

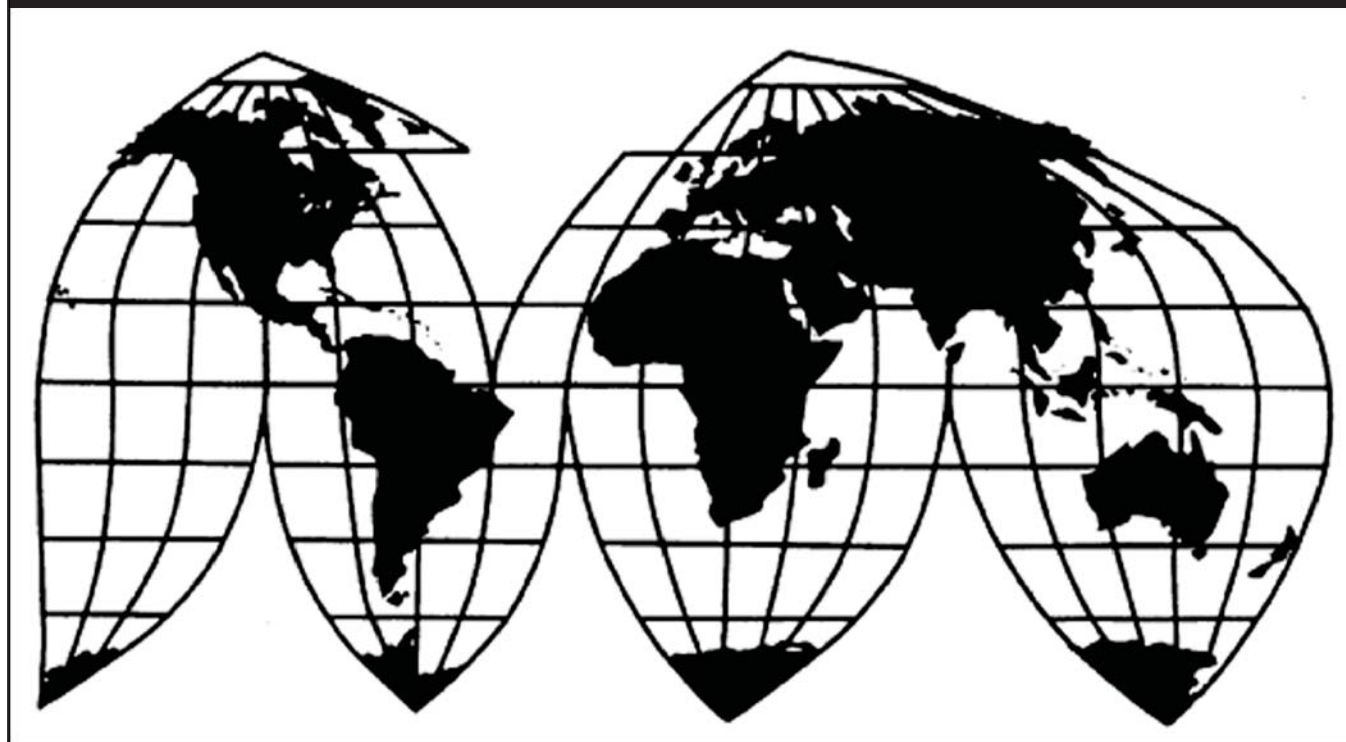
# **CERTAIN POLYESTER STAPLE FIBER FROM KOREA AND TAIWAN**

Investigation Nos. 731-TA-825 and 826 (Second Review)

**Publication 4257**

**September 2011**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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**Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



# **UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation Nos. 731-TA-825 and 826 (Second Review)

CERTAIN POLYESTER STAPLE FIBER FROM KOREA AND TAIWAN

## **DETERMINATION**

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

## **BACKGROUND**

The Commission instituted these reviews on March 1, 2011 (76 F.R. 11268) and determined on June 6, 2011 that it would conduct expedited reviews (76 F.R. 37830, June 28, 2011).

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



## VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders on certain polyester staple fiber (“certain PSF”) from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. BACKGROUND

In May of 2000, the Commission unanimously determined that an industry in the United States was materially injured by reason of LTFV imports of conventional polyester staple fiber (*i.e.*, certain PSF), but reached a negative determination with respect to LTFV imports of low-melt polyester staple fiber.<sup>1</sup> On May 25, 2005, Commerce imposed an antidumping duty order on certain PSF from Korea and Taiwan.<sup>2</sup>

On July 5, 2005, the Commission determined to conduct full reviews of the antidumping duty orders on certain PSF from Korea and Taiwan and, on March 7, 2006, the Commission determined that revocation of the orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>3</sup> Commerce published its notice of continuation of the antidumping duty orders on April 3, 2006.<sup>4</sup> Respondent interested parties appealed, and the U.S. Court of International Trade affirmed the Commission’s determinations.<sup>5</sup>

The Commission instituted these second five-year reviews of the orders at issue on March 1, 2011.<sup>6</sup> On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate, but that the respondent interested party group response was inadequate.<sup>7</sup> In the absence of an adequate respondent interested party group response, or other factors warranting a full review, the Commission determined to conduct expedited reviews pursuant to section 751(c)(3) of the Act.<sup>8 9</sup> Domestic producers DAK Americas LLC (“DAK”), Palmetto Synthetics LLC (“Palmetto”), U.S. Fibers, and Wellman Plastics Recycling LLC (“Wellman”) (collectively, the “domestic interested parties”), jointly responded to the Commission’s notice of institution and filed comments. No respondent interested party has provided any information or argument to the Commission.

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<sup>1</sup> Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final), USITC Pub. 3300 (May 2000) (“Original Determinations”). Chairman Bragg dissented from the majority’s finding that low melt polyester staple fiber constituted a separate like product, and found that based on a single domestic like product, coextensive with the scope, the domestic industry was materially injured by reason of LTFV import of PSF, including low-melt fiber. *See id.* at 3 n.1.

<sup>2</sup> 65 Fed. Reg. 33807 (May 25, 2000).

<sup>3</sup> Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review), USITC Pub. 3843 (March 2006) (“First Five-Year Review Determinations”).

<sup>4</sup> 71 Fed. Reg. 16558.

<sup>5</sup> Consolidated Fibers v. United States, 571 F. Supp. 2d 1355 (Ct. Int’l Trade 2008). Respondent interested parties also appealed the Commission’s denial of their request that the Commission reconsider its original determinations based on alleged evidence of a price fixing conspiracy, and the Court affirmed the Commission. Consolidated Fibers v. United States, 535 F. Supp. 2d 1345 (Ct. Int’l Trade 2008).

<sup>6</sup> 76 Fed. Reg. 11268.

<sup>7</sup> *See* Confidential Staff Report (“CR”)/ Public Staff Report (“PR”) at Appendix B.

<sup>8</sup> 19 U.S.C. § 1675(c)(3).

<sup>9</sup> *See* CR/PR at Appendix B.

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c) of the Act, the Commission defines the “domestic like product” and the “industry.”<sup>10</sup> 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 under this subtitle.”<sup>11</sup> The Commission’s practice in five-year reviews is to examine the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.<sup>12</sup>

In these five-year reviews, Commerce has defined the subject merchandise as follows:

[S]ynthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.<sup>13</sup>

Commerce has specifically excluded the following products from the scope of the orders:

[M]erchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the HTS at subheading 5503.20.0020 (5503.20.0025 in the 2005 HTS) and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and low-melt polyester staple fiber, defined as bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.<sup>14</sup>

Certain PSF, a man-made fiber that is similar in appearance to cotton or wool when baled, is known in the industry as “fiber for fill” because it is primarily used as polyester fiberfill for stuffing furniture, comforters, pillows, cushions, sleeping bags, and ski jackets.<sup>15</sup> Certain PSF is distinguishable from other types of PSF used for carpets and for spinning textiles by the denier of the fiber, the length of the fiber, and in some cases the finish and “crimp” of the fiber.<sup>16</sup>

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<sup>10</sup> 19 U.S.C. § 1677(4)(A).

<sup>11</sup> 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>12</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks From Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat From China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (Jul. 2003); *Steel Concrete Reinforcing Bar From Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

<sup>13</sup> CR at I-7; PR at I-7.

<sup>14</sup> CR at I-7; PR at I-7.

<sup>15</sup> CR at I-8; PR at I-8.

<sup>16</sup> CR at I-8; PR at I-8.

In the original investigations, the Commission found two domestic like products corresponding to 1) low-melt fiber, and 2) conventional PSF.<sup>17</sup> Because the Commission found no material injury or threat of material injury by reason of subject imports with respect to low-melt fiber, the relevant domestic like product definition from the original investigations is all conventional PSF, the product subject to the antidumping duty orders.

In the first five-year reviews, the Commission found that the record contained no information suggesting that it would be appropriate to reconsider the domestic like product definition from the original investigations, and no interested party disagreed with that definition.<sup>18</sup> Accordingly, the Commission defined the domestic like product as all certain PSF, coextensive with the scope of the reviews.<sup>19</sup>

In these reviews, the domestic interested parties agree with the domestic like product definition from the original investigations (*i.e.*, the domestic like product corresponding to all conventional polyester staple fiber) and also with the domestic like product definition from the first five-year reviews, corresponding to Commerce's scope definition.<sup>20</sup> No new information suggests that the domestic like product definition should be revisited and no party has expressed disagreement with it. Therefore, for the reasons stated in the original determinations and the first five-year reviews, we continue to define the domestic like product as all certain PSF, corresponding to the scope of Commerce's investigations and reviews.

## **B. Domestic Industry and Related Parties**

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a whole 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."<sup>21</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Section 771(4)(B) of the Act 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.<sup>22</sup>

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<sup>17</sup> Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final), USITC Pub. 3300 (May 2000) ("Original Determinations") at 9. Chairman Bragg dissented from the majority's finding that low melt polyester staple fiber constituted a separate like product, and found that based on a single domestic like product, coextensive with the scope, the domestic industry was materially injured by reason of LTFV import of PSF, including low-melt fiber. See id. at 3 n.1.

<sup>18</sup> First Review Determinations at 5-6.

<sup>19</sup> First Review Determination at 6.

<sup>20</sup> CR at I-12; PR at I-10.

<sup>21</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>22</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

(continued...)

In the original investigations, the Commission defined two domestic industries corresponding to the two domestic like products: 1) all domestic producers of conventional PSF; and 2) all domestic producers of low melt fiber.<sup>23</sup> The Commission also determined that circumstances did not warrant the exclusion of either Nan Ya or \*\*\* from the domestic industry as related parties.<sup>24</sup> Though wholly owned by a Taiwanese foreign producer, Nan Ya imported no subject merchandise over the period examined in the investigations and was no more profitable than any other domestic producer.<sup>25</sup> The Commission concluded that \*\*\* did not qualify as a related party based on its purchases of subject imports from \*\*\*, an importer, because the quantity of its purchases was not sufficient to give it direct or indirect control over \*\*\* within the meaning of 19 U.S.C. § 1677(4)(B)(ii).<sup>26</sup>

In the first five-year reviews, the Commission defined the domestic industry as all domestic producers of certain PSF.<sup>27</sup> The Commission also determined that circumstances did not warrant the exclusion, under the related parties provision, of producers Formed Fiber Technologies, d/b/a Color-Fi (“FFT”), Nan Ya, or United Synthetics, Inc. (“United Synthetics”). The Commission found that FFT’s importation of certain PSF from Korea had neither shielded it from competition with subject imports nor benefitted the company’s domestic PSF operations, because \*\*\*.<sup>28</sup> The Commission found that circumstances did not warrant exclusion of Nan Ya because its primary interest appeared to be in domestic production. It imported no \*\*\* during the period examined in the reviews, and it \*\*\* continuation of the orders.<sup>29</sup> The Commission also found that circumstances did not warrant exclusion of United Synthetics because that company’s primary interest appeared to be in domestic production and it \*\*\* on continuation of the orders.<sup>30</sup>

In these reviews, no party disagrees with the domestic industry definition from the first five-year reviews, and no new facts have been presented to warrant a different definition. We therefore define the domestic industry to include all known domestic producers of certain PSF -- Color-Fi (Division of FFT), DAK, Invista (currently operating as Auriga Polymers), Nan Ya, Palmetto, United Synthetics, U.S. Fibers, and Wellman.<sup>31</sup>

We also find that circumstances do not warrant the exclusion of related parties Nan Ya and Wellman from the domestic industry. Nan Ya continues to qualify as a related party because the information available indicates that it remains a wholly-owned subsidiary of Nan Ya Plastics Corp. of

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<sup>22</sup> (...continued)

The Commission has also concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer’s purchases and the importer’s purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9.

<sup>23</sup> Original Determinations at 9-10.

<sup>24</sup> Confidential Views, Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final) (“Confidential Original Determinations”) at 14.

<sup>25</sup> Original Determinations at 11.

<sup>26</sup> Confidential Original Determinations at 15-16.

<sup>27</sup> First Review Determinations at 6.

<sup>28</sup> Confidential Views, Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review) (“Confidential First Review Determinations”) at 7.

<sup>29</sup> Confidential First Review Determinations at 7-8. In addition, the Commission observed that no party argued that Nan Ya was shielded from subject import competition or had benefitted in any way from its relationship with a subject foreign producer. *Id.* at 8.

<sup>30</sup> Confidential First Review Determinations at 8. In addition, the Commission observed that no party argued that United Synthetics was shielded from subject import competition or had benefitted in any way from its relationship with an importer of subject merchandise. *Id.*

<sup>31</sup> CR/PR at Table I-2.

Taiwan, a subject foreign producer and exporter.<sup>32</sup> The limited information available on the record of these reviews indicates that Nan Ya remained a significant domestic producer during the period examined, having produced an estimated \*\*\* million pounds of certain PSF in 2010, equivalent to \*\*\* percent of estimated domestic industry production that year.<sup>33</sup> There is no information on the record suggesting that Nan Ya was shielded in any way from subject import competition or otherwise benefitted from its relationship with a subject foreign producer, and the domestic interested parties have not argued for its exclusion. We therefore find that appropriate circumstances do not exist to exclude Nan Ya from the domestic industry as a related party.

United Synthetics continues to qualify as a related party because the information available indicates that its parent company, Korea Synthetic Fibers, Inc., is a subject foreign producer.<sup>34</sup> The limited information available on the record of these reviews indicates that United Synthetics remained a significant domestic producer during the period examined, having produced an estimated \*\*\* million pounds of certain PSF in 2010, equivalent to \*\*\* percent of estimated domestic industry production that year.<sup>35</sup> There is no information on the record suggesting that United Synthetics was shielded in any way from subject import competition or otherwise benefitted from its relationship with a subject foreign producer, and the domestic interested parties have not argued for its exclusion. We therefore find that appropriate circumstances do not exist to exclude United Synthetics from the domestic industry as a related party.

In sum, we define the domestic industry as all domestic producers of certain PSF.

### III. CUMULATION

#### A. Legal Standard

With respect to five-year reviews, section 752(a) of the Act provides as follows: the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>36</sup>

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<sup>32</sup> CR at I-14; PR at I-11; Domestic Interested Parties' Response at 10, Exhibit 5.

<sup>33</sup> CR/PR at Table I-2. The record contains no information on whether Nan Ya imported subject merchandise during the period examined in these reviews, as the Commission does not collect such information in expedited reviews. Because Nan Ya did not respond to the notice of institution, its position on whether the orders should be continued is not known. In the first five-year reviews, Nan Ya \*\*\* and \*\*\* continuation of the orders. Confidential First Review Determinations at 7-8.

<sup>34</sup> CR at I-14; Domestic Interested Parties' Response at 10, Exhibit 5.

<sup>35</sup> CR/PR at Table I-2. The record contains no information on whether United Synthetics imported subject merchandise during the period examined in these reviews, as the Commission does not collect such information in expedited reviews. Because United Synthetics did not respond to the notice of institution, its position on whether the orders should be continued is not known. In the first five-year reviews, United Synthetics \*\*\* and \*\*\* continuation of the orders. Confidential First Review Determinations at 8.

<sup>36</sup> 19 U.S.C. § 1675a(a)(7).

Cumulation therefore is discretionary in five-year reviews, unlike in original investigations, which are governed by section 771(7)(G)(i) of the Act.<sup>37</sup> The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

The threshold criterion for cumulation in these reviews is satisfied because both five-year reviews at issue were instituted on the same day, March 1, 2011.<sup>38</sup> We consider three issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among imports from the subject countries and the domestic like product; and (3) whether there are similarities and differences in the likely conditions of competition under which subject imports are likely to compete in the U.S. market.<sup>39 40</sup>

In these reviews, there is no new evidence on the record or interested party argument that would warrant departure from the Commission's finding in the first five-year reviews that revocation of either of the individual antidumping duty orders on Korea or Taiwan would likely have a discernible adverse

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<sup>37</sup> 19 U.S.C. § 1677(7)(G)(i); see also, e.g., Nucor Corp. v. United States, 601 F.3d 1291, 1293, App. No. 2009-1234, Slip Op. at 7-8 (Fed. Cir. Apr. 7, 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); Allegheny Ludlum Corp. v. United States, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); Nucor Corp. v. United States, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

<sup>38</sup> 76 Fed. Reg. 11268.

<sup>39</sup> Chairman Okun and Commissioner Pearson note that, while they consider the same issues discussed in this section in determining whether to exercise their discretion to cumulate the subject imports, their analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, they next proceed to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis they intend to exercise their discretion to cumulate one or more subject countries, they analyze whether they are precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). Accord Nucor Corp. v. United States, 605 F. Supp.2d 1361, 1372 (Ct. Int'l Trade 2009); Nucor Corp. v. United States, 594 F. Supp.2d 1320, 1345-47 (Ct. Int'l Trade 2008), aff'd, Slip Op. 2009-1234 (Fed Cir. Apr. 7, 2010).

<sup>40</sup> Commissioners Lane and Pinkert explain their analysis of other considerations as follows. Where, in a five-year review, they do not find that the imports of the subject merchandise would be likely to have no discernible adverse impact on the domestic industry in the event of revocation and find that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, they cumulate them unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. They note, as is pointed out in the text, the lack of record information about the industries in the subject countries. Consequently, they find that there is no condition or propensity warranting non-cumulation with respect to either of the subject countries, and they have cumulated imports from both in these reviews.

impact on the domestic industry.<sup>41</sup> Over the period examined in the original investigations, subject import volume from each of the subject countries was significant and subject import volume and market share increased significantly with respect to both Korea and Taiwan.<sup>42</sup> Subject imports from Korea and Taiwan maintained a significant presence in the U.S. market during the period examined in the first reviews, as well as in these reviews.<sup>43</sup> The information available indicates that subject foreign producers in both Korea and Taiwan possess significant excess capacity<sup>44</sup> and that subject foreign producers in Taiwan are export oriented to a significant degree.<sup>45</sup> Based on the information available in these reviews, we find that revocation of either of the individual antidumping duty orders on certain PSF from Korea and Taiwan would likely have a discernible adverse impact on the domestic industry.

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.<sup>46</sup> Only a

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<sup>41</sup> See First Review Determinations at 9.

<sup>42</sup> Over the period examined in the original investigations, subject imports from Korea increased from \*\*\* pounds in 1997, equivalent to \*\*\* percent of apparent U.S. consumption, to \*\*\* pounds in 1999, equivalent to \*\*\* percent of apparent U.S. consumption. CR/PR at Appendix C. Subject imports from Taiwan increased from \*\*\* pounds in 1997, equivalent to \*\*\* percent of apparent U.S. consumption, to \*\*\* pounds in 1999, equivalent to \*\*\* percent of apparent U.S. consumption. *Id.*

<sup>43</sup> Subject imports from Korea increased irregularly during the period examined in the first reviews, increasing from 198,608 pounds in 2000 to 258,351 pounds in 2003 before declining to 209,856 short tons in 2004, a level still higher than in 2000. CR/PR at Appendix C. As a share of apparent U.S. consumption, subject imports from Korea increased from 23.0 percent in 2000 to 24.3 percent in 2003 but then declined to 19.8 percent in 2004. *Id.* During the period examined in these reviews, subject imports from Korea declined from 184,832 pounds in 2005 to 169,865 pounds in 2006, increased to 208,673 pounds in 2007, declined to 176,104 pounds in 2008 and 135,582 pounds in 2009, and then increased to 140,339 pounds in 2010. *Id.* at Table I-3. Subject imports from Korea were equivalent to \*\*\* percent of apparent U.S. consumption in 2010, the only year for which apparent U.S. consumption data is available. *Id.* at Table I-4.

Subject imports from Taiwan declined irregularly during the period examined in the first review, increasing from 164,473 pounds in 2000 to 170,054 pounds in 2001 before declining steadily to 72,376 pounds in 2004. *Id.* As a share of apparent U.S. consumption, subject imports from Taiwan increased from 19.1 percent in 2000 to 19.3 percent in 2001 but then declined steadily to 6.8 percent in 2004. *Id.* During the period examined in these reviews, subject imports from Taiwan declined from 54,139 pounds in 2005 to 37,471 pounds in 2006, increased to 48,191 pounds in 2007, declined to 30,061 pounds in 2008 and 14,912 pounds in 2009, and then increased to 26,120 pounds in 2010. *Id.* at Table I-3. Subject imports from Taiwan were equivalent to \*\*\* percent of apparent U.S. consumption in 2010, the only year for which apparent U.S. consumption data is available. *Id.* at Table I-4.

<sup>44</sup> The information available indicates that the two largest Korean producers of certain PSF, Huvis Corp. (“Huvis”) and Woongjin Chemical Co., Ltd. (“Woongjin”), possessed a capacity of 1,341,279 pounds during the 2005-2010 period, while their production fluctuated within a narrow band from a low of 1,050,966 pounds in 2008 to a high of 1,181,159 pounds in 2007. CR at I-18; PR at I-15. In 2010, these two Korean producers produced 1,154,070 pounds of PSF for a capacity utilization rate of 86.0 percent, leaving them with excess capacity of 187,209 pounds. CR/PR at Table I-5.

The information available also indicates that Taiwan industry capacity was 2,000,000 pounds throughout the period, while production declined from 1,613,516 pounds in 2005 to 1,048,647 pounds in 2008 before increasing to 1,237,695 pounds in 2010. *Id.* at Table I-6. The Taiwan industry’s rate of capacity utilization was 61.9 percent in 2010, resulting in excess capacity of 762,305 pounds. *Id.*

<sup>45</sup> Based on the information available, the Taiwan industry’s exports as a share of production ranged from 65.7 to 74.9 percent during the 2005-2010 period, and were 69.3 percent in 2010. CR/PR at Table I-6.

<sup>46</sup> The four factors generally considered by the Commission in assessing whether there is a reasonable overlap in competition of imports with each other and with the domestic like product are as follows: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like

(continued...)

“reasonable overlap” of competition is required.<sup>47</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.<sup>48</sup> Based on these four factors, the Commission in the first five-year reviews found a reasonable overlap of competition between and among subject imports from Korea and Taiwan and the domestic like product.<sup>49</sup>

In the absence of new information to the contrary, our findings from the first five-year reviews concerning the likelihood of a reasonable overlap of competition remain valid in these reviews.<sup>50</sup> There is no new information to suggest that certain PSF from Korea, Taiwan, and the United States is any less interchangeable today than in the first five-year reviews.<sup>51</sup> Although the record of these reviews does not contain information on the geographic distribution of subject imports from Korea and Taiwan, a significant volume of subject imports from each country was present in the U.S. market in each year of the 2005-2010 period.<sup>52</sup> There is no new information on the record to suggest that the channels of distribution for the domestic like product and for subject imports from Korea and Taiwan, respectively, have changed since the first five-year reviews, when most certain PSF from all three sources was sold directly to end users, with the balance sold to distributors.<sup>53</sup> No interested party has argued in these current reviews that the Commission should find that there would likely be no reasonable overlap of competition were the orders to be revoked. Based on the limited information available on the record of these reviews, we find that there would likely be a reasonable overlap of competition between subject imports and the domestic like product, as well as between subject imports from Korea and Taiwan, were the orders to be revoked. For these reasons, and because there is no indication of other significant differences in the likely conditions of competition in the market such that the likely volume and effect of subject imports from Korea and Taiwan would be substantially different, we conclude that it is appropriate to exercise our discretion to cumulate subject imports from Korea and Taiwan in these reviews.

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<sup>46</sup> (...continued)

product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>47</sup> See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle From Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812 to 813 (Prelim.), USITC Pub. 3155 at 15 (Feb. 1999), aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-761 to 762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>48</sup> See generally Cheflene Corp. v. United States, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

<sup>49</sup> See First Review Determinations at 10-11.

<sup>50</sup> See Second Five-Year Review Determinations, USITC Pub. 3809 at 11-12.

<sup>51</sup> See Domestic Interested Parties’ Response at 7; Domestic Interested Parties’ Comments at 4.

<sup>52</sup> CR/PR at Table I-3.

<sup>53</sup> First Review Determinations at 11.

#### IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED

##### A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>54</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>55</sup> Thus, the likelihood standard is prospective in nature.<sup>56</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>57 58 59</sup>

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>60</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>61</sup>

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<sup>54</sup> 19 U.S.C. § 1675a(a).

<sup>55</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>56</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>57</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>58</sup> For a complete statement of Chairman Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in *Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy*, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

<sup>59</sup> Commissioner Lane notes that, consistent with her views in *Pressure Sensitive Plastic Tape From Italy*, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

<sup>60</sup> 19 U.S.C. § 1675a(a)(5).

<sup>61</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts),  
(continued...)

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>62</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>63</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>64</sup>

No respondent interested parties participated in these expedited reviews. The record, therefore, contains limited new information with respect to the certain PSF industries in Korea and Taiwan, as well as limited information on the U.S. certain PSF market during the period of review. Accordingly, for our determinations, we rely as appropriate on the facts available from the original investigations and first reviews and the limited new information on the record of these reviews.<sup>65 66</sup>

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<sup>61</sup> (...continued)

and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

<sup>62</sup> 19 U.S.C. § 1675a(a)(1).

<sup>63</sup> 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings on the subject merchandise covered by the orders. See 76 Fed. Reg. 38612 (July 1, 2011).

<sup>64</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>65</sup> 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2001) (“[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

<sup>66</sup> Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

## B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>67</sup>

In the original investigations, the Commission addressed five conditions of competition relevant to its analysis. First, it observed that the healthy economy, and particularly the strong housing market, had contributed to increasing demand for PSF.<sup>68</sup> It also noted that PSF demand was somewhat sensitive to price, notwithstanding the lack of substitutes, due to the high cost share of PSF in end-use products.<sup>69</sup> Second, it noted that the cost of shifting production between PSF and non-subject products on the same equipment was low, and far less than the significant cost of assembling a new production line.<sup>70</sup> Third, it noted that the willingness of purchasers to pay a premium for branded PSF had been significantly eroded over the period examined in the investigations.<sup>71</sup> Fourth, it contrasted the insignificant market share of non-subject imports with the dominant shares held by subject imports and the domestic like product.<sup>72</sup> Finally, the Commission rejected the respondents’ assertion that subject imported conjugate and regenerated PSF competed primarily with non-PSF alternative products, and not with the domestic like product.<sup>73</sup> The record indicated that purchasers were driven by price considerations to blend different types of PSF to achieve desired product characteristics at a given price point.<sup>74</sup> Respondents could cite no niche market served by subject imported conjugate and regenerated PSF, and the import volume of each product was much larger than would be expected for products serving niche markets.<sup>75</sup> Pricing data did not corroborate the respondents’ argument that conjugate PSF was a premium specialty product, and purchasers had reported that both conjugate and regenerated PSF were generally interchangeable with other types of PSF.<sup>76</sup>

In the first five-year reviews, the Commission found the following conditions of competition relevant to its analysis.<sup>77</sup> With respect to demand, the Commission found that apparent U.S. consumption increased 22.8 percent between 2000 and 2004, and was 0.3 percent higher in January-September 2005 than in January-September 2004, as the strong housing market increased demand for furniture and bedding containing PSF.<sup>78</sup> With respect to supply, the Commission observed that the domestic industry had undergone a significant restructuring over the period of review, including the emergence of three new domestic producers and significant reductions in production capacity.<sup>79</sup> The Commission found that the domestic industry’s raw material costs had increased significantly over the period of review, with raw material costs as a share of total cost of goods sold increasing from 60 percent in 2000 to 72 percent in

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<sup>67</sup> 19 U.S.C. § 1675a(a)(4).

<sup>68</sup> Original Determinations at 14.

<sup>69</sup> Original Determinations at 14.

<sup>70</sup> Original Determinations at 15.

<sup>71</sup> Original Determinations at 15.

<sup>72</sup> Original Determinations at 15.

<sup>73</sup> Original Determinations at 15.

<sup>74</sup> Original Determinations at 15.

<sup>75</sup> Original Determinations at 16.

<sup>76</sup> Original Determinations at 16.

<sup>77</sup> The Commission also considered and rejected the respondent interested parties’ argument that certain domestic producers had engaged in an antitrust conspiracy that corrupted the record of the reviews. First Review Determinations at 17. Based on “the weight of the voluminous record evidence,” the Commission found that any conspiracy was primarily limited to fine denier PSF, a nonsubject product, and could therefore have had no significant effect on the record of the reviews. *Id.* at 22-23.

<sup>78</sup> First Review Determinations at 14.

<sup>79</sup> First Review Determinations at 14.

2004 and 73 percent in interim 2005.<sup>80</sup> It found that nonsubject import volume doubled between 2000 and 2004 as China emerged as the largest source of nonsubject imported PSF.<sup>81</sup> Finally, the Commission found a substantial degree of substitutability between subject imports and the domestic like product, with purchasers blending different types of PSF to achieve desired product characteristics at a given price point.<sup>82</sup>

In these reviews, we find the following conditions of competition relevant to our analysis.

### **1. Demand Conditions**

The information available indicates that U.S. demand for certain PSF declined 18.3 percent between 2004 and 2010, from 1.1 billion pounds to 865 million pounds.<sup>83</sup> The domestic interested parties attribute the decline in U.S. demand for certain PSF to the reduced production of downstream articles containing certain PSF in the United States, as imports of such articles from China increased; the recent downturn in the housing market; and new federal regulations concerning fire retardant materials that have reduced demand for certain types of PSF.<sup>84</sup>

### **2. Supply Conditions**

The U.S. certain PSF market is supplied by domestic producers, subject imports, and nonsubject imports. Since the original investigations, the number of domestic producers has increased from six to eight and the composition of the domestic industry has changed, with three producers having exited the market (DuPont, Intercontinental Polymers, and KoSa) and five producers having entered the market (DAK, Invista (currently operating as Auriga Polymers), U.S. Fibers, United Synthetics, and Palmetto).<sup>85</sup> The domestic industry's share of apparent U.S. consumption declined from 63.7 percent in 1997 to 58.1 percent in 1999, remained at 57.6 percent in 2004, and then declined to \*\*\* percent in 2010.<sup>86</sup>

Cumulated subject imports maintained a significant presence in the U.S. market throughout the 2005-2010 period and accounted for \*\*\* percent of apparent U.S. consumption in 2010.<sup>87</sup>

Nonsubject imports also maintained a significant presence in the U.S. market during the 2005-2010 period and accounted for \*\*\* percent of apparent U.S. consumption in 2010.<sup>88</sup> The top four nonsubject country sources of certain PSF in 2010 were China, India, Indonesia, and Thailand.<sup>89</sup>

### **3. Substitutability**

In the absence of any new evidence to the contrary on the record of these reviews, we adopt our finding from the first five-year reviews that there is a substantial degree of interchangeability between subject imports from Korea and Taiwan and between cumulated subject imports and the domestic like

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<sup>80</sup> First Review Determinations at 14-15.

<sup>81</sup> First Review Determinations at 15.

<sup>82</sup> First Review Determinations at 15-16.

<sup>83</sup> Domestic Interested Parties' Comments at 4. The World Polyester Fiber Report 2010 indicates that U.S. consumption of all PSF, including nonsubject and subject PSF, declined \*\*\* percent between 2005 and 2009, from \*\*\* pounds to \*\*\* pounds. CR at I-16; PR at I-14.

<sup>84</sup> CR at I-16-17; PR at I-14; Domestic Interested Parties' Comments at 5.

<sup>85</sup> See CR at I-13-14; PR at I-11.

<sup>86</sup> CR/PR at Table I-4, Appendix C.

<sup>87</sup> CR/PR at Tables I-3-4.

<sup>88</sup> CR/PR at Table I-3.

<sup>89</sup> CR/PR at Table I-3 n.1.

product.<sup>90</sup> All types of certain PSF are utilized in the same end use applications, primarily as stuffing for furniture, pillows, and other bedding.<sup>91</sup> There is nothing on the record of these reviews that contradicts the Commission's finding in the original investigations and first five-year reviews that purchasers blend different types of PSF to achieve desired product characteristics at a given price point.<sup>92</sup>

Based on the record of these reviews, we find that conditions of competition in the certain PSF market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in these reviews, we find that current conditions of competition provide us with a reasonable basis on which to assess the likely effects of revocation of the orders in the reasonably foreseeable future.

### C. Likely Volume

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>93</sup> In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>94</sup>

In the original investigations, the Commission found that subject imports increased significantly between 1997 and 1999, with subject import volume increasing \*\*\* percent to \*\*\* thousand pounds, subject import shipment volume increasing \*\*\* percent to \*\*\* thousand pounds, and subject import market share increasing from \*\*\* percent in 1997 to \*\*\* percent in 1999.<sup>95</sup> Although domestic industry shipments increased \*\*\* percent over the same period, despite an \*\*\* percent dip in 1998, domestic industry market share declined from \*\*\* percent in 1997 to \*\*\* percent in 1999.<sup>96</sup>

In the first five-year reviews, the Commission found that cumulated subject import volume increased from 363.1 million pounds in 2000 to 371.1 million pounds in 2001 before declining to 282.2 million pounds in 2004, while subject imports as a share of apparent U.S. consumption declined from 42.1 percent in 2000 to 26.6 percent in 2004.<sup>97</sup> Citing the Korean and Taiwan industries' substantial and growing excess capacity, the rapidly expanding Chinese PSF industry, and third country barriers, the Commission found that subject foreign producers in Korea and Taiwan would likely seek to fill their excess capacity with significantly increased exports to the United States if the orders were to be

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<sup>90</sup> First Review Determinations at 16.

<sup>91</sup> See CR at I-8; PR at I-8.

<sup>92</sup> Original Determinations at 15; First Review Determinations at 16. The domestic interested parties maintain that PSF, whether domestic or imported, is essentially fungible and sold primarily on the basis of price. Domestic Interested Parties' Comments at 4.

<sup>93</sup> 19 U.S.C. § 1675a(a)(2).

<sup>94</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>95</sup> Confidential Original Determinations at 23-24. Subject import volume increased from \*\*\* thousand pounds in 1997 to \*\*\* thousand pounds in 1999. Subject import shipment volume increased \*\*\* percent from \*\*\* thousand pounds in 1997 to \*\*\* thousand pounds in 1999.

<sup>96</sup> Confidential Original Determinations at 24. Domestic industry shipments declined from \*\*\* thousand pounds in 1997 to 465,182 thousand pounds in 1998, before increasing to 525,092 thousand pounds in 1999.

<sup>97</sup> First Review Determinations at 24.

revoked.<sup>98</sup> Accordingly, the Commission concluded that subject import volume would likely be significant after revocation.<sup>99</sup>

In these reviews, cumulated subject import volume declined overall during the 2005-2010 period but remained at significant levels. Cumulated subject imports declined from 238,971 pounds in 2005 to 207,336 pounds in 2006, increased to 256,864 pounds in 2007, declined to 206,165 pounds in 2008 and 150,495 pounds in 2009, and then increased to 166,459 pounds in 2010, a level 30.3 percent lower than in 2005.<sup>100</sup> Cumulated subject imports accounted for \*\*\* percent of apparent U.S. consumption in 2010, compared with 26.6 percent in 2004 and 37.1 percent in 1999.<sup>101</sup> The continuous, significant presence of cumulated subject imports in the U.S. market even under the discipline of the orders suggests that subject foreign producers remain interested in serving U.S. customers and capable of leveraging their ongoing relationships with such customers to rapidly increase their penetration of the U.S. market if the orders were to be revoked.

The limited information on the record of these reviews indicates that subject foreign producers in Korea and Taiwan possess significant excess capacity and that subject foreign producers in Taiwan are export oriented to a significant degree.<sup>102</sup> On a cumulated basis, subject foreign producers in Korea and Taiwan possessed excess capacity of 949,514 pounds in 2010, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>103</sup> If the orders were to be revoked, subject foreign producers in Korea and Taiwan would likely seek to boost their rates of capacity utilization by using their excess capacity to increase production and exports to the United States.

Based on the information available, the two largest Korean producers of certain PSF, Huvis and Woongjin, possessed an annual production capacity of 1,341,279 pounds during the 2005-2010 period, while their production fluctuated within a narrow band from a low of 1,050,966 pounds in 2008 to a high of 1,181,159 pounds in 2007.<sup>104</sup> In 2010, these two Korean producers produced 1,154,070 pounds of PSF for a capacity utilization rate of 86.0 percent, leaving them with excess capacity of 187,209 pounds.<sup>105</sup>

The information available also indicates that Taiwan industry annual production capacity was 2,000,000 pounds throughout the period, while production declined from 1,613,516 pounds in 2005 to 1,048,647 pounds in 2008 before increasing to 1,237,695 pounds in 2010.<sup>106</sup> The Taiwan industry's rate of capacity utilization was 61.9 percent in 2010, resulting in excess capacity of 762,305 pounds.<sup>107</sup> The Taiwan industry's exports as a share of production ranged from 65.7 to 74.9 percent during the 2005-2010 period and was 69.3 percent in 2010.<sup>108</sup>

Third country trade barriers also would likely encourage subject foreign producers in Korea and Taiwan to significantly increase exports to the United States after revocation. According to the information available, PSF from Korea is subject to antidumping duty measures in Japan, Mexico,

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<sup>98</sup> See First Review Determinations at 24-26.

<sup>99</sup> First Review Determinations at 27.

<sup>100</sup> CR/PR at Table I-3.

<sup>101</sup> CR/PR at Table I-4, Appendix C.

<sup>102</sup> The Commission collected no information on either subject import inventories or the potential for product shifting due to the absence of any respondent interested party response to the Commission's notice of institution of these reviews. See 19 U.S.C. § 1675(c)(3)(B). In the first reviews, the Commission found that a limited number of producers in Korea and Taiwan may have the ability to increase their certain PSF capacity by shifting production from nonsubject PSF products. First Review Determinations at 25 n.174.

<sup>103</sup> CR/PR at Table I-4.

<sup>104</sup> CR/PR at Table I-5.

<sup>105</sup> CR/PR at Table I-5.

<sup>106</sup> CR/PR at Table I-6.

<sup>107</sup> CR/PR at Table I-6.

<sup>108</sup> CR/PR at Table I-6.

Pakistan, and Turkey, while PSF from Taiwan is subject to antidumping duty measures in Indonesia, Japan, and Turkey.<sup>109</sup>

For all these reasons, we conclude, based on the facts available,<sup>110</sup> that cumulated subject import volume, both in absolute terms and relative to production and consumption in the United States, would likely be significant and increase significantly absent the restraining effect of the antidumping duty orders.

#### **D. Likely Price Effects**

In evaluating the likely price effects of subject imports if an antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>111</sup>

In the original investigations, the Commission found that significant volumes of subject imports undersold the domestic like product and significantly contributed to the depression of prices for the domestic like product. The Commission observed that domestic producers lost sales and market share in 1997 and 1998 as their prices remained relatively steady.<sup>112</sup> They only regained lost market share in 1999 when their prices dropped.<sup>113</sup> The Commission concluded that subject imports had contributed significantly to those trends by underselling the domestic like product in 162 of 168 quarterly comparisons, or 96.4 percent of the time, at margins ranging from 1.9 percent to 78.2 percent.<sup>114</sup> In rejecting respondents' arguments that subject import competition was attenuated, the Commission found that subject import volume was too great to serve primarily niche markets, particularly when respondents had failed to identify a single market exclusively served by subject imports, and that most importers and purchasers reported that conjugate and regenerated fiber were interchangeable with other types of PSF.<sup>115</sup>

In the first five-year reviews, the Commission found that the likely significant increase in subject import volume after revocation would likely be accompanied by significant underselling and significant adverse price effects.<sup>116</sup> The Commission based this finding in part on the substantial degree of substitutability between subject imports and the domestic like product as well as the importance of price in the PSF market.<sup>117</sup> The Commission also relied on evidence that even with the orders in place, subject imports undersold the domestic like product in 153 of 275 quarterly comparisons, at margins ranging from 0.3 to 29.9 percent.<sup>118</sup> Thus, subject foreign producers would likely adopt their underselling strategy that existed prior to imposition of the orders in order to increase their penetration of the U.S. market rapidly.<sup>119</sup> The Commission also found that the preponderance of spot sales and short term contracts

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<sup>109</sup> CR at I-20; Domestic Interested Parties' Comments at 10-11.

<sup>110</sup> See 19 U.S.C. § 1677e(a).

<sup>111</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

<sup>112</sup> Original Determinations at 17.

<sup>113</sup> Original Determinations at 17.

<sup>114</sup> Original Determinations at 17-18.

<sup>115</sup> Original Determinations at 18.

<sup>116</sup> First Review Determinations at 27.

<sup>117</sup> First Review Determinations at 27-28.

<sup>118</sup> First Review Determinations at 28.

<sup>119</sup> First Review Determinations at 28-29.

would enable purchasers to switch to subject imports quickly, forcing domestic producers to either lower their prices or lose market share.<sup>120</sup>

There is no new product-specific pricing information on the record of these reviews. In the absence of any new evidence to the contrary on the record of these reviews, we adopt our finding from the first five-year reviews that price is an important factor to purchasers choosing among suppliers.<sup>121</sup> In light of this, as well as the substantial degree of substitutability between subject imports and the domestic like product, we find it likely that subject foreign producers would resume their pattern of underselling from the original investigations if the orders were revoked as a means of increasing their market share. In response, domestic producers would have to either reduce their prices or relinquish market share. Accordingly, we find that, if the orders were revoked, the likely significant increase in subject import volume at prices that would likely undersell the domestic like product would likely have significant adverse price effects on the domestic industry.

#### **E. Likely Impact<sup>122</sup>**

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>123</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>124</sup> As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders were revoked.

In the original investigations, the Commission determined that the domestic industry was materially injured by reason of subject imports based on the domestic industry's declining performance over the period examined in the investigations.<sup>125</sup> Though apparent U.S. consumption increased in each year of the period examined, domestic industry market share declined along with the average unit value of

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<sup>120</sup> First Review Determinations at 28-29.

<sup>121</sup> First Review Determinations at 27. The domestic interested parties maintain that PSF, whether domestic or imported, is essentially fungible and sold primarily on the basis of price. Domestic Interested Parties' Comments at 4.

<sup>122</sup> Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited sunset review of the antidumping duty orders, Commerce determined that revocation of the order on PSF from Korea would likely result in the continuation or recurrence of dumping at a weighted-average margin of 7.91 percent for Sam Young Synthetics Co. and 7.91 percent for all other Korean producers. CR/PR at Table I-1. Commerce determined that revocation of the order on PSF from Taiwan would likely result in the continuation or recurrence of dumping at a weighted-average margin of 11.50 percent for Far Eastern Corp., 3.79 percent for Nan Ya Plastics Corp., Ltd., and 7.31 percent for all other Taiwanese producers. *Id.*

<sup>123</sup> 19 U.S.C. § 1675a(a)(4).

<sup>124</sup> 19 U.S.C. § 1675a(a)(4).

<sup>125</sup> Original Determinations at 19.

domestic shipments.<sup>126</sup> The declining unit value of domestic shipments resulted in declining domestic industry gross profits, operating income, and operating margins, notwithstanding a decline in the cost of goods sold and an increase in net sales quantity.<sup>127</sup>

In the first five-year reviews, the Commission found that material injury would likely continue or recur if the antidumping orders were to be revoked. It based this finding on the vulnerable condition of the domestic industry, which lost \$75 million during the period examined in the reviews; the likely significant increase in subject import volume after revocation; and the likelihood of significant subject import underselling and adverse price effects after revocation.<sup>128</sup>

In these reviews, the record information on the domestic industry's condition is limited. In 2010, the domestic industry's capacity was \*\*\* pounds, its output was \*\*\* pounds, and its rate of capacity utilization was \*\*\* percent.<sup>129</sup> The domestic industry's U.S. shipments were \*\*\* pounds, accounting for \*\*\* percent of apparent U.S. consumption; its net sales value was \$\*\*\*; and its operating income was \$\*\*\*, equivalent to \*\*\* percent of net sales.<sup>130</sup> Although the domestic industry's output, rate of capacity utilization, U.S. shipments, net sales value, and market share in 2010 were significantly lower than in any other period examined, the industry's operating income and operating income margin were higher than in any full year examined in the first reviews.<sup>131</sup> The limited evidence in these expedited reviews is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.<sup>132</sup>

Based on the record in these reviews, we find that the likely volume and price effects of the subject imports would likely have a significant adverse impact on the industry's production, sales, and revenue levels and would likely have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and make and maintain necessary capital investments. We find that, given the general substitutability of certain PSF from different sources, a significant portion of the expected increase in subject imports would be at the expense of the domestic industry, particularly given the likelihood of subject import underselling and adverse price effects. Accordingly, we conclude that, if the antidumping duty orders on certain PSF from Korea and Taiwan were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## CONCLUSION

For all the foregoing reasons, we determine that revocation of the antidumping duty orders on certain PSF from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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<sup>126</sup> Original Determinations at 19.

<sup>127</sup> Original Determinations at 19; see also Confidential Original Determinations at 28 (finding that the domestic industry's ratio of operating income to sales dropped from \*\*\* percent in 1997 to \*\*\* percent in 1998 and \*\*\* percent in 1999).

<sup>128</sup> First Review Determinations at 30-31.

<sup>129</sup> CR/PR at Table I-2.

<sup>130</sup> CR/PR at Tables I-2, 4.

<sup>131</sup> See CR/PR at Table I-2, Appendix C.

<sup>132</sup> Commissioner Pinkert notes with emphasis that the volume of U.S. commercial shipments by the domestic industry in 2010 was considerably lower than the volumes attained during the periods examined in the original investigations and the first five-year reviews. CR/PR at Tables I-1 and I-2. In addition, the average operating income margin in 2010 of those members of the domestic industry that provided information was only \*\*\* percent. CR/PR at Table I-2; Domestic Industry's Comments at 14.



# INFORMATION OBTAINED IN THE REVIEW

## INTRODUCTION

### Background

On March 1, 2011, in accordance with section 751(c) of the Tariff Act of 1930 (“the Act”),<sup>1</sup> as amended, the U.S. International Trade Commission (“Commission”) gave notice that it had instituted five-year reviews to determine whether revocation of the antidumping duty orders on certain polyester staple fiber (“PSF”) from Korea and Taiwan would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2 3</sup> On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate.<sup>4</sup> The Commission also determined that the respondent interested party group response was inadequate.<sup>5</sup> The Commission found no other circumstances that would warrant conducting full reviews.<sup>6</sup> Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.<sup>7</sup> The Commission is tentatively scheduled to vote on these reviews on August 30, 2011, and to notify Commerce of its determination on September 13, 2011. Information relating to the background of the reviews is presented in the tabulation below.

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<sup>1</sup> 19 U.S.C. §1675(c).

<sup>2</sup> All interested parties were requested to respond to the notice by submitting information requested by the Commission. 76 FR 11268, March 1, 2011. Copies of the Commission’s *Federal Register* notices are presented in app. A.

<sup>3</sup> In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of the five-year review of the subject antidumping duty orders concurrently with the Commission’s notice of institution. 76 FR 11202, March 1, 2011.

<sup>4</sup> The Commission received a joint response filed on behalf of domestic interested parties DAK Americas LLC (“DAK Americas”), Palmetto Synthetics LLC (“Palmetto Synthetics”), U.S. Fibers, and Wellman Plastics Recycling LLC (“Wellman Plastics”), which are domestic producers of PSF (“the domestic interested parties”).

<sup>5</sup> The Commission received no responses to its notice of institution from respondent interested parties.

<sup>6</sup> A copy of the *Explanation of Commission Determination on Adequacy* is presented in app. B.

<sup>7</sup> 19 U.S.C. § 1675(c)(3). See the Commission’s web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review.

| <b>Effective date</b>                          | <b>Action</b>                                                          | <b><i>Federal Register</i> citation</b> |
|------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------|
| May 25, 2000                                   | Commerce's original antidumping duty order issued                      | 65 FR 33807                             |
| April 3, 2006                                  | Commerce's continuation of antidumping duty orders after first reviews | 71 FR 16558                             |
| March 1, 2011                                  | Commission's institution of second reviews                             | 76 FR 11268                             |
| June 6, 2011                                   | Commission's decision to conduct expedited second reviews              | Not applicable                          |
| June 28, 2011                                  | Commission's scheduling of the expedited second reviews                | 76 FR 37830                             |
| July 1, 2011                                   | Commerce's final results of expedited second reviews                   | 76 FR 38612                             |
| August 30, 2011                                | Date of the Commission's vote                                          | Not applicable                          |
| September 13, 2011                             | Commission's determination to Commerce                                 | Not applicable                          |
| Source: Cited <i>Federal Register</i> notices. |                                                                        |                                         |

## THE ORIGINAL INVESTIGATIONS

On April 2, 1999, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of imports of PSF sold at less than fair value (“LTFV”) from Korea and Taiwan.<sup>8</sup> On May 17, 2000, the Commission determined that an industry in the United States was materially injured by reason of imports from Korea and Taiwan of certain subject PSF sold at LTFV.<sup>9</sup> The Commission determined that low-melt fiber was a separate like product, and further determined that subject imports of the product neither materially injured, nor threatened to materially injure an industry in the United States.<sup>10</sup> The Commission also found two domestic industries corresponding to low-melt fiber and conventional PSF (all subject PSF except for low-melt fiber).<sup>11</sup>

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<sup>8</sup> The petition was filed by counsel for E.I. Dupont de Nemours, Inc. (“DuPont”); Nan Ya Plastics Corp., America (originally a petitioner in the Korea investigation only); Arteva Specialties S.a.r.l., d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc. In a letter dated May 4, 1999, DuPont withdrew its support for the Taiwan case before the preliminary determination and Nan Ya withdrew its support for the Korea case, and thus was removed as a petitioner.

<sup>9</sup> 65 FR 33576, May 24, 2000.

<sup>10</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, pp. 3 and 7.

<sup>11</sup> Chairman Bragg determined that there was one domestic like product, and one domestic industry.

## **THE FIRST FIVE-YEAR REVIEWS**

On March 31, 2005, the Commission instituted the first sunset reviews of the antidumping duty order on PSF from Korea and Taiwan.<sup>12</sup> On July 5, 2005, the Commission determined that it would conduct full reviews. On August 5, 2005, Commerce determined that revocation of the antidumping duty orders on PSF from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>13</sup> On March 20, 2006, the Commission determined that revocation of the antidumping duty orders on PSF from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>14</sup> On April 3, 2006, Commerce published its notice of continuation of the antidumping duty orders.<sup>15</sup>

## **RELATED INVESTIGATIONS**

On June 23, 2006, a petition was filed with the Commission and Commerce by DAK Americas, Nan Ya Plastics, and Wellman, alleging that LTFV imports of PSF from China were materially injuring or threatening to materially injure the domestic industry. On April 1, 2007, Commerce determined that PSF from China was being or was likely to be sold in the United States at LTFV. On May 24, 2007, the Commission determined that the U.S. industry was materially injured by reason of LTFV imports of PSF from China.<sup>16</sup> On June 1, 2007, Commerce issued the antidumping duty order on PSF from China.<sup>17</sup>

## **COMMERCE'S ADMINISTRATIVE REVIEWS**

Commerce has conducted ten administrative reviews of the antidumping duty order on PSF from Korea and five administrative reviews of the antidumping duty order on PSF from Taiwan, as shown in the tabulation on the following page.

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<sup>12</sup> 70 FR 16522.

<sup>13</sup> 70 FR 45368.

<sup>14</sup> 71 FR 14721, March 23, 2006.

<sup>15</sup> 71 FR 16558.

<sup>16</sup> 72 FR 30394, May 31, 2007.

<sup>17</sup> 72 FR 30545.

| Period of review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Date results published             | Margin (percent)                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Korea</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                    |                                                                                                                                                                                                                                                            |
| November 8, 1999 to<br>April 30, 2001                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | October 15, 2002<br>(67 FR 63616)  | Daeyang Industrial Co., Ltd..... 1.39<br>Estal Industry Co., Ltd..... 0.20<br>Huvis Corp..... 3.37<br>Keon Baek Co., Ltd..... 0.31 <sup>1</sup><br>Mijung Ind. Co., Ltd..... 1.00<br>Sam Young Synthetics Co., Ltd..... 0.75<br>Sunglim Co., Ltd..... 0.61 |
| May 1, 2001 to<br>April 30, 2002                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 15, 2003<br>(68 FR 59366)  | East Young Co., Ltd..... 4.07<br>Huvis Corp..... 0.21 <sup>1</sup>                                                                                                                                                                                         |
| May 1, 2002 to<br>April 30, 2003                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 18, 2004<br>(68 FR 61343)  | Huvis Corp..... 1.54<br>Keon Baek Co., Ltd..... 0.07 <sup>2</sup><br>Saehan Industries, Inc..... 4.19                                                                                                                                                      |
| May 1, 2002 to<br>April 30, 2003                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | November 22, 2004<br>(69 FR 67891) | Saehan Industries, Inc..... 2.13 <sup>3</sup>                                                                                                                                                                                                              |
| May 1, 2003 to<br>April 30, 2004                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | December 12, 2005<br>(70 FR 73436) | Huvis Corp..... 5.87                                                                                                                                                                                                                                       |
| May 1, 2004 to<br>April 30, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 4, 2006<br>(71 FA 58581)   | Huvis Corp..... 4.65                                                                                                                                                                                                                                       |
| May 1, 2005 to<br>April 30, 2006                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | December 10, 2007<br>(72 FR 69663) | Dongwoo Industry Co., Ltd..... 48.14<br>Huvis Corp..... 2.51                                                                                                                                                                                               |
| May 1, 2006 to<br>April 30, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | December 5, 2008<br>(73 FR 74144)  | Huvis Corp..... 2.92                                                                                                                                                                                                                                       |
| May 1, 2007 to<br>April 30, 2008                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | December 10, 2009<br>(74 FR 65517) | Huvis Corp..... 1.50                                                                                                                                                                                                                                       |
| May 1, 2008 to<br>April 30, 2009                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 19, 2010<br>(75 FR 64252)  | Huvis Corp..... 0.94                                                                                                                                                                                                                                       |
| <b>Taiwan</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                    |                                                                                                                                                                                                                                                            |
| May 1, 2004 to<br>April 30, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 13, 2006<br>(71 FR 60476)  | Far Eastern Textile Limited..... 4.05                                                                                                                                                                                                                      |
| May 1, 2005 to<br>April 30, 2006                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | December 7, 2007<br>(72 FR 69193)  | Far Eastern Textile Limited..... 0.30 <sup>1</sup>                                                                                                                                                                                                         |
| May 1, 2006 to<br>April 30, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | October 21, 2008<br>(73 FR 62477)  | Far Eastern Textile Limited..... 1.74 <sup>4</sup>                                                                                                                                                                                                         |
| May 1, 2007 to<br>April 30, 2008                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | April 22, 2009<br>(74 FR 18348)    | Far Eastern Textile Limited..... 1.97                                                                                                                                                                                                                      |
| May 1, 2008 to<br>April 30, 2009                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | July 27, 2010<br>(75 FR 43921)     | Far Eastern Textile Limited..... 2.43                                                                                                                                                                                                                      |
| <sup>1</sup> <i>De minimis</i> .<br><sup>2</sup> As a result of this administrative review, Commerce revoked application of the antidumping duty order to Keon Baek, 69 FR 61341, October 18, 2004.<br><sup>3</sup> Commerce amended its final result of the administrative review published October 18, 2004, to correct ministerial errors, 69 FR 67891, November 22, 2004.<br><sup>4</sup> Commerce amended its final result of the administrative review October 21, 2008, to correct ministerial errors, 73 FR 78722, December 23, 2008. |                                    |                                                                                                                                                                                                                                                            |

## COMMERCE'S CHANGED CIRCUMSTANCES REVIEWS

Commerce has conducted two changed circumstances reviews of the antidumping duty order on PSF from Korea. On January 9, 2001, Commerce initiated a changed circumstances review to examine the formation of Huvis Corp. ("Huvis") through a joint venture merger of Samyang Corp. ("Samyang") and SK Chemicals Co.,Ltd. ("SK Chemicals").<sup>18</sup> On June 6, 2001, Commerce determined that Huvis was not the successor-in-interest to either Samyang or SK Chemicals, nor to Samyang and SK Chemicals jointly, making Huvis subject to the "all others" rate calculated in the antidumping duty investigation.<sup>19</sup> On June 16, 2008, Commerce initiated a changed circumstances review to examine the purchase of 50 percent of Saehan's shares by Woongjin, and subsequent name change.<sup>20</sup> On August 20, 2008, Commerce determined that Woongjin is the successor-in-interest to Saehan Industries Inc. ("Saehan"), and should be accorded the same treatment with regard to the order on PSF.<sup>21</sup>

Commerce has conducted one changed circumstances review of the antidumping duty order on PSF from Taiwan. On January 26, 2010, Commerce initiated a changed circumstances review to examine the name change of Far Eastern Textile Limited to Far Eastern New Century Corp.<sup>22</sup> On July 8, 2010, Commerce determined that Far Eastern New Century Corp. is the successor-in-interest to Far Eastern Textile Limited, and should be accorded the same treatment with the regard to the order on PSF.<sup>23</sup>

## COMMERCE'S FINAL RESULTS OF EXPEDITED SUNSET REVIEWS

On July 1, 2011, Commerce published in the *Federal Register* its finding that revocation of the antidumping duty orders on polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of dumping.<sup>24</sup> The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, for the original investigations, the full first five-year reviews, and the expedited second five-year reviews, are presented in the table I-1.

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<sup>18</sup> 66 FR 1642, January 9, 2001.

<sup>19</sup> 66 FR 30411.

<sup>20</sup> 73 FR 33989.

<sup>21</sup> 73 FR 49168.

<sup>22</sup> 75 FR 4044.

<sup>23</sup> 75 FR 39208.

<sup>24</sup> 76 FR 38612.

Table I-1

**PSF: Weighted-average dumping margins, as reported by Commerce, for the original investigations, the first five-year reviews, and the second five-year reviews, by firm**

| Firm                              | Original <sup>1 2</sup> | First reviews | Second reviews |
|-----------------------------------|-------------------------|---------------|----------------|
|                                   | Margin (percent)        |               |                |
| Korea                             |                         |               |                |
| Samyang Corporation               | de minimis              | --            | --             |
| Sam Young Synthetics Co.          | 7.91                    | 7.91          | 7.91           |
| Geum Poong Corporation            | de minimis              | --            | --             |
| Korea-wide                        | 7.91                    | 7.91          | 7.91           |
| Taiwan                            |                         |               |                |
| Far Eastern Corporation           | 9.51                    | 11.50         | 11.50          |
| Nan Ya Plastics Corporation, Ltd. | 5.77                    | 3.79          | 3.79           |
| Taiwan-wide                       | 7.53                    | 7.31          | 7.31           |

<sup>1</sup> With regard to Korea, an appeal was filed with the Court of International Trade ("CIT") by the petitioners and respondents, challenging Commerce's final determination. The challenge related to Commerce's method for calculating Geum Poong's constructed value profit rates. Following two remand decisions by the CIT, and changes to profit calculations by Commerce in response, the CIT affirmed Commerce's Final Results of Redetermination on August 22, 2002. Commerce appealed this decision. On October 9, 2003, the CIT's decision was affirmed by the United States Court of Appeals for the Federal Circuit, *Certain Polyester Staple Fiber from the Republic of Korea: Notice of Amended Final Determination and Amended Order Pursuant to Final Court Decision*, 68 FR 74552, December 24, 2003.

<sup>2</sup> With regard to Taiwan, *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from Taiwan*, 65 FR 24678, April 27, 2000.

Source: Various *Federal Register* notices.

## THE PRODUCT

### Scope

Commerce has defined the subject merchandise as follows:

*For purposes of the order, the product covered is certain PSF (“PSF”). PSF is defined as synthetic stable fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 5503.20.00.20 is specifically excluded from the order. Also specifically excluded from the order are PSFs of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at significantly lower temperature than its inner core. The merchandise subject to the order is currently classifiable in the HTSUS at subheading 5503.20.00.45 and 5503.20.00.65.*

The HTS subheading is provided for convenience and for Customs purposes, but Commerce’s written description of the merchandise is dispositive as to the scope of the product coverage.

### Tariff Treatment

Certain PSF is imported under Harmonized Tariff Schedule of the United States (HTS) subheading 5503.20.00 (statistical reporting numbers 5503.20.0045 and 5503.20.0065) and enters the United States at a column 1-general duty tariff rate of 4.3 percent *ad valorem* for imports from countries with normal trade relations, including Korea and Taiwan.<sup>25</sup> The column 1-general tariff rate at the time of the first review was 4.3 percent *ad valorem* and at the time of the original investigation was 4.5 percent *ad valorem*.

Subsequent to the original investigations, the existing statistical reporting numbers under subheading 5503.20.00 of the HTS were restructured in July 2001 to provide separately for low-melt PSF, as follows: 5503.20.0020 became 5503.20.0025; 5503.20.0040 became 5503.20.0045; 5503.20.0060 became 5503.20.0065; and a new provision was created for imports of low-melt PSF, statistical reporting number 5503.20.0015.<sup>26</sup>

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<sup>25</sup> *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807, May 25, 2000.

<sup>26</sup> The existing provisions were renumbered to reflect the reduced product scope; a portion of the goods from each one fall in this new product category. *Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Polyester Staple Fiber from Korea*, 69 FR 67891, November 22, 2004.

## Physical Characteristics and End-Use Applications<sup>27</sup>

PSF is a man-made fiber that is similar in appearance to cotton or wool fiber when baled. Certain PSF is known in the industry as “fiber for fill,” as it is primarily used as polyester fiberfill. Certain PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.<sup>28</sup> PSF is also used on a more limited basis in the production of \*\*\*.<sup>29</sup> Certain PSF has physical characteristics that distinguish it from other polyester staple fibers (such as carpet fiber and fiber for spinning), including the denier of the fiber, the length of the fiber, and in some cases the finish and “crimp” of the fiber. Most synthetic fiber is sold by quantity based on the denier of the fiber.

Because certain PSF is principally used as fiberfill, it is seldom directly visible. Therefore, the appearance of the product is generally less important than the performance of the fiber to customers. However, the appearance of certain PSF directly affects the appearance and perceived value of many end-products, such as mattresses, comforters, cushions, pillows, and furniture with light-color upholstery.

Certain PSF used for fill can be produced in many variations for purposes of quality enhancement. For example, the subject fiber may be crimped or conjugate, giving the fiber “loft” for stuffing purposes. It may also be coated with a finish (usually silicone or oil-based), making the fiber smoother to the touch for certain high-end uses.<sup>30</sup> The subject fiber may vary in shape and may be hollow or solid, depending on both the preference of the manufacturer and the end use of the fiber.

Raw materials used in the production of certain PSF may also vary. Staple fiber can be made by reacting ethylene glycol with either terephthalic acid or its methyl ester; if so produced, it is termed virgin PSF. Staple fiber may also be made from recycled polyester, using either consumer waste, such as polyethylene terephthalate (“PET”) bottles, or industrial waste, such as polyester chips or spun tow. Fiber made in this way is known as regenerated, or recycled, fiber. Some producers of the subject fiber also manufacture a blend of virgin and recycled/regenerated materials by introducing polyester chips into the virgin production line. Finally, PSF may be in the form of a low-melt fiber. This is a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner polyester core, for purposes of thermal bonding, and is not included within the scope of the orders under review.<sup>31</sup>

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<sup>27</sup> Unless indicated otherwise, the discussion in this section is based on information contained in the original investigations: *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, pp. I-2-I-9, and the first review of these investigations, *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, pp. I-12-I-19.

<sup>28</sup> *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

<sup>29</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-13. Staff field trip report, Wellman, November 4, 2005.

<sup>30</sup> According to industry testimony given at the hearing held in connection with *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, a silicone finish is preferred for certain end uses such as pillows. When rubbed, fiber with a silicone finish will slide, lending the product a slightly slick feeling. USITC, Hearing transcript, January 17, 2006, p. 156 (Katz).

<sup>31</sup> *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

## Manufacturing Processes<sup>32</sup>

Manufacturing of certain PSF may be divided into two discrete stages. The first stage of the process is polymer formation, a process that can vary depending on whether virgin (unprocessed chemicals) or recycled materials are being used. Polymer formation also varies, depending on whether conjugate fiber<sup>33</sup> or low-melt fiber is being produced. The second stage of the process, which is common to all certain PSF (including conjugate and regenerated fiber) is fiber formation, including stretching, cutting, and baling.

The manufacture of certain PSF from virgin materials begins by reacting ethylene glycol with either terephthalic acid or its methyl ester in the presence of an antimony catalyst. The reaction is carried out at a high temperature and in a vacuum to achieve the high molecular weights needed to form useful fiber. The mix is then sent through an esterification process before it is polymerized. Esterification is the chemical process of combining an acid with an alcohol to form an ester. If a virgin or recycled blend is to be produced, the recycled material (usually in the form of polyester chips) is introduced at the esterification stage.

After polymerization, the solid, molten plastic, which has a consistency similar to cold honey, must be heated and liquefied before it can be extruded. The liquid fiber-forming polymers are then extruded through tiny holes of a spinneret, a device similar in principle to a showerhead, to form continuous filaments of semi-solid polymer. The denier of the fiber is controlled by the size of the holes on the spinneret. After extrusion, the semi-solid fibers are blasted with cold air to form solid fibers. This process is known as continuous polymerization.

The manufacture of regenerated<sup>34</sup> certain PSF begins with the processing of the recycled materials. As reported in the original investigations and the first five-year reviews, regenerated certain PSF inputs can consist of a variety of different types of materials including: virgin first quality chip, virgin off-spec chip, post industrial (regenerated) pellet waste, post industrial (regenerated) film waste, post consumer bottles, post consumer bottle flake and miscellaneous post industrial (regenerated) waste. Depending on the materials used, the recycled product is cleaned and either chipped or pelletized before being sent to the extruder. The recycled material is then melted to form molten polymers and sent through the spinneret to form continuous filaments of semi-solid polymer. As with fiber from virgin materials, the polymer is then blasted with cold air to form solid fiber.<sup>35</sup>

The second stage of production is common to fibers made from either virgin or recycled materials. The solid fiber is coated for the first time with an oil finish, usually only for internal use to facilitate further processing. The spun tow, as it is now known, is collected into a can to be stretched. The spun tow is sent over a creel and a series of “draw wheels” in order to orient the fiber molecules and strengthen the tow. Next, the tow is sent through a crimping machine, which gives the fiber tow a two-dimensional, saw-tooth shape. The tow is then sent through an oven to heat-set the crimp. A second finish (usually silicone or some type of oil-based finish) may be added during this stage of the process,

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<sup>32</sup> Unless indicated otherwise, the discussion in this section is based on information contained in the original investigations: *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, pp. I-3-I-9, and the first review of these investigations, *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, pp. I-12-I-19.

<sup>33</sup> Conjugate fiber is a two-component fiber with the ability to crimp, (to become wavy) when exposed to hot or hot/wet treatment, which causes differential shrinkage. Resource, Hoechst Celanese, Dictionary of Fiber & Textile Technology, 1990, p. 33.

<sup>34</sup> “Regenerated certain PSF” refers to both regenerated and recycled PSF unless otherwise noted.

<sup>35</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-16. Staff field trip report, Wellman, November 4, 2005.

either before the fiber tow is crimped and heat-set or directly after, depending on the preference of the manufacturer. Finally, the fiber tow is cut to length and baled.<sup>36</sup>

The manufacturing processes for nonsubject PSF are similar to those for certain PSF. Nonsubject PSF includes PSF of less than 3 denier, PSF for carpeting, and low-melt PSF, in addition to other products.<sup>37</sup> These nonsubject forms of PSF may be manufactured on the same equipment and machinery used in the production of certain PSF.<sup>38</sup> The production of PSF of less than 3 denier, commonly referred to as fine denier PSF, is controlled by the size of the holes on the spinneret. By using a spinneret with smaller holes, a production line can switch from heavier gauge PSF to finer denier; the other steps of the manufacturing process remain generally the same.<sup>39</sup> PSF for carpeting is a heavier denier than certain PSF and is produced by using a spinneret with larger holes. To achieve carpet fibers with luster, a slightly different mix of raw materials is used.<sup>40</sup>

## **DOMESTIC LIKE PRODUCT ISSUES**

During the original investigations, the Commission considered whether conjugate fiber, regenerated fiber, and low-melt fiber were separate like products. The Commission determined that conjugate fiber and regenerated fiber were not separate like products. However, the Commission determined that low-melt fiber was a separate like product and made negative injury and threat determinations with respect to that product.<sup>41</sup> The domestic interested parties agree with the Commission's definition of the domestic like product in the original investigations and first five-year reviews.<sup>42</sup>

### **Conjugate Fiber**

As defined in the original investigations, conjugate fiber is "a hollow, siliconized fiber with a spiral configuration imparted by a chemical process that bonds two different polyester polymers of different viscosities, causing one to shrink to produce spiral-shaped crimps. Conjugate fiber is often used for its superior loft, a quality that is imparted by the crimp or curl of the fiber. After the fiber is extruded, the stretching, cutting, and baling of the fiber are identical to other types of PSF.

### **Regenerated Fiber**

Regenerated fiber, as defined in the original investigations, is "polyester staple fiber produced primarily from waste polyester fibers but may also include other polyester waste products such as non-fiber polyester solids. It generally has inconsistent physical properties, such as irregular color, denier, staple length, and crimp count. It is generally sold without specifications, guarantees, or warranties of

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<sup>36</sup> Ibid.

<sup>37</sup> *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

<sup>38</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, pp. I-17.

<sup>39</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, p. I-3.

<sup>40</sup> USITC, Hearing transcript, January 17, 2006, p. 298 (Stein).

<sup>41</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, pp. 3 and 7.

<sup>42</sup> \*\*\*, Written submission to the USITC, *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Second Review)*, March 31, 2011, p. 20.

any kind.”<sup>43</sup> Like virgin PSF, regenerated PSF is used as fiber for fill, usually in lower quality products. Regenerated fiber is occasionally blended with higher quality fiber, allowing end users to reduce their costs, while at the same time offering a somewhat better product. Regenerated fiber is produced by the same method as virgin PSF.

## U.S. MARKET PARTICIPANTS

### U.S. Producers

During the original investigations, the Commission found that the following six U.S. firms produced PSF: DuPont, Intercontinental Polymers,<sup>44</sup> KoSa, Martin Color-Fi,<sup>45</sup> Nan Ya USA, and Wellman.<sup>46</sup> At the time, DuPont,<sup>47</sup> KoSa,<sup>48</sup> and Wellman accounted for \*\*\* percent of domestic production of PSF. Nan Ya USA was identified in the original investigations as a wholly owned subsidiary of Nan Ya Plastics Corp., a producer of subject merchandise in Taiwan, and DuPont was identified as an importer of subject merchandise from Korea.

The following six firms were identified as producers of PSF in the United States at the time of the Commission’s full first five-year reviews: Color-Fi, DAK, Invista, Nan Ya USA, U.S. Fibers,<sup>49</sup> United Synthetics,<sup>50</sup> and Wellman. The domestic interested parties participating in these expedited second five-year reviews indicated in their response to the Commission’s notice of institution that the following eight firms are currently domestic producers of PSF: Color-Fi (Division of Formed Fiber Technology, Inc.); DAK; Invista (currently operating as Auriga Polymers);<sup>51</sup> Nan Ya Plastics Corp., America; Palmetto; U.S. Fibers; United Synthetics; and Wellman.<sup>52</sup>

The domestic interested parties identified two related parties: Nan Ya Plastics Corp. America is a wholly-owned subsidiary of Taiwanese producer Nan Ya Plastics Corp. and United Synthetics is related to the Korean producer Korea Synthetics Fibers, Inc.

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<sup>43</sup> *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, p. I-7.

<sup>44</sup> Filed for bankruptcy in October 2003, no longer produces PSF.

<sup>45</sup> Formed Fiber Technology, Inc. acquired Martin Color-Fi in 2003.

<sup>46</sup> Two additional firms (Image Industries and Freudenberg Texbond) were also identified as domestic producers of PSF; however the Commission was unable to obtain information concerning these firms during the original investigations. One U.S. producer not identified during the original investigations, Foss Manufacturing, was in Chapter 11 bankruptcy during the second five-year reviews.

<sup>47</sup> In 2003 DuPont sold its textiles and interiors division Invista to Koch Industries. In 1999 DuPont and Alpek entered a joint venture to create DuPont-Akra Polyester, LLC. By August 2001, DuPont had divested itself of the joint venture and DAK Americas was created by the acquisition of select assets from DuPont. Between April and July 2001, DAK Monomers and DAK Resins were also formed. In November 2004, DAK Fibers, DAK Monomers, and DAK Resins, merged under one company – DAK Americas.

<sup>48</sup> Koch Industries acquired full ownership of subsidiary, KoSa, in 2001. In 2003 Koch Industries purchased Invista from DuPont and merged its KoSa and Invista operations under the name Invista.

<sup>49</sup> Joined the industry after the original investigations. Importer, \*\*\*, purchased former \*\*\* and began production of PSF in December 2004.

<sup>50</sup> Began production after the original investigations, in 2000.

<sup>51</sup> In April 2004, KoSa purchased certain assets from DuPont (principally DuPont’s nylon and spandex operations) and combined these assets with KoSa’s polyester operations to form Invista. On March 1, 2011, Invista’s PSF assets in Spartanburg, South Carolina were acquired by Indorama Venture Public Co., Limited (“IVL”) and now operate under IVL’s new U.S. affiliate, Auriga Polymers. Domestic interested parties’ response to the notice of institution, p. 14.

<sup>52</sup> Wellman filed for Chapter 11 bankruptcy protection in 2008. Wellman’s Johnsonville facility that produces PSF was subsequently acquired by a group of investors led by J.H. Whitney and is now part of Wellman Plastics Recycling. Domestic interested parties’ response to the notice of institution, p. 14.

## U.S. Capacity, Production, Capacity Utilization, U.S. Commercial Shipments, and Financial Data

The four firms that responded to the notice of institution are estimated to represent \*\*\* of U.S. production of PSF in 2010.<sup>53</sup> Data reported by U.S. producers of PSF in these expedited second reviews are presented in table I-2.<sup>54</sup> Data reported by U.S. producers of PSF in the original investigations and the full first reviews are presented in appendix C.<sup>55</sup>

**Table I-2**

**PSF: U.S. producers' capacity, production, capacity utilization, U.S. commercial shipments, and financial data, 2010**

| Item                                                                                                       | 2010         |        |                     |             |                   |                  |       |
|------------------------------------------------------------------------------------------------------------|--------------|--------|---------------------|-------------|-------------------|------------------|-------|
|                                                                                                            | DAK Americas | Nan Ya | Palmetto Synthetics | U.S. Fibers | United Synthetics | Wellman Plastics | Total |
| Capacity (1,000 pounds)                                                                                    | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Production (1,000 pounds)                                                                                  | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Capacity utilization (percent)                                                                             | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| U.S. commercial shipments:                                                                                 |              |        |                     |             |                   |                  |       |
| Quantity (1,000 pounds)                                                                                    | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Value (\$1,000)                                                                                            | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Unit value (per pound)                                                                                     | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Net sales (\$1,000)                                                                                        | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| COGS (\$1,000)                                                                                             | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Gross profit or (loss) (\$1,000)                                                                           | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| SG&A expenses (\$1,000)                                                                                    | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Operating income or (loss) (\$1,000)                                                                       | ***          | ***    | ***                 | ***         | ***               | ***              | ***   |
| Source: Domestic interested parties response to the Commission's notice of institution, exh. 4 and exh. 9. |              |        |                     |             |                   |                  |       |

<sup>53</sup> Domestic interested parties' response to the notice of institution, p. 12.

<sup>54</sup> There is no current pricing data available for the subject product.

<sup>55</sup> Appendix C presents Table I-1 from the first five-year reviews staff report which contains comparative data of the U.S. market and industry from the original investigations and the first five-year reviews.

## U.S. Imports

During the original investigations, the Commission identified 36 U.S. importers that imported the subject product. Of these importers, 20 responded to the Commission questionnaires with usable data. During the full first five-year reviews, the Commission sent questionnaires to 35 firms believed to have imported PSF, and received usable data from 17 firms.

In these expedited second five-year reviews, the domestic interested parties identified 30 firms that are believed to be importing the subject product from Korea and Taiwan. Data regarding U.S. imports of PSF, as reported by Commerce, are presented in table I-3.

**Table I-3**  
**PSF: U.S. imports, by source, 2005–10**

| Item                                                                                             | Calendar year                         |         |         |         |         |         |
|--------------------------------------------------------------------------------------------------|---------------------------------------|---------|---------|---------|---------|---------|
|                                                                                                  | 2005                                  | 2006    | 2007    | 2008    | 2009    | 2010    |
|                                                                                                  | <b>Quantity (1,000 pounds)</b>        |         |         |         |         |         |
| Korea                                                                                            | 184,832                               | 169,865 | 208,673 | 176,104 | 135,582 | 140,339 |
| Taiwan                                                                                           | 54,139                                | 37,471  | 48,191  | 30,061  | 14,912  | 26,120  |
| Subtotal                                                                                         | 238,971                               | 207,336 | 256,864 | 206,165 | 150,495 | 166,459 |
| Other sources <sup>1</sup>                                                                       | 310,713                               | 359,395 | 322,798 | 414,885 | 340,850 | 381,235 |
| Total                                                                                            | 549,684                               | 566,730 | 579,662 | 621,050 | 491,344 | 547,694 |
|                                                                                                  | <b>Value (\$1,000 dollars)</b>        |         |         |         |         |         |
| Korea                                                                                            | 108,549                               | 93,297  | 116,565 | 109,462 | 65,468  | 78,483  |
| Taiwan                                                                                           | 36,971                                | 24,549  | 32,030  | 21,212  | 9,169   | 20,027  |
| Subtotal                                                                                         | 145,521                               | 117,847 | 148,595 | 130,674 | 74,636  | 98,510  |
| Other sources <sup>1</sup>                                                                       | 197,078                               | 215,249 | 187,322 | 257,435 | 172,308 | 230,215 |
| Total                                                                                            | 342,599                               | 333,096 | 335,917 | 388,109 | 246,944 | 328,724 |
|                                                                                                  | <b>Unit value (dollars per pound)</b> |         |         |         |         |         |
| Korea                                                                                            | \$0.59                                | \$0.55  | \$0.56  | \$0.62  | \$0.48  | \$0.56  |
| Taiwan                                                                                           | 0.68                                  | 0.66    | 0.66    | 0.71    | 0.61    | 0.77    |
| Average                                                                                          | 0.61                                  | 0.57    | 0.58    | 0.63    | 0.50    | 0.59    |
| Other sources <sup>1</sup>                                                                       | 0.63                                  | 0.60    | 0.58    | 0.62    | 0.51    | 0.60    |
| Average                                                                                          | 0.62                                  | 0.59    | 0.58    | 0.62    | 0.50    | 0.60    |
| <sup>1</sup> The primary "other sources" during 2010 were China, India, Indonesia, and Thailand. |                                       |         |         |         |         |         |
| Source: Official Commerce statistics.                                                            |                                       |         |         |         |         |         |

## APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

According to the World Polyester Fiber Report 2010, U.S. consumption of PSF \*\*\*.<sup>56</sup> Domestic interested parties reported that the decline in U.S. demand is due to: (1) U.S. manufacturers of home good have decreased production because of increased imports of finished Chinese goods containing PSF; (2) the recent downturn in the housing market; and (3) recent federal regulations on flame retardant home textiles have lowered demand for certain PSF in these applications.<sup>57</sup> Three top purchasers of PSF were identified as \*\*\*.<sup>58</sup>

Table I-4 presents apparent U.S. consumption and U.S. market shares in 2010.<sup>59</sup>

**Table I-4**

**PSF: U.S. shipments of domestic product, U.S. imports, apparent U.S. consumption, and U.S. market shares, 2010**

| Item                                                                                                                            | 2010                                       |
|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
|                                                                                                                                 | <b>Quantity (1,000 pounds)<sup>1</sup></b> |
| U.S. producers' U.S. shipments                                                                                                  | ***                                        |
| U.S. imports Korea                                                                                                              | 140,339                                    |
| Taiwan                                                                                                                          | 26,120                                     |
| Subtotal                                                                                                                        | 166,459                                    |
| All other sources <sup>1</sup>                                                                                                  | 381,235                                    |
| Total imports                                                                                                                   | 547,694                                    |
| Apparent U.S. consumption                                                                                                       | ***                                        |
|                                                                                                                                 | <b>Share of consumption (percent)</b>      |
| U.S. producers' U.S. shipments                                                                                                  | ***                                        |
| U.S. imports Korea                                                                                                              | ***                                        |
| Taiwan                                                                                                                          | ***                                        |
| Subtotal                                                                                                                        | ***                                        |
| All other sources <sup>1</sup>                                                                                                  | ***                                        |
| Total imports                                                                                                                   | ***                                        |
| <sup>1</sup> The primary "other sources" during 2010 were China, India, Indonesia, and Thailand.                                |                                            |
| Source: Domestic interested parties response to the notice of institution, exh. 4 and exh. 9, and official Commerce statistics. |                                            |

<sup>56</sup> Domestic interested parties' response to the notice of institution, pp. 13-14.

<sup>57</sup> Domestic interested parties' response to the notice of institution, p. 14.

<sup>58</sup> Domestic interested parties' response to the notice of institution, p. 11.

<sup>59</sup> Appendix C presents Table I-1 from the first five-year reviews staff report which contains comparative data of the U.S. market and industry from the original investigations and the first five-year reviews.

## THE INDUSTRY IN KOREA

During the original investigations, the Commission identified five firms believed to have produced the subject product in Korea: Daehan Synthetic Fiber Co., Ltd. (“Daehan”); Kohap, Ltd.; Saehan; Samyang; and SK Chemicals. Additionally, a number of small, family-owned businesses claimed to account for the bulk of regenerated fiber produced in Korea. In 2000, Samyang and SK Chemicals merged their operations to form Huvis, which was reportedly the largest PSF producer in Korea at that time.<sup>60</sup> In the first five-year reviews, the domestic interested parties identified four firms believed to produce the subject merchandise in Korea: Daehan, Huvis, Kohap, and Seahan. The domestic parties also noted the existence of small firms producing regenerated PSF that had not been identified. Two Korean producers, Huvis and Seahan, provided complete questionnaire responses in the Commission’s full first reviews.

In these expedited second five-year reviews, the domestic interested parties indicated that, according to the Korea Chemical Fibers Association, the two largest Korean producers of PSF today are Huvis and Woongjin Chemical Co., Ltd. (“Woongjin”).<sup>61 62</sup> Both Korean firms are producers of conventional or virgin PSF. The domestic interested parties also noted that there are numerous producers of regenerated PSF in Korea, and identified 16 current producers of PSF in Korea.<sup>63</sup> No Korean interested party responded to the notice of institution or otherwise participated in these second five-year reviews.

The domestic interested parties provided capacity and production data for Huvis and Woongjin as presented in table I-5.

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<sup>60</sup> On June 6, 2001, Commerce determined that Huvis was not the successor-in-interest to either Samyang or SK Chemicals.

<sup>61</sup> Domestic interested parties’ response to the notice of institution, p. 17.

<sup>62</sup> On August 20, 2008, Commerce determined that Woongjin is the successor-in-interest to Saehan.

<sup>63</sup> Identified firms are: Daeyang Industrial Co., Ltd.; Dongwoo Industry Co., Ltd.; East Young Co., Ltd.; Estal Industrial Co., Ltd.; Geum Poong Corp. (excluded from order); Huvis; Ji Yeong Fiber, Inc.; Keon Baek Co., Ltd.; Kohap Corp.; Korea Synthetic Fibers, Inc.; Mijung Ind. Co., Ltd. (excluded from order); Samheung Co., Ltd.; Sam Young Synthetics, Ltd.; Sunglim Co., Ltd.; Taekwang Ind. Co., Ltd.; Woongjin. Domestic interested parties’ response to the notice of institution, exh. 7.

Table I-5.

**PSF: Capacity, production, and capacity utilization for Huvis and Woongjin, 2005-2010**

| Item                                                                                                                                                          | 2005                           | 2006      | 2007      | 2008      | 2009      | 2010      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------|-----------|-----------|-----------|-----------|
|                                                                                                                                                               | <b>Quantity (1,000 pounds)</b> |           |           |           |           |           |
| <b>Capacity</b>                                                                                                                                               |                                |           |           |           |           |           |
| <b>Huvis</b>                                                                                                                                                  | 873,022                        | 873,022   | 873,022   | 873,022   | 873,022   | 873,022   |
| <b>Woongjin</b>                                                                                                                                               | 468,257                        | 468,257   | 468,257   | 468,257   | 468,257   | 468,257   |
| <b>Total</b>                                                                                                                                                  | 1,341,279                      | 1,341,279 | 1,341,279 | 1,341,279 | 1,341,279 | 1,341,279 |
| <b>Total production</b>                                                                                                                                       | 1,134,670                      | 1,122,077 | 1,181,159 | 1,050,966 | 1,105,492 | 1,154,070 |
| <b>Capacity utilization (percent)</b>                                                                                                                         | 84.6                           | 83.7      | 88.1      | 78.4      | 82.4      | 86.0      |
| Source: Korean Chemical Fibers Association and Taiwan Man Made Fibers Association, domestic interested parties' response to the notice of institution, p. 17. |                                |           |           |           |           |           |

**THE INDUSTRY IN TAIWAN**

During the original investigations, the Commission identified four firms believed to have produced the subject product in Taiwan: Far Eastern Textile, Ltd.;<sup>64</sup> Nan Ya Plastics Corp.; Tuntex Distinct Corp.; and Shinkong Synthetic Fibers Corp. The same four firms were identified as PSF producers in Taiwan in the first five-year reviews but only Nan Ya Plastics Corp. and Shinkong Synthetic Fibers Corp. provided the Commission with complete questionnaire responses during those reviews.

The domestic interested parties indicated in their response to the Commission's notice of institution in these second five-year reviews that these same four producers in Taiwan remain actively engaged in the production and export of PSF.<sup>65</sup> The domestic interested parties also indicated that there are three additional producers of PSF in Taiwan: Chung Shing Textile Co., Ltd.; Tainin Spinning Co., Ltd.; and Tung Ho Spinning Weaving & Dyeing Co., Ltd. No Taiwan interested party responded to the notice of institution or otherwise participated in these reviews.

The domestic interested parties provided Taiwan PSF industry data, as presented in table I-6.

<sup>64</sup> On July 8, 2010, Commerce determined that Far Eastern New Century Corp. is the successor-in-interest to Far Eastern Textile Ltd.

<sup>65</sup> Domestic interested parties' response to the notice of institution, p. 15.

**Table I-6.**

**PSF: Taiwan industry's capacity, production, capacity utilization, exports, and share of exports to production, 2005-2010**

| Item                                                                                                                                           | 2005      | 2006      | 2007      | 2008      | 2009      | 2010      |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>Capacity<br/>(1,000 pounds)</b>                                                                                                             | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 |
| <b>Production<br/>(1,000 pounds)</b>                                                                                                           | 1,613,516 | 1,350,631 | 1,213,064 | 1,048,647 | 1,189,999 | 1,237,695 |
| <b>Capacity<br/>utilization<br/>(percent)</b>                                                                                                  | 80.7      | 67.5      | 60.7      | 52.4      | 59.5      | 61.9      |
| <b>Exports<br/>(1,000 pounds)</b>                                                                                                              | 1,172,997 | 1,011,338 | 796,513   | 719,403   | 855,773   | 858,315   |
| <b>Share of<br/>exports to<br/>production<br/>(percent)</b>                                                                                    | 72.7      | 74.9      | 65.7      | 68.6      | 71.9      | 69.3      |
| Source: Taiwan Man Made Fibers Association, USITC Pub. 3843, p. 25, domestic interested parties' response to the notice of institution, p. 17. |           |           |           |           |           |           |

### **ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS**

Subject PSF from Korea and Taiwan have been subject to import relief investigations in several other countries. Mexico imposed antidumping duty measures on Korean PSF in August 1993. Japan imposed antidumping duty measures on Korean and Taiwan PSF in July 2002.<sup>66</sup> Turkey imposed antidumping duty measures on Korean PSF in February 2000 and Taiwan PSF in July 2003. Pakistan imposed antidumping duty measures on Korean PSF in February 2007 and Indonesia imposed antidumping duty measures on Taiwan PSF in December 2010.

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<sup>66</sup> Domestic interested parties' response to the notice of institution, p. 20.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-742]

### In the Matter of Certain Digital Televisions and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Granting a Motion To Terminate The Investigation in Its Entirety

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 7) of the presiding administrative law judge ("ALJ") granting the private parties' motion to terminate the investigation in its entirety.

#### FOR FURTHER INFORMATION CONTACT:

Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3152. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. 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:** On October 18, 2010, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by LG Electronics, Inc. of Seoul, Korea ("LG") alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain digital televisions and components thereof by reason of infringement of certain claims of U.S. Patent No. RE 37,070; U.S. Patent No. 6,785,906; and U.S. Patent No. 6,598,233. 75 FR 63857 (Oct. 18, 2010). Complainant LG named Vizio, Inc. of Irvine, California, AmTRAN Technology Co., Ltd. of Taipei, Taiwan and

AmTRAN Logistic, Inc. of Irvine, California as respondents.

On January 18, 2011, the private parties filed a motion to terminate the investigation in its entirety by reason of a settlement pursuant to Commission Rules 210.21(a)(2) and (b). The movants state that they have entered into a settlement agreement and patent cross license agreements. The Commission investigative attorney supports the motion.

On January 28, 2011, the ALJ issued an ID (Order No. 7) granting the motion. No party petitioned for review of the subject ID. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: February 18, 2011.

**William R. Bishop,**

*Hearings and Meetings Assistant.*

[FR Doc. 2011-4443 Filed 2-28-11; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-825 and 826 (Second Review)]

### Certain Polyester Staple Fiber From Korea and Taiwan

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution five-year reviews concerning the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 11-5-241, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments

consideration, the deadline for responses is March 31, 2011. Comments on the adequacy of responses may be filed with the Commission by May 16, 2011. For further information concerning the conduct of these reviews 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

**DATES:** *Effective Date:* March 1, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On May 25, 2000, the Department of Commerce issued antidumping duty orders on imports of certain polyester staple fiber from Korea and Taiwan (65 FR 33807). Following five-year reviews by Commerce and the Commission, effective April 3, 2006, Commerce issued a continuation of the antidumping duty orders on imports of certain polyester staple fiber from Korea and Taiwan (71 FR 16558). The Commission is now conducting second five-year reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to these reviews:

regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Korea and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found that there were two Domestic Like Products corresponding to (1) low-melt fiber and (2) conventional polyester staple fiber (all subject polyester staple fiber except for low-melt fiber). However, the Commission made a negative original determination with respect to low-melt fiber. One Commissioner defined the Domestic Like Product differently in the original determinations. In its full first five-year review determinations, the Commission defined the Domestic Like Product to be all certain conventional polyester staple fiber, coextensive with the scope of the reviews.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined two Domestic Industries: (1) All domestic producers of low-melt fiber and (2) all domestic producers of conventional polyester staple fiber. However, the Commission made a negative determination with respect to low-melt fiber in the original investigations. One Commissioner defined the Domestic Industry differently in the original determinations. In its full first five-year review determinations, the Commission defined the Domestic Industry as all domestic producers of certain conventional polyester staple fiber, coextensive with the scope of the reviews.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

*Participation in the reviews and public service list.*—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with

the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and

contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 16, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

*Information to be Provided In Response to this Notice of Institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone

number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the Domestic Like Product or the Subject Merchandise in the U.S. or other markets.

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the Domestic Like Product produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in each Subject Country (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology;

production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country(ies), and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2011.

**William R. Bishop,**

*Hearings and Meetings Coordinator.*

[FR Doc. 2011-4447 Filed 2-28-11; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-694]

**In the Matter of Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same; Notice of Commission Determination To Review-in-Part a Final Determination of No Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review certain portions of the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on December 16, 2010 finding no violation of section 337 in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-4737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <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>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted the instant investigation on December 16, 2009, based on a complaint filed by Pioneer Corporation of Tokyo, Japan and Pioneer Electronics (USA) Inc. of Long Beach, California (collectively, "Pioneer"). 74 FR 66676 (Dec. 16, 2009). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multimedia display and navigation devices and systems, components thereof, and products containing same by reason of infringement of various claims of United States Patent Nos. 5,365,448 ("the '448 patent"), 5,424,951 ("the '951 patent"), and 6,122,592 ("the '592 patent"). The complaint names Garmin International, Inc. of Olathe, Kansas, Garmin Corporation of Taiwan (collectively, "Garmin") and Honeywell International Inc. of Morristown, New Jersey ("Honeywell") as the proposed respondents. Honeywell was subsequently terminated from the investigation, leaving only the Garmin respondents remaining.

On December 16, 2010, the ALJ issued a final ID, including his recommended determination on remedy and bonding. In his final ID, the ALJ found no violation of section 337 by Garmin. Specifically, the ALJ found that the accused products do not infringe claims 1 and 2 of the '448 patent, claims 1 and 2 of the '951 patent, or claims 1 and 2 of the '592 patent. The ALJ further found that neither Garmin nor the

Commission investigative attorney ("IA") has established that claims 1 and 2 of the '592 patent are invalid for obviousness under 35 U.S.C. 103 or for failing to comply with the written description requirement under 35 U.S.C. 112. With respect to remedy, the ALJ recommended that if the Commission disagrees with the finding of no violation, the Commission should issue a limited exclusion order directed to multimedia display and navigation devices and systems, and the components of such devices and systems, as well as a cease and desist order. The ALJ recommended that the limited exclusion order contain a certification provision. In addition, the ALJ recommended, in the event that a violation is found, that Garmin be required to post a bond equal to 0.5 percent of the entered value of any accused products that Garmin seeks to import during the Presidential review period.

On January 5, 2011, Pioneer, Garmin, and the IA each filed a petition for review of the ALJ's final ID. On January 9, 2011, Pioneer filed a consolidated reply to Garmin's and the IA's petitions for review. On the same day, Garmin filed a reply to Pioneer's petition for review and a separate reply to the IA's petitions for review. Also on the same day, the IA filed a consolidated reply to Pioneer and Garmin's petitions for review.

Having examined the record of this investigation, including the ALJ's final ID and the submissions of the parties, the Commission has determined to review (1) The claim construction of the limitation "second memory means" recited in claim 1 of the '951 patent, (2) infringement of claims 1 and 2 of the '951 patent, (3) the claim construction of the limitations "extracting means" and "a calculating device" recited in claim 1 of the '592 patent, (4) infringement of claims 1 and 2 of the '592 patent, (5) validity of the '592 patent under the written description requirement of 35 U.S.C. 112, and (6) the economic prong of the domestic industry requirement. No other issues are being reviewed.

The parties should brief their positions on the issues on review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. With respect to claim 1 of the '951 patent, does the claimed function of the limitation "second memory means" require "the read display pattern data" stored on the "second memory means" to be in the same data format with "said display pattern data \* \* \* from said

blasters in Federal program states and on Indian lands.  
*Total Annual Responses:* 8.  
*Total Annual Burden Hours:* 18.  
*Total Annual Non-Wage Burden Cost:* \$549.  
Dated: June 21, 2011.  
**John A. Trelease,**  
*Acting Chief, Division of Regulatory Support.*  
[FR Doc. 2011–16011 Filed 6–27–11; 8:45 am]  
**BILLING CODE 4310–05–M**

INTERNATIONAL TRADE  
COMMISSION

[Investigation Nos. 731–TA–825 and 826  
(Second Review)]

**Polyester Staple Fiber From Korea and Taiwan; Scheduling of Expedited Five-Year Reviews Concerning the Antidumping Duty Orders on Polyester Staple Fiber From Korea and Taiwan**

**AGENCY:** United States International Trade Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty orders on polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews 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, D, E, and F (19 CFR Part 207).  
**DATES:** *Effective Date:* June 6, 2011.  
**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–

205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>.  
**SUPPLEMENTARY INFORMATION:**  
*Background.*—On June 6, 2011, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 11268, March 1, 2011) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.<sup>1</sup> Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.  
*Staff report.*—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on July 28, 2011, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission’s rules.  
*Written submissions.*—As provided in section 207.62(d) of the Commission’s rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,<sup>2</sup> and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before August 2, 2011, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by August 2, 2011. However, should the

Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce’s final results is three business days after the issuance of Commerce’s results. If comments contain business proprietary information (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). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission’s Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).  
In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (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.  
*Determination.*—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission’s rules.  
By order of the Commission.  
Issued: June 23, 2011.  
**James R. Holbein,**  
*Secretary to the Commission.*

Proposed Work Schedule

**Investigation No. 731–TA–825 and 826 (Second Review)**  
*Polyester Staple Fiber from Korea and Taiwan*

STAFF ASSIGNED

|                                       |                                |
|---------------------------------------|--------------------------------|
| Investigator .....                    | Elizabeth Haines (205–3200).   |
| Commodity-Industry Analyst .....      | Jackie Jones (205–3466).       |
| Attorney .....                        | Karl von Schrititz (205–3096). |
| Acting Supervisory Investigator ..... | Elizabeth Haines (205–3200).   |

<sup>1</sup> A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s Web site.

<sup>2</sup> The Commission has found the responses submitted by DAK Americas, LLC, Palmetto Synthetics, LLC, U.S. Fibers, and Wellman Plastics Recycling, LLC, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

|                                                 | Date           |
|-------------------------------------------------|----------------|
| Institution .....                               | March 1, 2011. |
| Report to the Commission::                      |                |
| Draft to Supervisory Investigator .....         | July 13.       |
| Draft to Senior Review .....                    | July 20.       |
| To the Commission .....                         | July 28.       |
| Comments of Parties due <sup>1</sup> .....      | August 2.      |
| Legal issues memorandum to the Commission ..... | August 9.      |
| Briefing and vote (suggested date) .....        | August 30.     |
| Determination and views to Commerce .....       | September 13.  |

<sup>1</sup> If comments contain business proprietary information, a nonbusiness proprietary version is due the following business day.

[FR Doc. 2011-16110 Filed 6-27-11; 8:45 am]

BILLING CODE 7020-02-P

## FOREIGN CLAIMS SETTLEMENT COMMISSION

### [F.C.S.C. Meeting Notice No. 4-11]

#### Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

**DATE AND TIME:** Tuesday, July 12, 2011, at 11 a.m.

**SUBJECT MATTER:** Issuance of Proposed Decisions in claims against Albania and Libya.

**STATUS:** Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Judith H. Lock, Executive Officer, Foreign Claims Settlement Commission, 600 E Street, NW.; Suite 6002, Washington, DC 20579. Telephone: (202) 616-6975.

**Judith H. Lock,**  
Executive Officer.

[FR Doc. 2011-16322 Filed 6-24-11; 4:15 pm]

BILLING CODE 4410-BA-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and

30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

**DATES:** All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before July 28, 2011.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov)

(E-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers].

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

##### II. Petitions for Modification

*Docket Number:* M-2011-004-M.

*Petitioner:* Troy Mine, Inc., P.O. Box 1660, Highway 56 South Mine Road, Troy, Montana 59935.

*Mine:* Troy Mine, MSHA Mine I.D No. 24-01467, located in Lincoln County, Montana.

*Regulation Affected:* 30 CFR 57.11052(d) (Refuge areas).

*Modification Request:* The petitioner requests a modification of the existing standard to not use compressed air lines as the means of providing air for the underground refuge chamber, and not to use waterlines as the means of providing water for the underground refuge chamber. The petitioner states that: (1) The Troy Mine is an underground room and pillar mine with five stratabound copper/silver ore horizons dipping at approximately four (4) degrees (7% grade) and is accessed through adits from the surface. (2) The refuge chamber is designed to sustain 12 miners for 36 hours during a mine emergency. The refuge chamber is presently located in the "C" Bed 59 I crosscut. The unit is portable and future

## Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in August 2011.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 21, 2011.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2011-16625 Filed 6-30-11; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-839, A-583-833]

### Certain Polyester Staple Fiber From the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** On March 1, 2011, the Department of Commerce (the

Department) initiated the second sunset reviews of the antidumping duty orders on polyester staple fiber (PSF) from the Republic of Korea (Korea) and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year ("Sunset") Review*, 76 FR 11202 (March 1, 2011) (*Notice of Initiation*). The Department has conducted expedited (120-day) sunset reviews of these orders. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping as indicated in the "Final Results of Reviews" section of this notice.

**DATES:** *Effective Date:* July 1, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Michael A. Romani or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-1690, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On March 1, 2011, the Department initiated sunset reviews of the antidumping duty orders on PSF from Korea and Taiwan pursuant to section 751(c) of the Act. *See Notice of Initiation*. The Department received a notice of intent to participate from DAK Americas, LLC, Palmetto Synthetics LLC, and U.S. Fibers (collectively, the domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as manufacturers of a domestic like product in the United States. We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on PSF from Korea and Taiwan.

### Scope of the Orders

The product covered by the orders is PSF. PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying

from one inch (25 mm) to five inches (127 mm). The merchandise subject to the orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the orders. Also specifically excluded from the orders are PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the orders is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the orders is dispositive.

### Analysis of Comments Received

All issues raised in these reviews are addressed in the "Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Polyester Staple Fiber from the Republic of Korea and Taiwan" from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice (Issues and Decision Memo), which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum which is on file in room 7046 of the main Commerce Department building.

In addition, a complete version of the Issues and Decision Memo can be accessed directly on the Internet at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Issues and Decision Memo are identical in content.

### Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on PSF from Korea and Taiwan

would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

| Country     | Company           | Weighted-average margin (percent) |
|-------------|-------------------|-----------------------------------|
| Korea ..... | Sam Young .....   | 7.91                              |
|             | All Others .....  | 7.91                              |
| Taiwan ...  | Far Eastern ..... | 11.50                             |
|             | Nan Ya .....      | 3.79                              |
|             | All Others .....  | 7.31                              |

#### Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 24, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011-16651 Filed 6-30-11; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Initiation of Five-Year ("Sunset") Review

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

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping and countervailing duty orders and suspended investigation listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

**DATES:** *Effective Date:* July 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the *Initiation of Review* section below at

AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

##### Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders and suspended investigation:

| DOC Case No.    | ITC Case No.     | Country           | Product                                                                | Department contact                |
|-----------------|------------------|-------------------|------------------------------------------------------------------------|-----------------------------------|
| A-583-803 ..... | 731-TA-410 ..... | Taiwan .....      | Light-Walled Rectangular Welded Carbon Steel Pipe & Tube (3rd Review). | Dana Mermelstein, (202) 482-1391. |
| A-533-808 ..... | 731-TA-638 ..... | India .....       | Stainless Steel Wire Rod (3rd Review) .....                            | Dana Mermelstein, (202) 482-1391. |
| A-533-502 ..... | 731-TA-271 ..... | India .....       | Welded Carbon Steel Pipe & Tube (3rd Review).                          | Dana Mermelstein, (202) 482-1391. |
| A-549-502 ..... | 731-TA-252 ..... | Thailand .....    | Welded Carbon Steel Pipe & Tube (3rd Review).                          | Dana Mermelstein, (202) 482-1391. |
| A-580-810 ..... | 731-TA-540 ..... | South Korea ..... | Welded ASTM A-312 Stainless Steel Pipe (3rd Review).                   | Dana Mermelstein, (202) 482-1391. |
| A-583-815 ..... | 731-TA-541 ..... | Taiwan .....      | Welded ASTM A-312 Stainless Steel Pipe (3rd Review).                   | Dana Mermelstein, (202) 482-1391. |
| A-583-008 ..... | 731-TA-132 ..... | Taiwan .....      | Certain Circular Welded Carbon Steel Pipes & Tubes (3rd Review).       | Dana Mermelstein, (202) 482-1391. |
| A-351-809 ..... | 731-TA-532 ..... | Brazil .....      | Circular Welded Non-Alloy Steel Pipe (3rd Review).                     | Dana Mermelstein, (202) 482-1391. |
| A-201-805 ..... | 731-TA-534 ..... | Mexico .....      | Circular Welded Non-Alloy Steel Pipe (3rd Review).                     | Dana Mermelstein, (202) 482-1391. |
| A-583-814 ..... | 731-TA-536 ..... | Taiwan .....      | Circular Welded Non-Alloy Steel Pipe (3rd Review).                     | Dana Mermelstein, (202) 482-1391. |
| A-580-809 ..... | 731-TA-533 ..... | South Korea ..... | Circular Welded Non-Alloy Steel Pipe (3rd Review).                     | David Goldberger, (202) 482-4136. |
| A-489-501 ..... | 731-TA-273 ..... | Turkey .....      | Welded Carbon Steel Pipe & Tube (3rd Review).                          | David Goldberger, (202) 482-4136. |
| C-489-502 ..... | 701-TA-253 ..... | Turkey .....      | Welded Carbon Steel Pipe & Tube (3rd Review).                          | David Goldberger, (202) 482-4136. |
| A-821-802 ..... | 731-TA-539-C     | Russia .....      | Uranium (3rd Review) (Suspension Agreement).                           | Sally Gannon, (202) 482-0162.     |

#### Filing Information

As a courtesy, we are making information related to Sunset

proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule

for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the

**APPENDIX B**  
**STATEMENT ON ADEQUACY**



## **EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY**

in

*Certain Polyester Staple Fiber from Korea and Taiwan*  
Inv. Nos. 731-TA-825 and 826 (Second Review)

On June 6, 2011, the Commission determined to conduct expedited reviews in the subject five-year reviews pursuant to section 751(c)(3)(b) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(b).

The Commission received a joint response filed on behalf of domestic interested parties DAK Americas LLC, Palmetto Synthetics LLC, U.S. Fibers, and Wellman Plastics Recycling LLC, which are domestic producers of certain polyester staple fiber (“PSF”). The Commission found this joint response to the Commission’s notice of institution to be individually adequate for each of the responding firms. The Commission further determined that the domestic interested party group response was adequate under the circumstances of this particular industry.

The Commission did not receive a response from any respondent interested party in either of the reviews and, therefore, determined that the respondent interested party group responses were inadequate for both reviews.

The Commission did not find any circumstances that would warrant conducting a full review of either order. The Commission, therefore, determined to conduct an expedited review of both orders.

A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).



**APPENDIX C**  
**SUMMARY DATA**



Table I-1

Certain PSF: Comparative data of the U.S. market and industry from the original investigations and the current reviews, 1997-2004, January-September 2004, and January-September 2005<sup>1</sup>

(Quantity=1,000 pounds; value=1,000 dollars, unit values= per pound, shares/ratios in percent)

| Item                              | 1997    | 1998    | 1999    | 2000    | 2001    | 2002      | 2003      | 2004      | Jan.-Sept.<br>2004 | Jan.-Sept.<br>2005 |
|-----------------------------------|---------|---------|---------|---------|---------|-----------|-----------|-----------|--------------------|--------------------|
| <b>U.S. consumption quantity:</b> |         |         |         |         |         |           |           |           |                    |                    |
| Amount                            | 804,768 | 842,713 | 912,463 | 862,370 | 883,367 | 1,057,540 | 1,061,124 | 1,059,175 | 788,520            | 791,176            |
| U.S. producers' share             | 63.7    | 55.6    | 58.1    | 49.4    | 45.5    | 50.3      | 48.7      | 57.6      | 56.7               | 55.1               |
| <b>U.S. importers' share:</b>     |         |         |         |         |         |           |           |           |                    |                    |
| Korea                             | ***     | ***     | ***     | 23.0    | 22.8    | 21.0      | 24.3      | 19.8      | 20.8               | 15.0               |
| Taiwan                            | ***     | ***     | ***     | 19.1    | 19.3    | 13.3      | 8.9       | 6.8       | 7.2                | 4.4                |
| Subtotal,<br>subject imports      | ***     | ***     | ***     | 42.1    | 42.0    | 34.3      | 33.3      | 26.6      | 28.0               | 19.4               |
| All other sources                 | ***     | ***     | ***     | 8.5     | 12.5    | 15.4      | 18.0      | 15.7      | 15.3               | 25.5               |
| Total imports                     | 36.3    | 44.4    | 41.9    | 50.6    | 54.5    | 49.7      | 51.3      | 42.4      | 43.3               | 44.9               |
| <b>U.S. imports from:</b>         |         |         |         |         |         |           |           |           |                    |                    |
| <b>Korea:</b>                     |         |         |         |         |         |           |           |           |                    |                    |
| Quantity                          | ***     | ***     | ***     | 198,608 | 201,077 | 222,594   | 258,351   | 209,856   | 163,907            | 118,501            |
| Value                             | ***     | ***     | ***     | 85,298  | 82,179  | 84,563    | 107,640   | 100,920   | 76,663             | 69,926             |
| Unit value                        | \$***   | \$***   | \$***   | \$0.43  | \$0.41  | \$0.38    | \$0.42    | \$0.48    | \$0.47             | \$0.59             |
| <b>Taiwan:</b>                    |         |         |         |         |         |           |           |           |                    |                    |
| Quantity                          | ***     | ***     | ***     | 164,473 | 170,054 | 140,271   | 94,793    | 72,376    | 56,937             | 35,063             |
| Value                             | ***     | ***     | ***     | 87,533  | 83,796  | 67,350    | 48,612    | 43,262    | 32,801             | 24,296             |
| Unit value                        | \$***   | \$***   | \$***   | \$0.53  | \$0.49  | \$0.48    | \$0.51    | \$0.60    | \$0.58             | \$0.69             |
| <b>Subtotal, subject:</b>         |         |         |         |         |         |           |           |           |                    |                    |
| Quantity                          | ***     | ***     | ***     | 363,082 | 371,131 | 362,865   | 353,144   | 282,232   | 220,844            | 153,564            |
| Value                             | ***     | ***     | ***     | 172,831 | 165,975 | 151,914   | 156,252   | 144,181   | 109,464            | 94,222             |
| Unit value                        | \$***   | \$***   | \$***   | \$0.48  | \$0.45  | \$0.42    | \$0.44    | \$0.51    | \$0.50             | \$0.61             |
| <b>All other sources:</b>         |         |         |         |         |         |           |           |           |                    |                    |
| Quantity                          | ***     | ***     | ***     | 73,002  | 110,740 | 162,932   | 191,476   | 166,335   | 120,382            | 201,497            |
| Value                             | ***     | ***     | ***     | 41,669  | 64,114  | 83,649    | 98,823    | 96,618    | 68,324             | 130,273            |
| Unit value                        | \$***   | \$***   | \$***   | \$0.57  | \$0.58  | \$0.51    | \$0.52    | \$0.58    | \$0.57             | \$0.65             |
| <b>Total:</b>                     |         |         |         |         |         |           |           |           |                    |                    |
| Quantity                          | 292,177 | 374,329 | 382,123 | 436,084 | 481,872 | 525,797   | 544,620   | 448,568   | 341,225            | 355,061            |
| Value                             | 161,532 | 172,332 | 170,164 | 214,500 | 230,089 | 235,563   | 255,075   | 240,799   | 177,788            | 224,495            |
| Unit value                        | \$0.55  | \$0.46  | \$0.45  | \$0.49  | \$0.48  | \$0.45    | \$0.47    | \$0.54    | \$0.52             | \$0.63             |

Table continued on next page.

Table I-1--*Continued*

Certain PSF: Comparative data of the U.S. market and industry from the original investigations and the current reviews, 1997-2004, January-September 2004, and January-September 2005

(Quantity=1,000 pounds; value=1,000 dollars, unit values= per pound, shares/ratios in percent)

| Item                                   | 1997    | 1998    | 1999    | 2000     | 2001     | 2002    | 2003    | 2004     | Jan.-Sept.<br>2004 | Jan.-Sept.<br>2005 |
|----------------------------------------|---------|---------|---------|----------|----------|---------|---------|----------|--------------------|--------------------|
| U.S. producers':                       |         |         |         |          |          |         |         |          |                    |                    |
| Capacity                               | 671,945 | 701,393 | 743,608 | 581,500  | 596,500  | 833,500 | 893,700 | 964,900  | 754,350            | 785,550            |
| Production                             | 550,890 | 510,212 | 548,703 | 451,317  | 412,989  | 563,081 | 530,804 | 665,590  | 482,704            | 463,067            |
| Capacity utilization                   | 82.0    | 72.7    | 73.8    | 77.6     | 69.2     | 67.6    | 59.4    | 69.0     | 64.0               | 58.9               |
| U.S. shipments:                        |         |         |         |          |          |         |         |          |                    |                    |
| Quantity                               | 512,591 | 468,384 | 530,340 | 426,286  | 401,495  | 531,743 | 516,504 | 610,607  | 447,295            | 436,115            |
| Value                                  | 338,088 | 290,748 | 281,070 | 222,161  | 212,068  | 270,114 | 269,187 | 343,808  | 243,691            | 290,564            |
| Unit value                             | \$0.66  | \$0.62  | \$0.53  | \$0.52   | \$0.53   | \$0.51  | \$0.52  | \$0.56   | \$0.54             | \$0.68             |
| Export shipments:                      |         |         |         |          |          |         |         |          |                    |                    |
| Quantity                               | 29,055  | 27,676  | 28,071  | ***      | ***      | 22,813  | 35,613  | 49,222   | 35,339             | 35,402             |
| Value                                  | 34,083  | 32,147  | 30,053  | ***      | ***      | 11,361  | 17,517  | 26,579   | 18,411             | 22,798             |
| Unit value                             | \$1.17  | \$1.16  | \$1.07  | ***      | ***      | \$0.50  | \$0.49  | \$0.54   | \$0.52             | \$0.64             |
| Production and related workers         | 1,445   | 1,351   | 1,241   | ***      | ***      | 985     | 1,141   | 1,052    | 1,018              | 975                |
| Hours worked (1,000)                   | 2,287   | 2,018   | 1,957   | ***      | ***      | 2,460   | 2,329   | 2,788    | 2,200              | 2,089              |
| Hourly wage                            | \$17.50 | \$19.11 | \$19.41 | ***      | ***      | \$19.43 | \$22.40 | \$19.85  | \$18.45            | \$19.54            |
| Net sales (value)                      | 372,745 | 324,659 | 311,143 | 227,989  | 216,880  | 280,853 | 286,756 | 369,998  | 262,074            | 313,276            |
| Operating income or (loss) (value)     | 32,641  | 11,430  | 5,489   | (24,344) | (20,953) | (2,863) | (9,547) | (17,190) | (11,499)           | 11,637             |
| Ratio operating income or (loss)/sales | 8.8     | 3.5     | 1.8     | -10.7    | -9.7     | -1.0    | -3.3    | -4.6     | -4.4               | 3.7                |

<sup>1</sup> Domestic industry data from the original investigations and the current reviews are generally comparable. Complete comparability, however, is not possible, in light of the closure of Intercontinental Polymers and the absence of some trade and financial data for \*\*\*. Data availability is discussed in greater detail in Part III of this report.

Source: Data for 1997-99 are compiled from *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final)*, confidential staff report (INV-X-082), April 21, 2000, and *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000. Specifically, the data are derived from the following tables in the staff report and publication: table IV- 5 (U.S. producers' shipments); table IV-1 (import volume); table III-1 (production, capacity and capacity utilization); table III-2 (U.S. producers' shipments); table III-3 (exports); table III-7 (employment); and table VI-1 (financial performance). Data for January 2000-September 2005 are compiled from responses to the Commission questionnaires in the current reviews and from official Commerce statistics.