quantity of PVA imports from all other sources decreased by *** percent. However, the total quantity of PVA imports from all other sources in 2003 was *** percent greater than the quantity of imports from Taiwan in the same year.

The total landed, duty-paid value of PVA imports from Taiwan increased from 2001 to 2003 by *** percent. The unit value of PVA from Taiwan decreased from $*** per pound in 2001 to $*** per pound in 2003. The unit value of PVA imports from all other sources increased slightly and *** unit values, $1.13 per pound in 2001 and $1.16 per pound in 2003, due mainly to the unusually high unit values of the imports from Japan which are believed to consist at least in part of specialty products.

**Table IV-1**
**PVA: U.S. imports, by sources, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

***, the largest importer, and ***, the second-largest importer, constituted *** percent and *** percent, respectively, of the total quantity of reported U.S. imports of PVA from Taiwan over the period of investigation.

**Table IV-2**
**PVA: U.S. imports from Taiwan, by importer, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

[1] The Commission sent questionnaires to those firms identified in the petition and by Customs as importers of PVA between 2001 and 2004.

[2] Questionnaire responses were used in lieu of official Commerce statistics data due to concerns about reporting accuracy of the official Commerce statistics on imports from Taiwan. (Petition, pp. 27 and 37, footnote 104, and DuPont's postconference brief, pp. 18-20).

Information on U.S. imports of PVA from Taiwan by hydrolysis ranges is presented in table IV-3.

**Table IV-3**
**PVA: U.S. imports by quantity (*1,000 pounds*) from Taiwan, by firm and by hydrolysis ranges, 2001-03**

*  *  *  *  *  *  *

## APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption are presented in table IV-4. Apparent consumption, based on quantity, increased by *** percent from 2001 to 2003 and increased *** between the interim periods.

**Table IV-4**
**PVA: U.S. shipments of domestic product, U.S. import shipments of imports from Taiwan, U.S. imports from all other sources, apparent U.S. consumption, and market shares, 2001-03, January-June 2003, and January-June 2004**

*  *  *  *  *  *  *

# PART V: PRICING AND RELATED INFORMATION

## FACTORS AFFECTING PRICING

U.S. prices of PVA can fluctuate based on demand factors such as overall U.S. economic activity and sectoral demand fluctuations in sectors such as PVB, textiles, emulsion polymerization, adhesives, and paper. On the supply side, prices of PVA also differ by a number of product specifications, including, but not restricted to, the degree of hydrolysis and viscosity. In addition, the prices of PVA can fluctuate due to competitive pricing, value-in-use considerations,[1] and the size of the shipment.

The various standard and specialty grades of PVA offer a variety of performance properties that make PVA useful in a wide range of applications. Some of these performance properties of PVA include water solubility, abrasion resistance, tensile strength, adhesive and bonding properties, and grease/oil resistance.[2] Some alternative input products may substitute for PVA as relative prices of these alternatives change vis-a-vis prices of PVA. Part II discusses in detail substitution between PVA and alternative input products.

Prices of PVA for use in the *** sectors, which, according to DuPont, used to be *** than prices of similar PVA products used in the *** sectors, reportedly began to *** in the second half of 2001, following the revocation of the 1996 antidumping orders on PVA from China, Japan, and Taiwan in 2001.[3] Two market segments that reportedly have not seen *** are the *** and *** sectors.[4] According to DuPont, ***.[5] ***.[6]

### Raw Material Costs

The reported principal raw material inputs used to produce domestic PVA are VAM and ethanol/methanol/sodium methylate.[7] Total raw material costs accounted for almost *** percent of the three U.S. producers' total costs (as measured by reported costs of goods sold) to produce PVA in the

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[1] Value-in-use refers to when a higher-valued downstream product allows a higher price for PVA than a lower-valued downstream product. Although reportedly more prevalent in the past, this transfer of value from the downstream product to the PVA input could derive from a number of factors including a specialty PVA product, better or more consistent quality of PVA, and technical service provided to the downstream producer on its production process, supply chain, etc. ***.

[2] Petition, pp. 21-22.

[3] Pricing across these sectors *** (DuPont's postconference brief, exh. 8, p. 9). The decline in U.S. production of textiles since at least 2001 may have contributed to soft PVA pricing in that demand sector (conference transcript (Ms. McCord), p. 98). The U.S. paper industry reportedly has undergone consolidation (conference transcript (Ms. McCord), p. 98. Such consolidation likely led to at least some increase in buying power by U.S. paper companies for their inputs, including PVA.

[4] DuPont's postconference brief, exh. 8, p. 9.

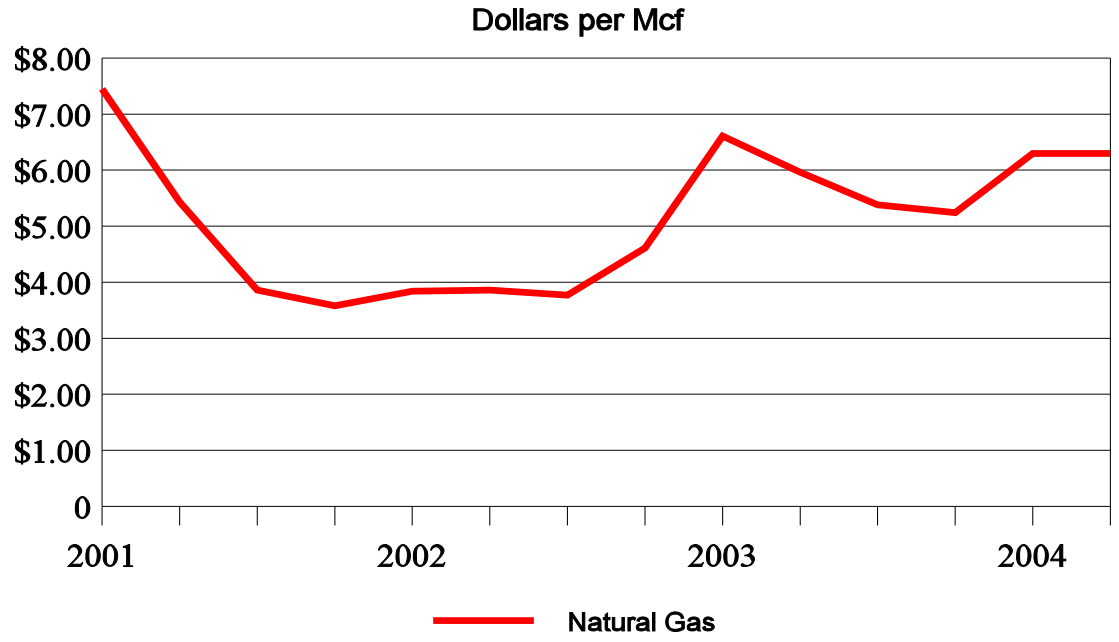
[5] Ibid.

[6] DuPont's postconference brief, exh. 8, p. 9.

[7] Based on questionnaire responses of the three U.S. PVA producers, their costs to produce VAM, used in the production of PVA, averaged *** percent of their total production costs to produce PVA in 2003. VAM is an intermediate product in the production of PVA, while natural gas or its derivative ethane, the principal feedstocks in the production of VAM, may be considered the raw material inputs.

United States during January 2001-June 2004. Natural gas or its derivative ethane are the principal feedstocks used by U.S. PVA producers to produce VAM and the principal energy source to produce PVA.[8] Prices of natural gas have reportedly been a significant factor in U.S. PVA production costs,[9] and high prices of natural gas are expected to continue into the future.[10] Figure V-1 shows quarterly natural gas prices to U.S. industrial users during January 2001-June 2004; the quarterly price data were calculated as simple averages of monthly price data reported by the Energy Information Administration.[11] As seen in figure V-1, quarterly prices of natural gas first fell from a period high of $7.45 per thousand cubic feet ("Mcf") in January-March 2001 to a period low of $3.58 per Mcf by October-December 2001 and then increased to $6.61 per Mcf by January-March 2003. Natural gas prices then moderated somewhat to $5.24 per Mcf by October-December 2003 before increasing to $6.30 per Mcf in January-March 2004 and remaining at this level in April-June 2004.

**Figure V-1**
**Natural gas prices: U.S. natural gas industrial prices, quarterly, January 2001-June 2004**




Note: The unit, Mcf, refers to one thousand cubic feet of natural gas.

Source: Compiled from monthly price data reported by the U.S. Department of Energy, Energy Information Administration, http://tonto.eia.doe.gov/dnav/ng/hist/n3035us3m.htm.

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[8] Petitioner's postconference brief, Answers to Questions from the Commission Staff, p. 6.

[9] Celanese reported that natural gas represents approximately *** percent of the cost to produce PVA (petitioner's postconference brief, Answers to Questions from the Commission Staff, p. 6).

[10] Conference transcript (Mr. Massa), p. 13; Mr. Neuheardt, pp. 15-17, and 19; and Mr. Klett, pp. 25-26; in addition, petitioner's postconference brief, exh. 10.

[11] ***.

## Tariff Rates, and Transportation Costs to the U.S. Market

The U.S. normal trade relations *ad valorem* import duty rate was 3.2 percent for imports of PVA under HTS subheading 3905.30.00 during January 2001-June 2004; no future staged tariff reductions are planned under this HTS subheading. In addition, under the NAFTA Canada/Mexico Preference, PVA under the above HTS subheading qualifying for North American treatment has been accorded a zero duty rate.

Transportation charges to ship PVA from Taiwan to the U.S. ports of entry, as a ratio to the U.S. official customs value, averaged 6.1 percent during January 2001-June 2004.

## U.S. Inland Transportation Costs

The two responding U.S. producers, Celanese and DuPont, and the two responding subject importers, DuPont and Perry Chemical, reported in their questionnaire responses that U.S.-inland freight costs averaged *** percent or less of the delivered prices and that PVA products are typically delivered by truck in the United States for the shorter distances and by truck, rail, or a combination of rail and truck for the longer distances.[12] Celanese and DuPont combined shipped *** percent of their domestic sales of U.S.-produced PVA to customers located within 100 miles of their U.S. plant/warehouse facilities during January 2001-June 2004, with U.S. freight costs averaging *** percent of the delivered price; *** percent between 100 and 500 miles, with U.S. freight costs averaging *** percent of the delivered price;[13] and *** percent over 500 miles, with U.S. freight costs averaging *** percent of the delivered price. The U.S. importers reported that during January 2001-June 2004 about *** percent of their subject imported PVA was shipped to U.S. customers within 100 miles from their U.S. shipping locations, with U.S. freight costs averaging *** percent of the delivered price; *** percent was shipped between 100 and 500 miles, with U.S. freight costs averaging *** percent of the delivered price; and *** percent was shipped over 500 miles, with U.S. freight costs averaging *** percent of the delivered price.

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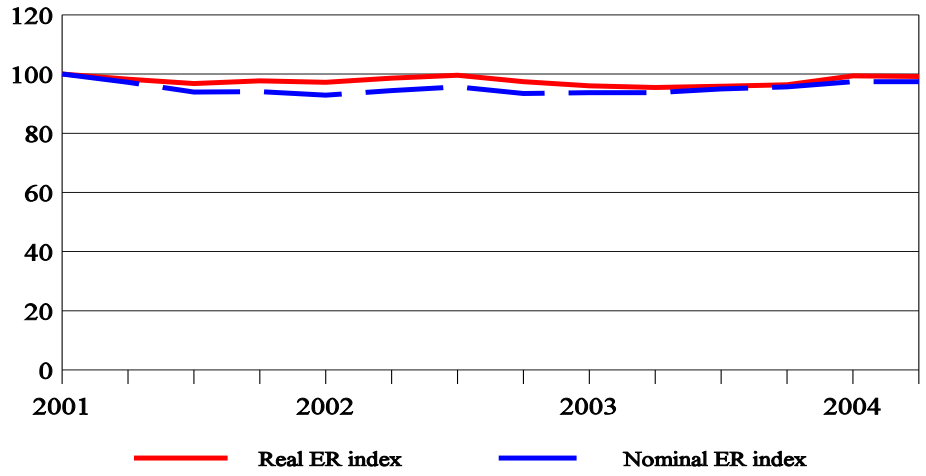
[12] *** reported that they sell their U.S.-produced PVA and/or imported PVA from Taiwan *** the United States, with no significant changes in their marketing areas since January 2001. *** reported selling some of its U.S.-produced PVA ***.

[13] The somewhat lower freight rate for shipping U.S.-produced PVA in the 100-500 mile category compared to that in the 100-mile category likely resulted because of a greater proportion of larger-volume (full truckload–42,500 pounds) shipments in the intermediate distance category than in the shortest distance category, where less-than-full-truckload shipments are more prevalent. In addition, only trucks are used to ship PVA for the 100-mile category, while rail and rail-truck combinations reportedly are also used in the 100-500 mile category. (Staff interview with ***, September 30, 2004). Full truckload shipments are generally less expensive per pound to ship PVA than less-than-full-truckload shipments and railcar shipments are less expensive per pound to ship PVA than truckload shipments.

## Exchange Rates

Figure V-2 shows quarterly nominal and real exchange rate indices (the latter are nominal exchange rates adjusted for relative rates of inflation)[14] of the currency of Taiwan relative to the U.S. dollar during January 2001-June 2004. The quarterly nominal and real exchange rates of the New Taiwan dollar vis-a-vis the U.S. dollar tended to move together as they fluctuated somewhat but remained below the beginning period values. The nominal value of the New Taiwan dollar vis-a-vis the U.S. dollar depreciated by 2.6 percent during the period, while the real value of the New Taiwan dollar depreciated by 0.8 percent against the U.S. dollar.

**Figure V-2**
**Real and nominal exchange rate indices of the New Taiwan dollar relative to the U.S. dollar, by quarters, January 2001-June 2004**




Note: Index (Jan.-Mar. 2001=100). Exchange rates are in U.S. dollars per New Taiwan dollar.

Source: Central Bank of China, www.cbc.gov.tw/EngHome/Economic/statistics/FS/IMF/ and the International Monetary Fund, *International Financial Statistics*, June 2004.

[14] The quarterly nominal and real exchange rate indices were calculated from quarterly-average nominal exchange rates and producer price indices reported by the Central Bank of China for Taiwan and by the IMF for the producer price index for the United States. The exchange rate indices were based on exchange rates expressed in U.S. dollars per unit of the foreign currency, such that index numbers below 100 represent depreciation and numbers above 100 represent appreciation of the foreign currency vis-a-vis the U.S. dollar. The quarterly real exchange rate indices were calculated from nominal exchange rates, producer/wholesale price indices in the Taiwan, and the producer price index in the United States.

## Major Customers

Competition among PVA suppliers and its impact on their selling prices can also be affected by the extent to which they sell to the same customers. Celanese, DuPont, ***, and Perry Chemical reported in their questionnaire responses their 10 largest customers for their domestic and imported Taiwan PVA during 2003.[15] *** of Celanese's top 10 customers, *** which accounted for *** percent of its PVA sales during 2003, also purchased imported Taiwan PVA from *** and ***, respectively. Another *** of Celanese's top 10 customers, ***, accounting for *** percent of its domestic PVA sales during 2003, also purchased ***. *** of *** top 10 customers for its imported Taiwan PVA were among *** top 10 customers for its U.S.-produced ***. *** listed *** as its *** customer in 2003, accounting for *** percent of its U.S. shipments of the ***.

## PRICING PRACTICES[16]

For the two responding U.S. producers combined, *** percent of the total U.S. sales quantity of their U.S.-produced PVA was on a spot basis, *** percent was on a short-term basis, and *** percent was on a long-term basis during January 2001-June 2004.[17] For the four responding U.S. importers combined, *** percent of their total U.S. sales quantity of their imported PVA from Taiwan was on a spot basis, *** percent was on a short-term basis, and *** percent was on a long-term basis during January 2001-June 2004.[18] Celanese and DuPont reported that spot sales were ***, while prices of longer-term sales were typically *** and were based on a number of factors, including ***.[19] Celanese and DuPont reported that long-term agreements generally extend for *** months, while short-term sales are typically for *** months.[20] The long-term and short-term sales agreements are negotiated ***,

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[15] Celanese's top 10 customers accounted for *** percent of the quantity of its total U.S. commercial shipments of its U.S.-produced PVA during 2003, and DuPont's top 10 customers accounted for *** percent and *** percent of its respective total U.S. commercial shipments of domestic and imported Taiwan PVA during 2003. Perry Chemical did not report shipment shares for its top 10 customers for its imported Taiwan PVA. *** reported *** customers for its imported Taiwan PVA. ***, another U.S. importer of the Taiwan PVA, reported *** customer, but during ***, the *** period that it ***. The *** customers identified by these latter two importers were not among the top 10 customers identified by *** for its U.S.-produced PVA.

[16] Information on pricing practices discussed here was based on questionnaire responses of the U.S. producers and importers of PVA, unless otherwise noted; Celanese and DuPont provided all of the pricing practice information for U.S.-produced PVA. DuPont provided extensive information for the imported PVA from Taiwan, although ***, ***, and Perry Chemical provided some information as noted when applicable.

[17] Spot sales are usually one-time delivery, within 30 days of the purchase agreement; short-term sales are for multiple deliveries for up to 12 months after the purchase agreement; and long-term sales are for multiple deliveries for more than 12 months after the purchase agreement.

[18] *** reported selling *** its subject imported products *** and *** of the subject imported PVA because it accounted for *** share *** of the quantity of this data. On the other hand, ***, which accounted for *** percent of these data for the imported Taiwan PVA, sold *** percent of its subject imported PVA on a ***. *** sold all of its imported Taiwan PVA ***, whereas *** sold all of the subject imported PVA ***. These latter two importers accounted for the remaining *** percent of these data for the imported Taiwan PVA.

[19] *** (DuPont's postconference brief, exh. 8, p. 8).

[20] *** also reported in its questionnaire response that ***.

respectively, typically fix quantities and an initial price, and have meet-or-release price provisions.[21] According to ***, pricing within a contract period is renegotiated *** or any time ***. If a competitive offer is presented, ***. According to Celanese, price ***.[22] Celanese reported that, at this point, the surge of alleged dumped imports from Taiwan was reportedly so dramatic that, to protect itself from further loss of market share to alleged dumped imports from Taiwan, Celanese ***. However, in most cases where Celanese ***.[23]

More than *** percent of the PVA produced domestically and imported from Taiwan was shipped to end users and the remaining amount to distributors during January 2001-June 2004.[24] Celanese and DuPont reported quoting prices *** for the domestically produced PVA and DuPont for the imported PVA from Taiwan during January 2001-June 2004. *** reported quoting prices for the imported Taiwan PVA ***,[25] whereas Perry Chemical reported quoting *** prices for the PVA from Taiwan ***.[26] Payment terms of net 30 days were generally offered on sales of the U.S.-produced and imported Taiwan PVA during January 2001-June 2004. Celanese reported *** U.S. freight costs on shipments of its U.S.-produced PVA to its customers, *** freight costs on their PVA shipments of full truckloads; DuPont responded for its U.S.-produced and imported Taiwan PVA and Perry Chemical responded for its imported Taiwan PVA. *** reported that *** on U.S. shipments of its imported Taiwan PVA.

Celanese and DuPont reported that although they ***. In addition, DuPont noted that prices of its PVA produced domestically and imported from Taiwan are affected by ***,[27] and further stated in its producer and importer questionnaire responses that *** of PVA are determined by a number of factors, including ***. *** and Perry Chemical reported that *** on sales of their imported PVA from Taiwan.

Celanese, DuPont, and Perry Chemical reported that domestic sales of their PVA, produced domestically and/or imported from Taiwan, are *** and typically require from *** days from the time the order is placed to when the product is shipped.[28] The order-lead times for these firms reportedly have not changed during January 2001-June 2004. DuPont added that maintaining order lead times has *** in its supply chain reportedly due to ***. Customers *** this has resulted in increased ***. To offset these *** as well as rising raw material costs, DuPont has reportedly led two price increases in the last 18 months.

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[21] In addition, standard minimum quantities are considered to consist of a full truckload of bags or bulk PVA, with price premiums for less-than-truckload shipments up to *** percent, but, according to ***, these premiums ***.

[22] ***.

[23] ***.

[24] ***, a U.S. importing end user, reported importing *** of PVA from Taiwan during this period. It is believed, however, that the majority of U.S. imports of Taiwan PVA is imported by U.S. distributors (conference transcript (Mr. Massa), p. 48.

[25] *** reported that it generally ***.

[26] *** indicated that it considered full truckload PVA shipment quantities to be ***.

[27] DuPont's postconference brief, exh. 8, p. 8.

[28] *** reported that it ships *** percent of its imported Taiwan PVA *** and it reported order-lead-times of *** days.

## PRICE DATA

### Announced PVA Price Increases

Celanese and DuPont briefly discussed at the conference their efforts to raise PVA prices in the U.S. market through announced price increases, as an example of their efforts to secure higher prices and better profitability for their domestic and/or imported Taiwan PVA during January 2001-June 2004.[29] In addition, DuPont discussed in detail in its postconference brief announced PVA price increases (a total of five) in the U.S. market since January 2001 and commented on the effectiveness of such increases; DuPont also reported ***.[30] Celanese *** the amounts and effective dates of the three announced price increases that it initiated, as reported by DuPont, and Celanese asserted that these price increases ***.[31]

The first announced price increase for PVA, of $0.05 per pound and effective February 1, 2001, was reportedly initiated by Celanese, and, according to DuPont, was *** percent of DuPont's average price at the time across all of its U.S. PVA market segments. DuPont stated that this increase was reportedly *** percent effective and, according to DuPont, was *** in the third quarter of 2001, when imports of PVA from Japan increased following the revocation of the 1996 antidumping order in May 2001.

The second announced price increase for PVA, of $0.05 per pound and effective June 15, 2002, was also reportedly initiated by Celanese, which, according to DuPont, was *** percent of DuPont's average price at the time across all of its U.S. PVA market segments. DuPont reported that as it moved to implement the price increase, customers solicited and received competitive offers from importers of PVA from China, Korea, and Japan. To prevent losing sales, DuPont reportedly ***.

The third announced price increase for PVA, of $0.05 per pound and effective March 1, 2003, was reportedly initiated by DuPont and, according to DuPont, was *** percent of its average price at the time across all of its U.S. PVA market segments. DuPont stated that this increase *** accepted and implemented as contracts allowed.

The fourth announced price increase for PVA, of $0.20 per pound and effective April 1, 2003, was reportedly initiated by Celanese and, according to DuPont, was *** percent of DuPont's average price at the time across all of its U.S. PVA market segments. According to DuPont, U.S. PVA customers ***. On the other hand, Celanese asserted that after initially obtaining a $*** per pound increase, it was forced by dumped imports, largely from Taiwan, to reduce prices by $*** per pound and thus obtain *** percent of the attempted price increase, which, according to Celanese, did not even cover the increased cost of VAM.[32]

The fifth announced price increase for PVA, of $0.07 per pound and effective June 1, 2004, was reportedly initiated by DuPont and, according to DuPont, was about *** percent of DuPont's average price at the time across all of its U.S. PVA market segments. Reportedly, this increase was *** percent effective and is currently *** at most accounts. In some cases, DuPont indicated that ***. Celanese

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[29] Conference transcript (Mr. Neuheardt), pp. 14, 18, and 19, and Ms. McCord, p. 74.

[30] Except where noted, the discussion of announced price increases is based on DuPont's discussion in its postconference brief, exh. 9, pp. 1-2. DuPont indicated that the price increases it initiated included all of its PVA sales, including U.S.-produced and imported Taiwan PVA (DuPont's postconference brief, p. 21).

[31] Staff interview with ***, October 15, 2004.

[32] Petition, exh. II-14, p. 3.

asserted, however, that due to dumped imports from Taiwan it was able to obtain only about $*** of the proposed price increase.[33]

Finally, DuPont reportedly ***.

**PVA Pricing Strategies of Celanese and DuPont**

Celanese reported that, in response to increased competition from low-priced Taiwan PVA, beginning in September 2003 the firm implemented the following three new strategic goals to retain the volumes being lost to allegedly dumped Taiwan PVA: (1) ***, (2) negotiate *** to replace expiring contracts with key existing customers, and (3) renegotiate *** depending on the customer's size, strategic importance to the business, and the customer's specific needs.[34] Celanese reported that its policy has always been to ***.[35]

Celanese alleged that DuPont has recently increased its imports from Taiwan and has engaged in an aggressive pricing strategy based on selling such dumped imports at very low prices.[36] DuPont, however, contested this assertion and alleged that any injury Celanese incurred resulted from specific tactical errors made by Celanese in marketing and selling its U.S.-produced PVA.[37] Specifically, DuPont asserted that (1) Celanese depressed and suppressed prices while DuPont led price increases, (2) Celanese entered into long-term, fixed-price contracts during a period of dramatic cost increases, and (3) Celanese failed or refused to appreciate the need of its customers to source PVA from multiple suppliers.[38] In support of its assertions, DuPont provided 19 transaction reports,[39] which reportedly show examples of where it made sales or attempted to make sales of its U.S.-produced and imported Taiwan PVA, but was forced either to charge lower prices than it initially quoted, maintain prices instead of raising them, or to lose the sale, all because of low prices allegedly offered by Celanese for its U.S.-produced PVA.[40] In addition, DuPont provided examples of Celanese's long-term contracts that it reportedly negotiated without escalator clauses to account for the increasing costs of energy and VAM.[41] DuPont also provided an affidavit from a U.S. PVA purchaser, citing the end user's need for multiple

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[33] Petition, exh. II-14, pp. 3-4.

[34] Celanese's postconference brief, p. 26.

[35] Ibid.

[36] Celanese's postconference brief, p. 1. In addition, Celanese provided a number of lost sales and lost revenue allegations involving the imported Taiwan PVA, which have been investigated by the staff and are discussed at the end of Part V.

[37] DuPont's postconference brief, p. 23 and the conference transcript (Ms. McCord), pp. 70-72. In addition, CCPC reported that its selling prices of the Taiwan PVA to the U.S. market were steady during 2003 and the first half of 2004, although the foreign producer wanted to increase its prices. CCPC asserted that its distributors, such as DuPont and Perry Chemical, informed the Taiwan producer that they could not accept price increases from CCPC because Celanese was keeping its price low to sell greater volumes (CCPC's postconference brief, p. 12, and conference transcript (Mr. Chen), pp. 66-67).

[38] DuPont's postconference brief, pp. 23-25.

[39] *** (DuPont's postconference brief, exh. 5, and staff interview with ***, October 4, 2004).

[40] DuPont's postconference brief, exh. 5.

[41] DuPont's postconference brief, exh. 6.

sourcing of this product.[42] Finally, DuPont asserted that Celanese refused to sell any PVA to DuPont late in the summer of 2004, reportedly in retaliation for DuPont's refusal to accede to Celanese's requirement that DuPont cease importing PVA from Taiwan.[43]

Celanese countered that it was pricing to retain volume in response to dumped Taiwan PVA, which, the firm asserted, was a similar strategy used by DuPont in 2002 and 2003.[44] Celanese also reported that it has approximately the *** with its customers today as it did in 2002.[45] Celanese reported that the negotiations to sell PVA to DuPont ended because DuPont demanded unrealistically low prices.[46] Finally, Celanese reported in its petition a number of lost revenue and lost sales allegations involving imported Taiwan PVA, which are discussed at the end of Part V.

## Questionnaire Price Data

U.S. selling value and quantity data were requested for sales to U.S. customers for the following five non-specialty PVA products produced in the United States and imported from Taiwan:[47]

*Product 1*.–PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 3-6 (centipois), standard granular particle size, and non-tackified

*Product 2*.–PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 20-39 (centipois), standard granular particle size, and non-tackified

*Product 3*.–PVA for use in adhesive applications with a range of hydrolysis between 80-89 percent, a viscosity between 40-70 (centipois), standard granular particle size, and non-tackified

*Product 4*.–PVA for use in paper applications with a range of hydrolysis between 98-99 percent, a viscosity between 3-12 (centipois), standard granular particle size, and non-tackified

*Product 5*.–PVA for use in textile applications with a range of hydrolysis between 87-97 percent, a viscosity between 12-39 (centipois), standard granular particle size, and non-tackified

The price data were based on net U.S. f.o.b. selling price data of U.S. producers and importers for their quarterly shipments to unrelated customers of the specified PVA products during January 2001-

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[42] DuPont's postconference brief, exh. 7.

[43] DuPont's postconference brief, pp. 25-26.

[44] Celanese's postconference brief, p. 27.

[45] Ibid.

[46] Celanese's postconference brief, pp. 27-28.

[47] These products were suggested by Celanese as appropriate products on which to collect pricing data. Celanese indicated that these products were representative of U.S. PVA production and imports of PVA from Taiwan, and were also indicative of *** (staff interviews with *** and ***, September 9-10, 2004). DuPont indicated that the specified pricing products are representative of both the domestic and subject imported PVA (DuPont's postconference brief, p. 14).

June 2004 that were produced in the United States and imported from Taiwan.[48] [49] Celanese indicated at the conference that selling prices of PVA, not average unit values, reflected the proper level of PVA distribution for Celanese and DuPont specifically and for most imported PVA from Taiwan in general.[50]

Celanese and DuPont, two U.S. producers of PVA, and DuPont, H&C Industries, Samirian Chemicals, and Perry Chemical, four U.S. importers of PVA from Taiwan,[51] provided the requested price information, but not necessarily for all products or periods.[52] Celanese and DuPont reported total sales quantities of the U.S.-produced PVA for pricing purposes during January 2001-June 2004 that amounted to *** pounds, or *** percent of their total reported U.S. commercial shipments of the U.S.-produced PVA during this period. The four responding U.S. importers reported total sales quantities for pricing purposes during January 2001-June 2004 that amounted to almost *** million pounds of PVA from Taiwan, which for pricing purposes accounted for *** percent of total U.S. commercial shipments of imported PVA from Taiwan during this period.

**Price Trends**

Price trends of the domestic and subject imported PVA product categories and price comparisons between the domestic and imported Taiwan PVA are based on the reported quarterly net U.S. f.o.b. selling price data to unrelated customers. Quarterly trends in selling prices and quantities of the domestic and subject imported products 1-5 are shown by products in tables V-1 through V-5, respectively; price comparisons between the domestic and the subject imported products are also shown in these tables.[53] The quarterly selling prices and quantities of the domestic and subject imported PVA products are also shown by each product in figures V-3a through V-3e, respectively. Because Celanese's petition and postconference brief frequently discussed competition between Celanese and DuPont, appendix E shows and briefly discusses quarterly price comparisons between Celanese's domestic PVA and DuPont's imported Taiwan PVA products for which they reported pricing data. In addition, price comparisons between Celanese's PVA products and those imported from Taiwan by Perry Chemical, the largest U.S. importer of PVA from Taiwan, are also shown in appendix E.[54]

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[48] If the reporting firm sold its PVA on a delivered basis, it was requested to estimate, to the extent possible, the net delivered U.S. f.o.b. selling value (for instance, deduct from the U.S. delivered value the U.S.-inland freight cost (or an estimate of this cost) it charged, or otherwise arranged, to deliver the PVA to its customers at their U.S. receiving location(s)).

[49] If the importer was an end user that captively used the PVA from Taiwan, the firm was requested to provide its c.i.f., duty-paid, U.S. port(s) of entry price data. A single importing U.S. end user, *** reported its c.i.f. duty-paid purchase prices, but the purchases were *** pounds, and reportedly constituted ***. Therefore, these price data are not shown or discussed.

[50] Conference transcript (Mr. Klett), p. 47.

[51] DuPont and Perry Chemical accounted for about *** percent of the total quantity of imported PVA products 1-5 from Taiwan that were reported for pricing purposes.

[52] ***.

[53] ***. DuPont's reported price data for its imported Taiwan PVA products 1-5, as well as all other reported price data involving the U.S.-produced and imported Taiwan PVA products 1-5, have been reviewed by the staff and, after careful review of corrections and explanations, the staff has found the resulting price data acceptable based on its routine data checks.

[54] The staff has examined prices reported by Celanese, DuPont, and Perry Chemical and found that *** of the price comparisons between Celanese's U.S.-produced PVA and that imported from Taiwan by DuPont showed the imported products to be priced *** the domestic products. *** the price comparisons between Celanese's U.S.-

(continued...)

**Table V-1**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 1, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table V-2**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 2, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table V-3**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 3, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table V-4**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 4, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table V-5**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 5, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Figure V-3a**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported product 1, by quarters, January 2001-June 2004**

* * * * * * *

**Figure V-3b**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported product 2, by quarters, January 2001-June 2004**

* * * * * * *

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[54] (...continued)
produced PVA and that imported from Taiwan by Perry Chemical showed the imported products to be priced *** the domestic products.

**Figure V-3c**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported product 3, by quarters, January 2001-June 2004**

* * * * * * *

**Figure V-3d**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported product 4, by quarters, January 2001-June 2004**

* * * * * * *

**Figure V-3e**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported product 5, by quarters, January 2001-June 2004**

* * * * * * *

The reported quarterly selling prices of the specified PVA products produced domestically and imported from Taiwan fluctuated during January 2001-June 2004, but tended to trend downward during this period. Price trends of the domestic and imported Taiwan PVA during January 2001 through about mid-2003 were influenced, at least partially, by the low prices of dumped imports of PVA from China, Japan, and Korea that the Commission found to injure or threaten injury to the domestic PVA industry.[55] Quarterly sales quantities reported by the U.S. producers and importers of the subject imported PVA products fluctuated during January 2001-June 2004 with some noticeable trends towards the end of the period. Quarterly shipment quantities of the imported Taiwan products 1-3 generally rose during July 2003-June 2004, while shipment quantities of the U.S.-produced products 1-3 generally fell during these periods (tables V-1 through V-3 and figures V-3a through V-3c). Quarterly shipment quantities of the imported Taiwan product 4 rose steadily during October 2003-June 2004, while shipment quantities of the domestic product 4 fluctuated but fell during this period (table V-4 and figure V-3d). On the other hand, quarterly shipment quantities of the imported Taiwan product 5 fell steadily during April 2003-June 2004, while shipment quantities of the domestic product 5 first fell during April-September 2003 and then rose steadily during October 2003-June 2004 (table V-5 and figure V-3e).

Celanese and DuPont reported quarterly net U.S. f.o.b. selling prices of their U.S.-produced PVA products 1-5 shipped to U.S. customers during January 2001-June 2004 (tables V-1 through V-5 and figures V-3a through V-3e).[56] Although fluctuating, selling prices of the domestic products 1-4 tended to fall during the period, with prices typically lower at the end of the period than at the beginning of the period; prices of the domestic product 5 remained relatively stable. Selling prices of the domestic products 1-3, used in various adhesive applications, fell during the period by *** percent for product 1, *** percent for product 2, and *** percent for product 3. Selling prices of the domestic product 4, used in paper applications, fell during the period by *** percent. On the other hand, selling prices of the domestic product 5, used in textile applications, ended the period *** percent above the initial period price. Celanese reported that it would require its PVA selling prices to range from $*** to $*** per pound to cover the firm's total historical costs at the volume that was produced, although no specific

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[55] *Polyvinyl Alcohol from Germany and Japan, Invs. Nos. 731-TA-1015-1016 (Final)*, USITC Pub. 3604, June 2003, p. 1, and *Polyvinyl Alcohol from China and Korea, Invs. Nos. 731-TA-1014 and 1017 (Final)*, USITC Pub. 3634, p. 1.

[56] ***.

periods or products were noted.[57] Based on Celanese's reported price data for products 1-5, the firm sold its U.S.-produced PVA ***.

The four responding importers reported quarterly net U.S. f.o.b. selling prices of their imported PVA products 1-5 from Taiwan and shipped to U.S. customers during January 2001-June 2004 (tables V-1 through V-5 and figures V-3a through V-3e). Although fluctuating during the period, selling prices of the imported Taiwan products 1-5 were lower at the end of the period than at the beginning of the period. Prices of the imported product 2, which generally remained at or above its initial-period price, fell at the end of the period. Selling prices of the imported products 1-3 from Taiwan, used in adhesive applications, ended the period below their initial period prices, by *** percent for product 1, by *** percent for product 2, and by *** percent for product 3. Selling prices of the imported product 4 from Taiwan, used in paper applications, ended the period *** percent lower than at the beginning of the period for this product, January-March 2001. Selling prices of the imported product 5 from Taiwan, used in textile applications, ended the period *** percent lower than at the beginning of the period.

**Price Comparisons**

A total of 70 quarterly net U.S. f.o.b. selling price comparisons were possible between the domestic and imported Taiwan PVA products 1-5 shipped to U.S. customers during January 2001-June 2004. In 34 of the 70 selling price comparisons, the imported Taiwan products were priced less than the U.S.-produced products; in 34 other price comparisons the subject imported products were priced higher than the U.S.-produced products; and in the two remaining price comparisons, the domestic and subject imported products were sold at the same price. The price comparisons based on reported selling price data are shown by product in tables V-1 through V-5 and are summarized, by product, in table V-6.

**Table V-6**
**PVA: Number of quarterly U.S. weighted-average net f.o.b. selling price comparisons between U.S.-produced and imported Taiwan PVA during January 2001-June 2004**

| Product no./end use | Total number of comparisons | Underselling by imports *Number* | Overselling by imports *Number* | No difference *Number* |
|---|---|---|---|---|
| Product 1–adhesives | 14 | 3 | 11 | - |
| Product 2--adhesives | 14 | 5 | 9 | - |
| Product 3–adhesives | 14 | 5 | 8 | 1 |
| Product 4–paper | 14 | 12 | 1 | 1 |
| Product 5–textiles | 14 | 9 | 5 | - |
| TOTAL | 70 | 34 | 34 | 2 |

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

[57] Celanese's postconference brief, Answers to Questions from the Commission Staff, p. 7.

## LOST REVENUES AND LOST SALES

In the petition, Celanese reported 13 allegations of lost revenues and 26 allegations of lost sales due to competition from imports of PVA from Taiwan during January 2001-June 2004.[58] The lost revenue allegations totaled $*** and the lost sales allegations totaled almost *** pounds of PVA. Staff received usable information from 19 of the 32 purchasers named in the allegations; a summary of the information obtained is shown in table V-7 for lost revenue allegations and table V-8 for lost sales allegations. Additional comments from purchasers are presented in the text.

**Table V-7**
**PVA: U.S. producers' lost revenue allegations**

* * * * * * *

**Table V-8**
**PVA: U.S. producers' lost sales allegations**

* * * * * * *

***.[59]

* * * * * * *

Purchasers responding to lost revenues and lost sales allegations were also asked whether they had shifted their purchases of PVA from U.S. producers to suppliers of products from Taiwan during January 2001-June 2004. In addition, they were asked whether U.S. producers reduced their prices of PVA to compete with suppliers of PVA imports from Taiwan during this period. Purchasers' responses to these questions are shown in table V-9. Seven of the 17 purchasers responding to the question about shifts in their purchases reported that, since January 2001, they had shifted purchases of PVA from the U.S. producer to imports from Taiwan; four of these purchasers stated that price was the reason for the shift. Another nine firms reported that they had not shifted their purchases, and the remaining firm reported that it had switched suppliers because of price but did not know the country of origin of the PVA. Ten of the 17 purchasers responding to the question of reduced prices stated that, since January 2001, the U.S. producer had reduced its prices of PVA to compete with prices of imports from Taiwan. Five other firms reported that U.S. PVA producers did not reduce their prices in competition with the products from Taiwan, and the two remaining firms did not know whether U.S. producers lowered their prices.

**Table V-9**
**PVA: Purchaser responses**

* * * * * * *

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[58] No additional lost revenue or lost sales allegations were reported by Celanese in its U.S. producer questionnaire response. DuPont and Solutia, the two other U.S. producers of PVA, reported in their questionnaire responses ***.

[59] ***.

# PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

## BACKGROUND

Three U.S. firms (Celanese, DuPont, and Solutia) provided financial data on their commercial and captive operations on PVA for the years 2001-03, as well as for the interim periods.[1] These data account for all known U.S. production of PVA during the period for which data were collected.

Celanese acquired the PVA business of Air Products in September 2000, and sells PVA *** in the commercial market.[2] Solutia was formed when Monsanto spun off its specialty chemical operations in 1997, and produces and consumes all of its PVA in the production of PVB.[3] DuPont has produced PVA since 1937 (and since 1972 at its facilities at La Porte, TX), with sales reflecting both commercial and captive consumption.[4]

## OPERATIONS ON PVA

Income-and-loss data for the U.S. producers on their PVA operations are presented in table VI-1. Overall operating income was ***.

**Table VI-1**
**PVA: Results of operations of U.S. producers in the production of PVA, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

Unit sales values declined in 2002; however, increased sales volume, a reduction in the overall cost of goods sold (COGS), and selling, general, and administrative (SG&A) expenses that increased at a slower rate than gross profit led to *** in 2002 as compared to 2001.
In contrast and despite increased unit sales values, the overall *** in 2003 and the first half of 2004 due primarily to a *** increase in raw material costs (most importantly the rising price of natural gas) and, to a lesser degree, increased SG&A expenses. Additional details of these factors are provided in the following discussion of company-specific financial data.

Individual firm data reveal that Celanese's reported financial performance is of ***.[5] Celanese's *** declined throughout the period of investigation. In 2002, *** increases in sales volume (*** percent) and declines in total COGS (*** percent on a unit basis) barely ***. Two large components of Celanese's other factory costs are depreciation and natural gas as an energy source in the production of

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[1] All three firms reported a fiscal year end of December 31.

[2] Conference transcript (Mr. Massa), p. 11. On December 16, 2003, Blackstone Capital Partners announced its intention to launch a voluntary public offer to acquire all of the outstanding shares of Celanese AG. On July 30/31, 2004, shareholders approved the takeover, which became effective on October 1, 2004 (e-mail response from *** of Celanese to staff, September 30, 2004).

[3] On December 17, 2003, Solutia and 14 of its U.S. subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. According to Solutia, Chapter 11 will permit the company to continue to operate its businesses while working to resolve various legacy liabilities that were assumed when it was spun off in 1997 from the Monsanto Company (*http://www.solutia.com*).

[4] E-mail response from *** of DuPont to staff, October 1, 2004.

[5] Celanese provided revised financial data to the Commission on September 30, 2004. ***.

PVA. During the period of investigation, depreciation accounted for *** percent of other factory costs. Natural gas reportedly accounts for approximately *** percent of Celanese's other factory costs.[6] ***.[7] Regarding the increase in SG&A expenses in 2002, Celanese stated that ***.[8] In 2003, Celanese's lower sales volume, combined with higher raw material costs and other factory costs, resulted in ***. These same cost factors resulted in an increased *** in the first six months of 2004 as compared to the first six months of 2003. The higher costs in 2003 were due *** to increased prices for natural gas, which is the *** cost component in the PVA production chain as well as the *** energy source in Celanese's production of PVA.[9]

Staff requested Celanese to provide certain financial data to examine the reported *** in 2003, including cost of production schedules for both VAM and PVA, supporting data on depreciation and energy expenditures, and a reconciliation to the overall chemical segment within Celanese. Much of the information requested by staff was not available and/or was not provided, thus *** in 2003 could not be examined. Based on the reported data, Celanese would require an average unit selling price of $*** in 2003 and $*** in interim 2004 to cover all operating costs and expenses at reported sales volumes. These prices are ***.

Staff also requested information from Celanese's counsel regarding the differences between Celanese's costs and the costs of the two other U.S. producers. For example, with the exception of 2002, from 2001 through the first half of 2004, Celanese's unit COGS ***. During the same time frame, DuPont's weighted-average unit COGS generally ***, while Solutia's ranged from $*** to $*** per pound. While the *** associated with Celanese's purchase of the Air Products facilities in 2000 explains perhaps *** of the per-pound cost difference, ***. Further, given the extent of Celanese's *** on its PVA operations, staff asked the company if it has ***. Celanese replied that ***.[10]

DuPont's financial data reveal *** in sales volume and raw material costs during the period of investigation, but ***. The different production processes utilized by Celanese (belt process) and DuPont (reactor process) to make PVA,[11] as well as ***.[12]

SG&A expenses for PVA operations (as a ratio to net sales) are ***.[13] ***.[14]

Solutia *** in volume and raw material costs during the period of investigation, but ***. ***. Unlike Celanese and DuPont, Solutia is ***.[15] Tables VI-2 and VI-3 present selected financial data on a firm-by-firm basis.

**Table VI-2**
**PVA: Selected results of operations of U.S. producers of PVA, by firm, 2001-03, January-June 2003, and January-June 2004**

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[6] E-mail response from *** of Celanese, October 6, 2004.

[7] See Celanese's postconference brief, exh. 10.

[8] E-mail response from *** of Celanese to staff, September 30, 2004.

[9] Celanese's postconference brief, Answers to Questions from the Commission Staff, p. 6.

[10] E-mail response from *** to staff, October 6, 2004.

[11] See conference transcript (Ms. McCord), p. 90.

[12] Submission from *** to staff, October 6, 2004. According to DuPont, ***. Voice mail response from *** of DuPont to staff, October 13, 2004.

[13] E-mail response from *** to staff, October 6, 2004.

[14] E-mail response from *** of DuPont to staff, October 6, 2004.

[15] E-mail response from *** of Solutia to staff, October 5, 2004.

**Table VI-3**
**PVA: Selected unit values for U.S. producers of PVA, by firm, 2001-03, January-June 2003, and January-June 2004**

*  *  *  *  *  *  *

A variance analysis of U.S. producers' PVA operations is presented in table VI-4. The information for this variance analysis is derived from table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. From 2001 to 2003, the variances on price, net cost/expense, and net volume were all unfavorable. Between the interim periods, unfavorable variances on net cost/expense and net volume outweighed a favorable price variance.

The combined results of open-market sales of Celanese and DuPont on their PVA operations are presented in table VI-5. The combined companies *** in each year of the period of investigation, as well as in the first six months of 2004. Trends within the commercial data are similar to the overall financials, ***.

A variance analysis of the open market operations of Celanese and DuPont is presented in table VI-6. The information for this variance analysis is derived from table VI-5. The variance analysis provides and assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. Similar to the variance analysis of total operations, the variances on price, net cost/expense, and net volume were all unfavorable for the period 2001-03. Between the interim periods, unfavorable variances on net cost/expense and net volume outweighed a favorable price variance.

**Table VI-4**
**PVA: Variance analysis on results of operations of Celanese, DuPont, and Solutia, 2001-03, January-June 2003 to January-June 2004**

*  *  *  *  *  *  *

**Table VI-5**
**PVA: Results of open-market operations of Celanese and DuPont, 2001-03, January-June 2003, and January-June 2004**

*  *  *  *  *  *  *

**Table VI-6**
**PVA: Variance analysis on results of open-market operations of Celanese and DuPont, 2001-03, and January-June 2003 to January-June 2004**

*  *  *  *  *  *  *

## CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Capital expenditures and research and development (R&D) expenses, by firm, are shown in table VI-7. Celanese reported that ***.[16] DuPont reported that capital expenditures include ***.[17]

**Table VI-7**
**PVA: Capital expenditures and research and development expenses of U.S. producers, by firm, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

## ASSETS AND RETURN ON INVESTMENT

The value of total net assets and return on investment ("ROI") is shown in table VI-8. This table presents ROI which, in this case, is operating income divided by each period's total net asset balance. Interim 2003 and 2004 returns were annualized. ***. Computations of ROI for NAICS 325211, based on data contained in the Risk Management Association's (RMA) *Annual Statement Studies*, are shown in table VI-9.

**Table VI-8**
**PVA: Consolidated value of assets and ROI for U.S. producers, by firm, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

**Table VI-9**
**Number of firms, sales, assets, operating income, and ROI on operations for NAICS 325211 (plastics material and resin manufacturing) for 5 one-year periods ending March 31, 1999 to March 31, 2003**

| Period | Number of companies | Sales value (*$1,000*) | Asset value (*$1,000*) | Operating margin (*percent*) | ROI[1] (*percent*) |
|---|---|---|---|---|---|
| 4/1/98 - 3/31/99 | 187 | 4,759,537 | 2,971,521 | 6.1 | 9.8 |
| 4/1/99 - 3/31/00 | 182 | 4,178,120 | 2,746,111 | 6.8 | 10.3 |
| 4/1/00 - 3/31/01 | 144 | 4,510,836 | 2,917,156 | 5.0 | 7.7 |
| 4/1/01 - 3/31/02 | 149 | 5,275,774 | 3,734,934 | 3.5 | 4.9 |
| 4/1/02 - 3/31/03 | 197 | 9,187,583 | 4,808,785 | 4.6 | 8.8 |

[1] ROI was calculated using RMA data.

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[16] E-mail response from *** of Celanese to staff, October 6, 2004.

[17] E-mail response from *** of DuPont to staff, October 6, 2004.

## CAPITAL AND INVESTMENT

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

# PART VII: THREAT CONSIDERATIONS

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

## THE INDUSTRY IN TAIWAN

CCPC is believed to be the only producer of PVA in Taiwan. In 2003, the quantity of CCPC's exports to the United States represented *** percent of its total shipments, *** than the *** percent of Taiwan-produced PVA that was sold to the Taiwan market. In addition to exporting to the United States, principal export markets include: ***.

**Table VII-1**
**PVA: Data for the sole producer in Taiwan, 2001-03, January-June 2003, January-June 2004, and projected 2004-05**

* * * * * * *

## U.S. INVENTORIES OF PRODUCT FROM TAIWAN

Inventories held by U.S. importers of PVA from Taiwan were reported to be *** pounds in 2003. The end-of-period level of inventories from Taiwan in 2003 represented a *** percent increase from the level of 2001, and the inventories from all other sources in 2003 represented a *** percent increase from 2001.

**Table VII-2**
**PVA: U.S. importers' end-of-period inventories of imports, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

## U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JUNE 30, 2004

Four of the responding importers indicated that they imported or arranged for importation of PVA from Taiwan for delivery after June 30, 2004: ***.

## DUMPING IN THIRD-COUNTRY MARKETS

Based on available information, PVA from Taiwan has not been subject to any other import relief investigations in the United States or any other countries during the period examined.

# APPENDIX A

## *FEDERAL REGISTER* NOTICES

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1088 (Preliminary)]**

### Polyvinyl Alcohol From Taiwan

**AGENCY:** International Trade Commission.

**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1088 (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 Taiwan of polyvinyl alcohol, provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by October 22, 2004. The Commission's views are due at Commerce within five business days thereafter, or by October 29, 2004.

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

**DATES:** Effective September 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Megan Spellacy (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.* This investigation is being instituted in response to a petition filed on September 7, 2004, by Celanese Chemicals, Ltd., Dallas, TX.

*Participation in the investigation and public service list.* Persons (other than petitioners) wishing to participate in the investigation 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 this investigation 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 this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.* The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on September 28, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Megan Spellacy (202–205–3190) not later than September 23, 2004, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.* As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 1, 2004, a written brief containing information and arguments pertinent to the subject matter of the investigation. 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 filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 9, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–20712 Filed 9–14–04; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF LABOR

### Employment Standards Administration

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired

**Disclosure**

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties the calculations performed in this preliminary determination within five days of the date of public announcement.

**Public Comment**

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs on the later of 50 days after the date of publication of this notice or ten days after the issuance of the verification reports. *See* 19 CFR 351.309(c)(1)(I). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of the Department's preliminary determination. *See* 19 CFR 351.210(b)(1).

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of magnesium metal from the Russian Federation are materially injuring, or threatening material injury to, the U.S. industry.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 24, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. E4–2479 Filed 10–1–04; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–841]**

### Initiation of Anti Dumping Duty Investigation: Polyvinyl Alcohol From Taiwan

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

**EFFECTIVE DATE:** October 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Susan Lehman or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0180 or (202) 482–4477, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On September 7, 2004, the Department of Commerce (the Department) received a petition on imports of polyvinyl alcohol (PVA) from Taiwan filed in proper form by Celanese Chemicals Ltd. (the petitioner). On September 9, 2004, and September 15, 2004, the Department issued supplemental questionnaires requesting additional information and clarification of certain areas of the petition. The Department also requested additional information in September 17, 2004, and September 24, 2004, conference telephone calls with the petitioner. *See* Memorandum from Catherine Cartsos through Mark Ross to the File dated September 20, 2004, and Memorandum from Susan Lehman through Mark Ross to the File dated September 27, 2004. The petitioner filed supplements to the petition on September 13, 2004, September 21, 2004, and September 27, 2004.

On September 23, 2004, E.I. DuPont de Nemours & Co. (DuPont), a domestic producer of PVA, upon the request of the Department, filed a statement detailing DuPont's total production of PVA for the calendar year 2003. On September 24, 2004, DuPont submitted two challenges to the petition. On September 27, 2004, Solutia Inc. (Solutia), a domestic producer of PVA, submitted a document informing the Department that it ''neither supports nor opposes the antidumping duty petition'' on PVA from Taiwan.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of PVA from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(c) of the Act and the petitioner has demonstrated sufficient industry support with respect to the investigation that the petitioner is requesting the Department to initiate (*see* ''Determination of Industry Support for the Petition'' below).

**Scope of Investigation**

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form is not included in the scope of this investigation. The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties, Countervailing Duties, Final Rule,* 62 FR 27296, 27323)(May 19, 1997), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of

publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The 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 determination.

**Determination of Industry Support for the Petition**

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) 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.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether the 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 (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product they do so for different purposes and pursuant to separate and distinct authority. *See* section 771(10) of the Act. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

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

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, PVA, which is defined in the ''Scope of Investigation'' section above, and we have analyzed industry support in terms of the domestic like product.

On September 24, 2004, the Department received opposition to the petition from DuPont, a producer of the domestic like product. Also, on September 27, 2004, the Department received a submission from Solutia, a producer of the domestic like product, expressing that it takes neither an affirmative nor a negative position with regard to this proceeding. However, the Department confirmed the necessary industry support based on the actual 2003 production figures which each domestic producer provided (*i.e.*, the petitioner represents over 50 percent of total production of the domestic like product). *See* Attachment II of the Initiation Checklist, dated September 27, 2004 (Initiation Checklist), on file in the Central Records Unit, Room B–099 of the Department of Commerce. The domestic producer who supports the petition accounts for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Further, the domestic producer who supports the petition accounts 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. Thus, the requirements of section 732(c)(4)(A)(ii) are also met.

On September 24, 2004, the same producer of the domestic like product that filed an opposition to the petition (DuPont) filed a submission in which it urged the Department to reject the petition ''because the petitioner has engaged in improper conduct'' with respect to the establishment of industry support. Because the petitioner represents over 50 percent of total U.S. production, notwithstanding the allegations contained in DuPont's September 24, 2004, submission, it is not appropriate to reject the petition.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

**Period of Investigation**

The anticipated period of investigation is July 1, 2003, through June 30, 2004.

**Export Price and Normal Value**

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

The petition identified one producer of PVA in Taiwan. *See* Volume I of the September 7, 2004, petition at page 25. The petitioner based export price (EP) on Taiwan export statistics, U.S. price quotes from two U.S. distributors engaged in the sale of Taiwan-origin PVA, and U.S. import statistics. We have not used the Taiwanese EP statistics because it is our practice to use U.S. import statistics used in the petition when there is a close correlation between the relevant HTS number and the subject merchandise. We found no compelling evidence to suggest that we should use the Taiwanese information over U.S. information. We have not used the U.S. price quotes because the prices were not as reasonably reliable as average per-unit values derived from U.S. import statistics. The price quotes were estimated prices based on rejected sales offers made by the petitioner. Therefore, we used the average unit prices based on U.S. import statistics that the petitioner provided in Exhibit 2 of its September 21, 2004, submission.

The petitioner calculated EP by deducting an amount for foreign inland freight from factory to port. We reviewed the information provided regarding EP and have determined that it represents information reasonably available to the petitioner and have reviewed it for adequacy and accuracy. See Initiation Checklist.

To calculate NV, the petitioner obtained contemporaneous home-market prices for PVA sold in Taiwan from a Web site sponsored by the Taiwan Institute of Chemical Industry. The petitioner made an adjustment to home-market price by deducting amounts for inland freight and imputed credit expense. The petitioner compared home-market prices to its own cost of production (COP), adjusted for known cost differences between Taiwan and

[1] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988).

the United States, to support a sales-below-cost allegation.

The Statement of Administrative Action (SAA), accompanying the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. See SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA states that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.'' *Id.*

Further, the SAA provides that the ''new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.'' *Id.*

Pursuant to section 773(b)(3) of the Act, COP consists of the COM and SG&A (including financial expenses). The petitioner calculated COP based on its own experience as a U.S. producer during 2003, adjusted for known differences between costs incurred to manufacture PVA in the United States and in Taiwan. With the exception of labor, the publicly available data the petitioner used was contemporaneous with the prospective POI. *See* Initiation Checklist.

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

As such, pursuant to sections 773(a)(4) and 773(e) of the Act, the petitioner calculated NV based on constructed value (CV). Consistent with section 773(e)(2)(B)(iii) of the Act, the petitioner included in CV an amount for profit. For profit, the petitioner relied upon amounts reported in Chang Chun Petrochemical Ltd.'s (CCP's), the potential respondent's, 2003 financial statements.

We adjusted the petitioner's calculated margin because the petitioner subtracted inland freight expenses from the CV and we do not normally deduct such expenses from CV. Therefore, we added the inland freight expense of 0.30 New Taiwan dollars per kilogram to the CV calculated by the petitioner and then converted the recalculated CV to a U.S. dollars per pound figure using the same methodology as the petitioner used. This results in a CV of US$ 0.8418 per pound and a U.S. price that is US$ 0.2398 per pound lower than CV. We reviewed the NV and CV information provided and have determined that it represents information reasonably available to the petitioner and have reviewed it for adequacy and accuracy.

Based on a comparison of EP derived from U.S. average unit values (AUVs) to adjusted CV, the dumping margin is 39.83 percent for PVA from Taiwan.

As indicated above, the petitioner also provided information demonstrating reasonable grounds to believe or suspect that sales of PVA in the home market were made at prices below the COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation.

**Fair-Value Comparison**

Based on the data provided by the petitioner, there is reason to believe that imports of PVA from Taiwan are being, or are likely to be, sold in the United States at less than fair value.

**Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioner contends that the industry's injured condition is evidenced by the volume of lost sales, declining profitability, reductions in employment, and stagnant capacity utilization. Furthermore, the petitioner contends that injury and threat of injury is evidenced by negative effects on its revenue, market share, and growth.

These allegations are supported by relevant evidence including import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist.

**Initiation of Antidumping Investigation**

Based upon the examination of the petition on PVA from Taiwan, and other information reasonably available to the Department, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of PVA from Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination 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 Act, a copy of the public version of the petition has been provided to the representatives of the government of Taiwan. We will attempt to provide a copy of the public version of the petition to the producer named in the petition.

**International Trade Commission Notification**

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

**Preliminary Determination by the International Trade Commission**

The ITC will preliminarily determine, no later than October 22, 2004, whether there is a reasonable indication that imports of PVA from Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: September 27, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. E4–2476 Filed 10–1–04; 8:45 am]

BILLING CODE 3510–DS–P

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Hong Kong

September 28, 2004.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

**EFFECTIVE DATE:** October 4, 2004.

# APPENDIX B

# CONFERENCE WITNESSES

## CALENDAR OF THE PUBLIC CONFERENCE

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

**POLYVINYL ALCOHOL FROM TAIWAN**

**Investigation No. 731-TA-1088 (Preliminary)**

**September 28, 2004 - 9:30 am**

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

**In Support of the Imposition of Antidumping Duties**:

Patton Boggs LLP
Washington, DC
on behalf of

Celanese Chemicals Ltd.

**William Massa**, Vice President, General Manager of the Polyvinyl Alcohol Division of Celanese
**Scott Neuheardt**, Commercial Director of the Polyvinyl Alcohol Division of Celanese
**Daniel Klett**, Economist, Capital Trade, Inc.

**Frank Samolis** – OF COUNSEL
**Sotiris A. ("Ted") Planzos**
**David Weiler**
**Leah Liston**

Greenberg Traurig, LLP
Washington, DC
on behalf of

Celanese Chemicals Ltd.

**Philippe M. Bruno** – OF COUNSEL
**Jeff Neeley**

**In Opposition to the Imposition of Antidumping Duties**:

Crowell & Moring LLP
Washington, DC
on behalf of

E.I. du Pont de Nemours and Co.

**Kathryn Kamins McCord**, Global Business Director for Intermediates for DuPont's Packaging and Industrial Polymers Business

**Jeffrey Snyder** – OF COUNSEL
**Matthew Jaffe**
**Alexander Schaefer**

White & Case LLP
Washington, DC
on behalf of

Chang Chun PetroChemical Co., Ltd.

**Richard Chen**, General Manager of Overseas Marketing, Chang Chun
**Seth Kaplan**, Economist, Charles River Associates

**Jay Campbell** – OF COUNSEL
**Kelly Slater**
**Jay Lee**

# APPENDIX C

# SUMMARY DATA

**Table C-1**
**PVA: Summary data concerning the total U.S. market, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

**Table C-2**
**PVA: Summary data concerning the commercial U.S. market, 2001-03, January-June 2003, and January-June 2004**

* * * * * * *

# APPENDIX D

# SELECTED QUESTIONNAIRE RESPONSES

**Question II-3 of producers' questionnaire**

Describe the significance of the antidumping duty orders on imports of polyvinyl alcohol from China, Japan, and Taiwan into the United States that were revoked in mid-2001 and the imposition of antidumping duty orders on imports of PVA from China, Japan, and Korea in mid-2003. You may wish to compare your firm's operations while the antidumping duty orders were in place with your operations after their revocation. Use additional pages as necessary.

* * * * * * *

**Question I-11 of importers' questionnaire**

Describe the significance of the antidumping duty orders on imports of polyvinyl alcohol from China, Japan, and Taiwan into the United States that were revoked in mid-2001 and the antidumping duty orders on imports of polyvinyl alcohol from China, Japan, and Korea into the United States that were imposed in mid-2003. You may wish to compare your firm's operations while the antidumping duty orders were in place with your operations before their implementation. Use additional pages as necessary.

* * * * * * *

# APPENDIX E

## COMPARISONS OF QUESTIONNAIRE SELLING PRICE DATA REPORTED BY CELANESE, DUPONT, AND PERRY CHEMICAL FOR PVA PRODUCTS 1-5 PRODUCED DOMESTICALLY AND IMPORTED FROM TAIWAN

Celanese reported selling prices of its U.S.-produced PVA products 1-5, DuPont reported selling prices of its U.S.-produced PVA product 5 and its imported Taiwan PVA products 1-5, and Perry Chemical reported selling prices of its imported Taiwan PVA products 1-3 and product 5. Celanese reported the quarterly pricing data for the full period requested, January 2001-June 2004, whereas DuPont was able to report the quarterly pricing data during January 2002-June 2004; its 2001 price data were archived and not readily available to report in the time frame of a preliminary investigation.[1] Perry Chemical reported its quarterly pricing data for the full period requested. The reported quarterly price data of Celanese's U.S.-produced products 1-5, DuPont's imported Taiwan products 1-5, and Perry Chemical's imported Taiwan products 1-3 and product 5, and price comparisons between the U.S.-produced and imported Taiwan products (the latter from each of the two importing firms) are shown, by product, in tables E-1 through E-5, respectively.

As shown in tables E-1 through E-5, *** quarterly price comparisons were possible between Celanese's U.S.-produced PVA products 1-5 and DuPont's imported Taiwan PVA products 1-5. *** of the *** price comparisons showed that the imported products were *** than the domestic product, by margins ranging from *** percent to *** percent. *** other price comparisons showed that the imported products were *** than the domestic product by margins ranging from *** percent to *** percent. The remaining price comparison showed that the domestic and imported products *** were ***.[2] DuPont reported in its questionnaire response that, ***,[3] *** market segment broadly and includes applications ***. According to ***, average pricing for customers vary widely, with *** selling at ***.[4] *** also asserted that price differences ***, with ***. *** reportedly started selling into the *** accounts in ***, whereas ***, according to ***, has been ***.

**Table E-1**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced PVA product 1 sold by Celanese and imported PVA product 1 from Taiwan sold by DuPont and by Perry Chemical, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

[1] DuPont's questionnaire response and staff interview with ***.

[2] Perry Chemical reported selling price data for its imported Taiwan PVA products 1-3 and product 5 (tables E-1 through E-3 and table E-5). There were a total of *** quarterly price comparisons between Celanese's reported price data for its U.S.-produced PVA and that reported by Perry Chemical for its imported Taiwan PVA. *** of the *** price comparisons showed the imported products to be *** than the domestic products, *** price comparisons showed the imported products to be *** than the domestic products, and the remaining *** price comparisons showed the domestic and imported products to be ***.

[3] ***.

[4] ***.

**Table E-2**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced PVA product 2 sold by Celanese and imported PVA product 2 from Taiwan sold by DuPont and by Perry Chemical, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table E-3**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced PVA product 3 sold by Celanese and imported PVA product 3 from Taiwan sold by DuPont and by Perry Chemical, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table E-4**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of domestic and subject imported PVA product 4 and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

**Table E-5**
**PVA: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced PVA product 5 sold by Celanese and imported PVA product 5 from Taiwan sold by DuPont and by Perry Chemical, and margins of underselling/(overselling), by quarters, January 2001-June 2004**

* * * * * * *

# APPENDIX F

# EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL, AND SCALE OF CAPITAL INVESTMENTS

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of PVA from Taiwan on their firms' 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. Their responses are reported below.

## Actual Negative Effects

**Celanese**

***.

**DuPont**

***.

**Solutia**

***.

## Anticipated Negative Effects

**Celanese**

***.

**DuPont**

***.

**Solutia**

***.