

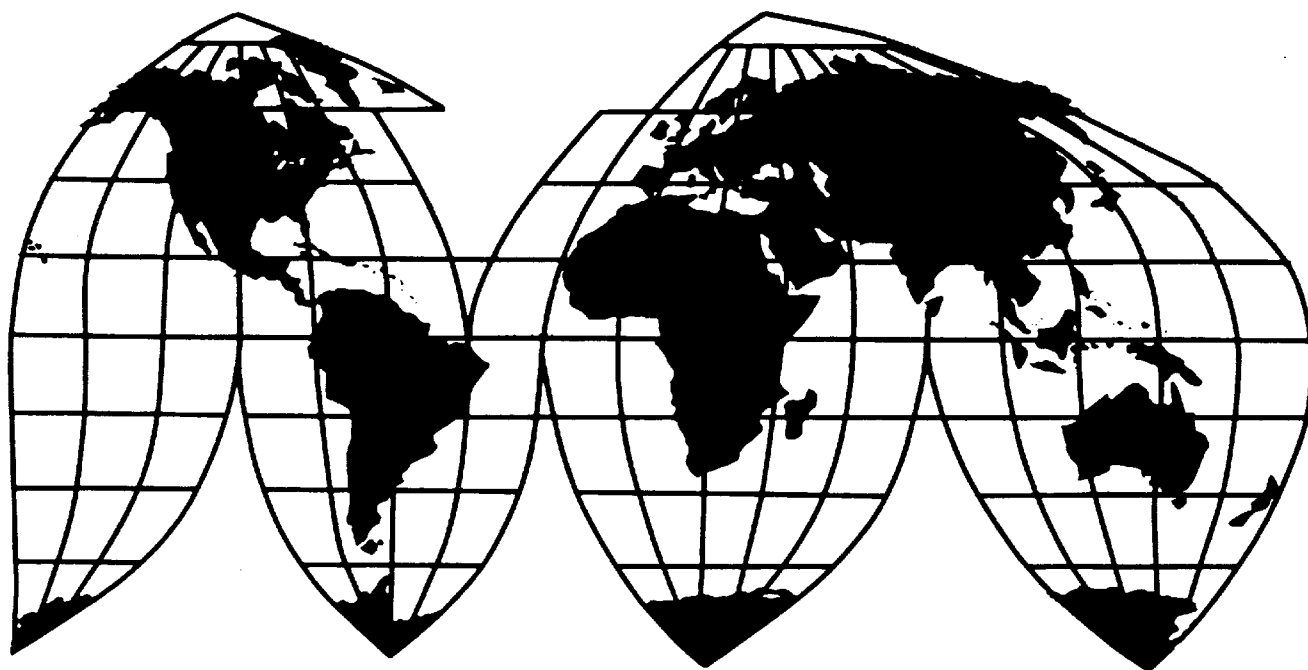
# Granular Polytetrafluoroethylene Resin From Italy and Japan

Investigation Nos. 731-TA-385 and 386 (Second Review)

Publication 3823

December 2005

**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**Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-385 and 386 (Second Review)

## GRANULAR POLYTETRAFLUOROETHYLENE RESIN FROM ITALY AND JAPAN

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in these 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)) (the Act), that revocation of the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan 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>2</sup>

### BACKGROUND

On December 1, 2004, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (69 F.R. 69954, December 1, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on May 4, 2005 (70 F.R. 24613). The hearing was held in Washington, DC, on October 25, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on December 13, 2005. The views of the Commission are contained in USITC Publication 3823 (December 2005), entitled *Granular Polytetrafluoroethylene Resin from Italy and Japan: Investigation Nos. 731-TA-385 and 386 (Second Review)*.

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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)).

<sup>2</sup> Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissent with regard to the determination concerning Japan.





## 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 granular polytetrafluoroethylene resin (“PTFE”) from Italy and Japan is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. BACKGROUND

In August 1988, the Commission determined that an industry in the United States was being materially injured by reason of imports of granular PTFE resin from Italy and Japan that were being sold at less than fair value.<sup>2</sup> That same month, Commerce issued antidumping duty orders on imports of granular PTFE resin from Italy and Japan.<sup>3</sup> Subsequently, Commerce amended the scope of the order on Italy to cover wet raw polymer, an intermediate product exported from Italy to the United States.<sup>4</sup>

On August 5, 1999, the Commission voted to conduct expedited reviews in the first five-year reviews involving granular PTFE resin,<sup>5</sup> and on December 14, 1999, 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>6</sup>

The Commission instituted the second reviews of the orders at issue on December 1, 2004.<sup>7</sup> On March 7, 2005, the Commission determined that it should proceed to full reviews.<sup>8</sup> In so doing, the Commission found the domestic interested party group response to the notice of institution for each review adequate. The Commission also found that the respondent interested party group response for the review concerning subject imports from Japan was adequate. It therefore determined to proceed to a full review with respect to subject imports from Japan. With respect to the review of subject imports from Italy, because it received no response from any interested party with respect to subject imports from Italy, the Commission determined that the respondent interested group response for Italy was inadequate. Nevertheless, the Commission determined to conduct a full review with respect to subject imports from Italy in order to promote administrative efficiency.<sup>9</sup>

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<sup>1</sup> Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissent from the determination with respect to Japan. They join sections I (Background), II (Market Background) and III (Domestic Like Product and Industry) of the Commission’s Opinion. See Separate and Dissenting Views of Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson.

<sup>2</sup> Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385-386 (Final) USITC Pub. 2112 (August 1988) (“Original Determination”) at 2.

<sup>3</sup> 53 Fed. Reg. 33163 (Aug. 30, 1988) (Italy) and 53 Fed. Reg. 32267 (Aug. 24, 1988) (Japan).

<sup>4</sup> 58 Fed. Reg. 26100 (Apr. 30, 1993).

<sup>5</sup> 64 Fed. Reg. 44537 (Aug. 16, 1999).

<sup>6</sup> Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385-386 (Review) USITC Pub. 3260 (“First Five-Year Review Determination”) at 2.

<sup>7</sup> 69 Fed. Reg. 69954 (Dec. 1, 2004).

<sup>8</sup> 70 Fed. Reg. 14713 (March 23, 2005).

<sup>9</sup> 70 Fed. Reg. 14713 (March 23, 2005); see also Confidential Staff Report (“CR”) at Appendix A, Explanation of Commission Determination on Adequacy in Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385-386 (Second Review).

## II. MARKET BACKGROUND

Granular polytetrafluoroethylene resin (“PTFE resin”) is a high molecular weight crystalline fluoropolymer produced by the aqueous suspension polymerization of tetrafluoroethylene (TFE) monomer. The subject product is a specialty white, waxy crystalline fluoropolymer material known for its chemical inertness, excellent heat and chemical resistance, electrical insulation properties, mechanical strength and toughness, low coefficient of friction (lubricity), and functionality over a wide temperature range. The product may be produced as a fully fluorinated homopolymer or contain certain copolymer additives that aid in the fabrication of end use products by significantly reducing the melt viscosity. It is commonly sold in several different grades, including various sizes of powder (including pre-sintered powder), as pellets, and as compounded molding powders containing fillers like fiberglass and carbon. Finely divided subject granular PTFE powders known as “fine cut” in the industry are used for a variety of applications including high-performance mechanical and electrical applications, skived film and sheet, gaskets, bridge or pipeline bearing pads, piston rings, diaphragms, seal rings, valve seats, and linings. Pelletized resins are preferred for the fabrication of ball valve seats, seals, discs, labware, and smaller parts. These resins also are used to produce tank and pipe linings, ducting and expansion joints and bellows, piston rings, and other large complex moldings. These resins typically are used to produce rods, tubing, and profiles formed by ram extrusion.<sup>10</sup> Most granular PTFE resin is sold to processors that mold mainly intermediate products. In addition, users of filled granular PTFE resin either do the compounding work themselves or purchase the product from compounders.<sup>11</sup>

There are three known U.S. producers of unfilled granular PTFE resin: (1) E.I. du Pont de Nemours & Co., Inc., (“DuPont”), with its plant in Parkersburg, WV; (2) AGC Chemicals America, Inc. (“AGC”), Downingtown, PA; and (3) Daikin America, Inc., Decatur, AL. AGC and Dyneon LLC, Oakdale, MN, also produce filled granular PTFE resin, and \*\*\* the filled product. In addition, PTFE Compounds, Newcastle, DE, produces (only) filled granular PTFE, from unfilled product that is \*\*\*.<sup>12</sup>

Domestic production accounted for between \*\*\* to \*\*\* percent of the U.S. market for granular PTFE resins over the period examined. Over the entire period of review, imports from Italy and non-subject sources (e.g., China and Russia), accounted for the majority of imports; Japan had a \*\*\* volume of imports during this period.<sup>13</sup>

## III. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”<sup>14</sup> The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>15</sup> The Commission’s practice in five-year reviews is to look to the like product

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<sup>10</sup> CR at I-13 and I-14/PR at I-7.

<sup>11</sup> CR/PR at II-1.

<sup>12</sup> CR at I-18/PR at I-10.

<sup>13</sup> CR/PR Table I-3.

<sup>14</sup> 19 U.S.C. § 1677(4)(A).

<sup>15</sup> 19 U.S.C. § 1677(10). See 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

(continued...)

definition from the original determinations and any previous review determinations and consider whether the record indicates any reason to revisit that definition.<sup>16</sup>

In its notice of final results of expedited reviews, Commerce defined the subject merchandise as granular polytetrafluoroethylene resin (“PTFE”), filled or unfilled. Also included in the scope is PTFE wet raw polymer exported from Italy.<sup>17</sup> Commerce indicated that PTFE dispersions in water and PTFE fine powders were excluded from the scope of the orders. It further noted that the subject merchandise is classified under HTS subheading 3904.61.00.<sup>18</sup>

In its original determination, the Commission defined the domestic like product to correspond to the scope as first defined by Commerce, which was all granular PTFE resin, both filled and unfilled.<sup>19</sup> In the first five-year reviews, the Commission noted that an amendment to the scope by Commerce raised the possibility of two domestic like products, granular PTFE resin and wet raw polymer. It further noted that the two resins share fundamental characteristics and that there is no domestic production of wet raw polymer for sale. Given that there is no market for raw polymer, the Commission determined that finding two separate like products would not be appropriate.<sup>20</sup>

In these second reviews, the domestic interested party (DuPont), and the Japanese respondents have not raised any arguments pertaining to the definition of domestic like product.

The record here contains no information that would warrant a reconsideration of the domestic like product definition. We therefore define the domestic like product in these reviews to be coextensive with Commerce’s scope.

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<sup>15</sup> (...continued)  
(1979).

<sup>16</sup> See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

<sup>17</sup> 70 Fed. Reg. 38872 (July 6, 2005). Commerce’s current scope, with the inclusion of wet raw polymer, is slightly broader than the scope in the original investigation. In 1993, as a result of an affirmative circumvention determination, Commerce amended the scope of the order on Italy to cover wet raw polymer, an intermediate product exported from Italy to the United States. Commerce’s anti-circumvention inquiry examined PTFE wet polymer manufactured by Montefluos in Italy and exported to a related U.S. firm, Ausimont, which used it to produce granular PTFE resin. Commerce determined, among other things, that the monomer production processes and suspension polymerization processes used to produce PTFE wet raw polymer “impart the basic physical characteristics that distinguish granular PTFE resin from other forms of PTFE resin” and that the post-treatment processes which then transform PTFE wet raw polymer into granular PTFE resin “do not fundamentally alter the nature of the product.” 58 Fed. Reg. 26100 (April 30, 1993).

<sup>18</sup> 70 Fed. Reg. 38872 (July 6, 2005).

<sup>19</sup> Original Determination at 13.

<sup>20</sup> First Five Year Review Determination at 9.

## B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the “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>

The only issue that arises in these second reviews with respect to our definition of the domestic industry is whether any producers should be excluded under the related parties provision, 19 U.S.C. § 1677(4)(B). 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 that are themselves importers.<sup>22</sup> 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.<sup>23</sup>

We note that no party has advocated that any domestic producer be excluded as a related party. Below, we discuss whether appropriate circumstances exist to exclude any of the related domestic producers.

AGC is a wholly owned subsidiary of a subject producer, Asahi Glass Co., Ltd., Tokyo, Japan. AGC reported that it imported \*\*\* pounds of the subject merchandise \*\*\*.<sup>24</sup> Consequently, AGC falls within the definition of a related party. The question then is whether AGC should be excluded from the domestic industry.

AGC is the \*\*\* producer of domestic granular PTFE resin, accounting for \*\*\* percent of total industry capacity in 2004.<sup>25</sup> Its production of unfilled granular PTFE resin totaled \*\*\* pounds in 1999, \*\*\* pounds in 2000, \*\*\* pounds in 2001, \*\*\* pounds in 2002, \*\*\* pounds in 2003, and \*\*\* pounds in 2004.<sup>26</sup> AGC also accounted for \*\*\* of the domestic industry’s capital expenditures in 2003 and 2004.<sup>27</sup> According to AGC, \*\*\*.<sup>28</sup> AGC reported \*\*\* from 2000-2004 and was the \*\*\* of the responding

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<sup>21</sup> 19 U.S.C. § 1677(4)(A). 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, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

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

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

See, e.g., Allied Mineral Products v. United States, Slip Op. 04-134 (Ct. Int’l Trade Nov. 2, 2004) at 9; 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).

<sup>23</sup> See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9.

<sup>24</sup> CR at IV-2, PR at IV-1.

<sup>25</sup> CR at I-19, PR at I-11.

<sup>26</sup> CR at IV-2, PR at IV-1.

<sup>27</sup> CR at III-10, PR at III-4.

<sup>28</sup> CR at III-10, PR at III-4.

domestic producers.<sup>29</sup> AGC indicated that it does not support the continuation of the antidumping order on subject imports from Japan. However, it does support the continuation of the antidumping order on subject imports from Italy.<sup>30</sup>

AGC has a substantial U.S. production presence. Although AGC did import \*\*\* of subject imports from Japan \*\*\*, this amount represented only \*\*\* percent of its total domestic production for the same year.<sup>31</sup> Moreover, given that AGC has experienced \*\*\* throughout most of the period of review, it appears that AGC has not derived any financial benefit relative to other domestic producers during the period of review due to its affiliation with Asahi Glass.<sup>32</sup> No party urges that AGC be excluded from the domestic industry. We therefore determine that appropriate circumstances do not exist to exclude AGC from the domestic industry pursuant to the related parties provision.

A related parties issue also arises with respect to DuPont, the largest domestic producer of the domestic like product.<sup>33</sup> DuPont is a participant in a joint venture in Japan that manufactures and exports granular PTFE resin to other markets. DuPont owns \*\*\* of Mitsui DuPont Fluorochemicals (“MDF”), a Japanese producer of the granular PTFE resin.<sup>34</sup> DuPont denied at the hearing that it had a controlling interest in MDF, and as such, DuPont would not appear to fall within the definition of related party.<sup>35</sup>

Even assuming that DuPont falls within the related party definition, we find that appropriate circumstances do not exist to exclude it from the domestic industry. DuPont reports that it did not import any subject merchandise from either of the subject countries during the period of review. According to the record, it produced roughly \*\*\* pounds of unfilled granular PTFE resin in 1999, \*\*\* pounds in 2000, \*\*\* pounds in 2001, \*\*\* pounds in 2002, \*\*\* pounds in 2003, and \*\*\* pounds in 2004.<sup>36</sup> During 1999-2002, DuPont accounted for \*\*\* of the domestic industry’s capital expenditures.<sup>37</sup> DuPont indicated that the \*\*\*.<sup>38</sup> DuPont, who was a petitioner in the original investigations, supports continuation of the orders on subject imports from Italy and subject imports from Japan. Based on all these factors and the fact that no party has urged its exclusion, we determine that appropriate circumstances do not exist to exclude DuPont from the domestic industry.<sup>39</sup>

Accordingly, we therefore define the domestic industry in these reviews to include all domestic producers of granular PTFE resin.

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<sup>29</sup> CR/PR at Table III-5.

<sup>30</sup> Japanese Respondents’ Prehearing Brief at 14-15.

<sup>31</sup> CR at IV-2, PR at IV-1.

<sup>32</sup> CR/PR at Table III-5.

<sup>33</sup> CR at I-19, PR at I-11.

<sup>34</sup> CR at I-19, PR at I-11.

<sup>35</sup> Tr. at 22.

<sup>36</sup> DuPont’s Producer’s Questionnaire Response.

<sup>37</sup> CR at III-10, PR at III-4.

<sup>38</sup> CR at III-10, PR at III-4.

<sup>39</sup> The staff report indicates that two other domestic producers of granular PTFE resin, Daikin America, Inc. and Ausimont USA, fall within the definition of related parties because both are owned by and also import from producers in the subject countries. CR/PR at III-1. However, the question of whether to exclude these producers from the domestic industry is moot. Daikin did not provide any financial information, and Ausimont did not respond to the notice of institution and to the questionnaires.

## IV. CUMULATION

### A. Framework

Section 752(a) of the Act provides that:  
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>40</sup>

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. Also, the statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>41</sup> We note that neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>42</sup> With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.<sup>43</sup>

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>44</sup> Only a “reasonable overlap” of competition is required.<sup>45</sup> In five-year reviews, the relevant inquiry is whether

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<sup>40</sup> 19 U.S.C. § 1675a(a)(7).

<sup>41</sup> 19 U.S.C. § 1675a(a)(7).

<sup>42</sup> SAA, H.R. Rep. No. 103-316, vol. I (1994).

<sup>43</sup> For a discussion of the analytical framework of Chairman Koplan and Commissioner Hillman regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

<sup>44</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (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 (CIT 1989).

<sup>45</sup> See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations

(continued...)

there likely would be competition even if none currently exists. Because of the prospective nature of five-year reviews, the Commission, in addition to its traditional competition factors, has considered factors that are examined in other contexts where cumulation is discretionary.<sup>46</sup>

Here, the statutory requirement that all of the granular PTFE resin reviews be initiated on the same day is satisfied.

## **B. Likelihood of No Discernible Adverse Impact**

### **1. Italy**

In the original investigations, the volume of subject imports from Italy steadily increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1986, and to \*\*\* pounds in 1987.<sup>47</sup> The volume of subject imports from Italy has continued to rise, albeit irregularly, since the end of the first five-year reviews.<sup>48</sup> The volume of subject imports from Italy increased from \*\*\* pounds in 1999 to \*\*\* pounds in 2000, and then decreased to \*\*\* pounds in 2001.<sup>49</sup> Subject imports from Italy rose to \*\*\* pounds in 2002, then decreased \*\*\* to \*\*\* pounds in 2003. In 2004, the volume of subject imports from Italy increased to \*\*\* pounds, which is higher than their peak in the original investigations.<sup>50</sup>

At the time of the first reviews, Italian capacity to produce granular PTFE resin was estimated to be \*\*\* pounds, a \*\*\* percent increase over its reported capacity in 1987.<sup>51</sup> In these reviews, the only known producer of granular PTFE resin in Italy, Solvay Solexis S.p.A., did not respond to the Commission's notice of institution or requests for information. According to public data, Solvay currently has capacity to produce PTFE products of \*\*\* pounds, of which \*\*\* pounds were subject granular PTFE resin.<sup>52</sup> Solvay \*\*\*.<sup>53</sup>

Data collected in the original investigations indicate that the Italian producer's capacity utilization rates \*\*\* from \*\*\* percent in 1985 to \*\*\* percent in 1986, and then \*\*\* in 1987.<sup>54</sup> At the time of the original investigations, Italian home shipments declined, while exports, including those to the

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<sup>45</sup> (...continued)

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, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>46</sup> See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

<sup>47</sup> CR/PR at Table I-1.

<sup>48</sup> CR/PR at Table I-1.

<sup>49</sup> CR/PR at Table I-1.

<sup>50</sup> CR/PR at Table I-1.

<sup>51</sup> First Five-Year Review Staff Report (Confidential Version) at I-22, Table I-4.

<sup>52</sup> CR at IV-5, PR at IV-2.

<sup>53</sup> CR at IV-5, PR at IV-2.

<sup>54</sup> 1988 Confidential Staff Report at A-72.

United States, rose.<sup>55</sup> Italian home market shipments of granular PTFE resin decreased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987. At the same time, exports to the United States increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>56</sup> The capacity to produce granular PTFE resins in Italy was estimated to be \*\*\* million pounds in 1997, a \*\*\* percent increase over reported capacity in 1987.<sup>57</sup> The capacity to produce all PTFE resin in Italy was \*\*\* million pounds in 1997, and Italian consumption of all PTFE resin, including imports into Italy, was \*\*\* million pounds in 1997.<sup>58</sup>

As noted above, the volume of subject imports from Italy that entered the U.S. market during the second review period was substantial. According to both DuPont and the Japanese respondents, subject imports from Italy are currently adversely affecting U.S. prices.<sup>59</sup> In addition to the already appreciable amounts of exports, the Italian producer would have an incentive to increase its low-priced exports to the U.S. market if the order were revoked. As the record shows, because of the high fixed costs associated with granular PTFE resin production, producers seek to maximize their capacity utilization.<sup>60</sup> The Italian producer's current substantial presence in the U.S. market illustrates that the Italian subject producer relies on shipments to the U.S. market to maintain capacity utilization levels. The U.S. market is an attractive market given the U.S. market's higher prices relative to most other markets.<sup>61</sup> This fact as well as the U.S. market's large size and likely steady demand would provide the Italian subject producer with additional incentives to increase its exports to the United States in the event of revocation.<sup>62</sup>

In sum, the low-priced imports from Italy have maintained a sizable presence in the U.S. market, and the record indicates that the Italian subject producer relies on its export markets, in particular the United States. In the original investigations, the Italian subject producer demonstrated its ability to shift easily between markets.<sup>63</sup> Moreover, the sizable, steady, and high-priced U.S. market remains an attractive market.<sup>64</sup> Given these factors, the need to maximize available capacity, the Italian producer's trade patterns during the original investigations, as well as the vulnerability of the domestic industry as discussed in section IV of these views, we do not find that subject imports from Italy would be likely to have no discernible adverse impact on the domestic industry if the order were revoked.

## 2. Japan

In the original investigations, the volume of subject imports from Japan increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1986, and to \*\*\* pounds in 1987.<sup>65</sup> Subject imports from Japan during the second review period have been \*\*\*.<sup>66</sup> The record indicates that only \*\*\* pounds of Japanese subject merchandise were exported to the U.S. market in 2003.<sup>67</sup>

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<sup>55</sup> CR at I-23, Table I-4; PR at 16, CR/PR at Table I-4.

<sup>56</sup> CR at I-23, Table I-4; PR at 16, CR/PR at Table I-4.

<sup>57</sup> CR at I-22-24; PR at I-17-19.

<sup>58</sup> CR at I-22; PR at I-17.

<sup>59</sup> Japanese Respondents Posthearing Brief at 4; Tr. at 23-24, 120.

<sup>60</sup> First Five-Year Review Determination (Confidential Version) at 17.

<sup>61</sup> DuPont's Prehearing Brief at 6-7.

<sup>62</sup> CR/PR at Table I-1.

<sup>63</sup> 1988 Confidential Staff Report at Table 20.

<sup>64</sup> DuPont's Prehearing Brief at 6-7; CR at Table I-1.

<sup>65</sup> CR/PR at Table I-1.

<sup>66</sup> CR/PR at Table I-1.

<sup>67</sup> CR/PR at Table I-1.



In 1987 the year the order was imposed, Japanese subject producers' capacity to produce granular PTFE resin was reported to be \*\*\*, and their reported capacity utilization rate was \*\*\* percent.<sup>68</sup> Currently, there are three known Japanese producers of granular PTFE resin: Daikin Industries, MDF, and Asahi Glass.<sup>69</sup> Information pertaining to Japanese subject producers' production capacity is limited as only Asahi Glass and MDF provided production figures. According to available public data, total Japanese production capacity for all PTFE was \*\*\* pounds as of mid-2005.<sup>70</sup> The data indicate that Daikin, the \*\*\* Japanese subject producer, has \*\*\* pounds of capacity to produce all PTFE.<sup>71</sup> DuPont estimates that \*\*\* percent or \*\*\* pounds of Daikin's total capacity in Japan is devoted to the subject product.<sup>72</sup> Asahi Glass and MDF reported \*\*\* pounds of production capacity for the unfilled product in 2004.<sup>73</sup> Asahi Glass' and MDF's combined capacity utilization rates were \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, and \*\*\* percent in 2003. In 2004, Asahi Glass's and MDF's capacity utilization rate was \*\*\* percent.<sup>74</sup>

At the time of the original investigations, Japanese subject producers' home shipments had declined, while their exports to the United States had risen. Japanese subject producers' home market shipments of all granular PTFE resin decreased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>75</sup> At the same time, the volume of Japanese subject imports to the United States increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>76</sup> Asahi Glass, the only responding Japanese subject producer, reported that \*\*\* by its home market.<sup>77</sup> The current record indicates that Japanese granular PTFE resin production capacity is \*\*\* than current Japanese demand. In 2004, Japanese demand for granular PTFE was approximately \*\*\* pounds, which represented roughly \*\*\* percent of combined Japanese granular PTFE resin capacity.<sup>78</sup>

Japanese subject producers would have an incentive to increase their exports to the U.S. market if the order was revoked. As noted above, and in our discussion of conditions of competition, the high fixed costs associated with operating and maintaining a granular PTFE resin plant require manufacturers to sustain high capacity utilization rates to stay profitable.<sup>79</sup> The record now indicates that Japanese home market demand is \*\*\* than Japanese subject producers' production capacity,<sup>80</sup> despite the fact that the Japanese market may command the highest prices for granular PTFE resin.<sup>81</sup> Thus, Japanese subject producers must rely extensively on export markets in order to maximize their capacity utilization. Moreover, the record indicates that Japanese producers are facing shrinking opportunities in other markets

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<sup>68</sup> 1988 Confidential Staff Report at Table 21.

<sup>69</sup> CR/PR at IV-6.

<sup>70</sup> CR at IV-6, PR at IV-2.

<sup>71</sup> CR/PR at Table IV-6. We note that the staff report indicates that Daikin has \*\*\* of capacity in Japan to produce granular PTFE resin. However, that figure represents Daikin's production capacity for all PTFE. \*\*\*.

<sup>72</sup> DuPont's Posthearing Brief at Attachment B.

<sup>73</sup> CR (as revised) at Table IV-5A.

<sup>74</sup> CR (as revised) at Table IV-5A.

<sup>75</sup> 1988 Confidential Staff Report at Table 21.

<sup>76</sup> 1988 Confidential Staff Report at Table 21.

<sup>77</sup> CR/PR at Table IV-4 and IV-5.

<sup>78</sup> CR at IV-7, PR at IV-2-3, DuPont's Posthearing Brief at Attachment 3 (for \*\*\* capacity in Japan, CR (as revised)), and at Table IV-4A.

<sup>79</sup> First Five-Year Review Determination at 17.

<sup>80</sup> CR at IV-7, PR at IV-2-3, DuPont's Posthearing Brief at Attachment 3 (for \*\*\* capacity in Japan, CR (as revised)), and at Table IV-4A.

<sup>81</sup> DuPont's Prehearing Brief at 6-7.

due to the sharp buildup in Chinese granular PTFE resin production capacity.<sup>82</sup> Thus, if the order is revoked, the U.S. market would be an attractive market for Japanese subject producers, given the U.S. market's higher prices relative to other third-country markets<sup>83</sup> and its large size.<sup>84</sup> Indeed, Daikin, the largest Japanese subject producer, stated that \*\*\*.<sup>85</sup> Furthermore, two Japanese producers, Daikin and Asahi, have established channels of distribution through their affiliates that will enable them to increase their sales to the United States within a foreseeable period of time following revocation of the orders.

Japanese respondents argue that Japanese subject imports would likely be limited to niche products such as higher grades of granular PTFE resin. They argue that Japanese subject producers' affiliations with domestic producers make it unlikely that Japanese producers would ship imports of lower grades of granular PTFE resin that would compete with products made by their U.S. affiliates.<sup>86</sup> However, during the original investigations, without the discipline of the order, subject imports from Japan consisted of a full range of granular PTFE resin grades.<sup>87</sup> Moreover, Japanese subject producers are capable of producing competing grades of granular PTFE resin. At the hearing, Japanese respondents indicated that Daikin produces a full range of granular PTFE products in Japan, including those products it produces in United States.<sup>88</sup> Furthermore, the Japanese subject producers' likely export grades are not limited by their U.S. affiliates' current range of production. The record indicates that Daikin could reallocate production lines in the United States to produce higher grades of granular PTFE resin. This would allow it to ship lower grades produced in Japan to the U.S. market.<sup>89</sup> Finally, as the record shows, Japanese subject producers already ship low-end grades of the subject product to the United States.<sup>90</sup> At the hearing, AGC, Asahi's affiliate, stated that Daikin ships low-grade granular PTFE resin that Daikin produces in China to the United States.<sup>91</sup> AGC also testified that it had imported some non-specialty granular PTFE resin produced in Japan by Asahi for qualification by U.S. customers.<sup>92 93</sup>

Thus, the record shows that the Japanese subject producers must rely extensively on their export markets and that, absent the orders, the U.S. market is an attractive outlet for Japanese exports. Given the trade patterns of Japanese subject producers during the original investigations and the vulnerability of the domestic industry as discussed in section IV of these views, we do not find that subject imports from Japan would be likely to have no discernible adverse impact on the domestic industry if the order were revoked.

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<sup>82</sup> DuPont's Prehearing Brief at 20-21.

<sup>83</sup> DuPont's Prehearing Brief at 6-7.

<sup>84</sup> CR/PR at Table I-1.

<sup>85</sup> \*\*\*.

<sup>86</sup> Japanese Respondents' Prehearing Brief at 9.

<sup>87</sup> 1988 Confidential Staff Report at Tables 23, 34, 35, 36, 38.

<sup>88</sup> Tr. at 149-150.

<sup>89</sup> Tr. at 152.

<sup>90</sup> Tr. at 152, 157, 158, 180-181.

<sup>91</sup> Tr. at 152, 157, 158, 180-181.

<sup>92</sup> Tr. at 157, 163, 173-174.

<sup>93</sup> We also note that DuPont has indicated that it \*\*\* if the order were revoked. DuPont's Posthearing Brief at 11. This likely importation of \*\*\* pounds of Japanese subject product and the concurrent \*\*\* alone likely would have a discernible or detectable adverse impact on the domestic industry.

### C. Likelihood of a Reasonable Overlap of Competition

We have considered whether subject imports are likely to compete with each other and with the domestic like product with reference to four factors: (1) fungibility; (2) sales or offers in the same geographic markets; (3) common or similar channels of distribution; and (4) simultaneous presence.<sup>94</sup> We find a likely reasonable overlap of competition among subject imports from both sources and between these imports and the domestic like product if the orders were to be revoked.

In the original investigations, the Commission cumulated subject imports from Italy and Japan based on a reasonable overlap of competition among subject imports and between subject imports and the domestic like product. In the first five-year reviews, the Commission likewise cumulated subject imports from both subject countries, based on a likely reasonable overlap of competition and no significant differences in conditions of competition among the subject imports and between the subject imports and the domestic like product.<sup>95</sup>

#### Analysis

Below we examine the four factors the Commission customarily considers in determining whether there will be a likely reasonable overlap of competition.

*Fungibility.* The Commission found this factor satisfied in the original investigations as well as the first five- year reviews. The record indicates that the domestic product and subject imports are substitutable products, with some limitations. Both subject imports and the domestic like product share the same chemical and physical properties.<sup>96</sup> However, the different grades of granular PTFE resin are not wholly fungible in that specific customer requirements are important.<sup>97</sup> Notwithstanding these limitations, most domestic producers and purchasers indicated that the domestic and subject products were always or frequently interchangeable.<sup>98</sup> Most of the responding importers indicated that the domestic and subject products were either frequently or sometimes interchangeable.<sup>99</sup> Moreover, DuPont indicates that all producers supply granular PTFE for stock applications “that are almost perfectly fungible.”<sup>100</sup>

The sole cumulation issue in these second reviews is whether likely subject imports from Japan, which during the review period consisted mostly of specialized or niche products, will likely be fungible with the domestic like product and subject imports from Italy. According to the Japanese respondents, Japanese subject imports would likely continue to be limited to niche products or higher grades of granular PTFE that do not compete directly with products produced by U.S. affiliates of Japanese subject producers.

While subject imports from Japan currently consist of niche products, the current composition of subject imports is affected by the discipline of the antidumping duty orders and thus not necessarily

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<sup>94</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988); Mukand Ltd. v. United States, Court No. 93-12-00817, Slip Op. 96-120 at 10-11 (Aug. 2, 1996)).

<sup>95</sup> First Five-Year Review Determinations, USITC Pub. 3263 at 10-11.

<sup>96</sup> CR at II-13-14, PR at I-7.

<sup>97</sup> CR at II-9-10, PR at II-6.

<sup>98</sup> CR at II-16, PR at II-10.

<sup>99</sup> CR at II-16, PR at II-10.

<sup>100</sup> DuPont's Prehearing Brief at 31.

indicative of likely post-revocation behavior. As we discussed at length in our no discernible adverse impact determination with respect to subject imports from Japan, during the original investigations, without the discipline of the order, subject imports from Japan consisted of all grades of granular PTFE resin. Moreover, at the hearing, AGC stated that Daikin produces a full range of granular PTFE products in Japan.<sup>101</sup> It also testified that Daikin produces lower grades of granular PTFE resin in China, which it currently ships to United States, indicating that Daikin does not share the same alleged corporate strategy as Asahi, to ship only niche products to the U.S. market.<sup>102</sup> AGC also testified that it had imported some non-specialty products produced in Japan for qualification by U.S. customers, signaling an interest in making non-specialty sales.<sup>103</sup> Therefore, it is likely that Japanese subject producers will ship competing as well as supplemental grades of granular PTFE resin to the United States if the orders were revoked.

*Channels of Distribution.* As was true at the time of the original investigations, the domestic product and subject imports are primarily sold to processors that mold the resin directly into intermediate products.<sup>104</sup>

*Geographic Overlap and Simultaneous Presence in the Market.* These factors are less easy to evaluate, given that, since the orders were imposed, there have been \*\*\* imports of subject merchandise from Japan. However, the record indicates that the Japanese product is sold nationwide.<sup>105</sup> As no firm importing the Italian subject product responded to the Commission's questionnaires, the record does not indicate whether the Italian subject product is sold nationwide.<sup>106</sup> In the original investigations, however, both subject imports from Italy and Japan and the domestic like product were sold through similar channels of distribution to similar markets.<sup>107</sup>

We therefore find that there would likely be a reasonable overlap of competition between the subject imports and the domestic like product, and among the subject imports from Italy and Japan, if the orders were revoked. Accordingly, with respect to subject imports from Italy and Japan, we find that there is a likely overlap of competition with the domestic like product and with the other subject imports.

We do not find any likely differences in the conditions of competition relevant to the subject merchandise that would warrant our declining to exercise our discretion to cumulate. We note that the volume trends of subject imports from Italy and Japan differed during the second period of review in that subject imports from Italy have returned to substantial levels while the level of subject imports from Japan have been \*\*\*. However, given that the decline of subject imports from Japan is due to imposition of the orders and that subject imports from both countries exhibited similar volume trends during the original investigations, we do not find the current difference in volume trends to be significant. We have also taken into account Japanese respondents' contention that Japanese subject producers will compete differently in the U.S. market than the Italian producer because of the substantial investments made by Japanese producers in U.S. production.<sup>108</sup> However, for the reasons discussed above with respect to our

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<sup>101</sup> Tr. at 149-150.

<sup>102</sup> Tr. at 152, 157.

<sup>103</sup> Tr. at 157, 173-174.

<sup>104</sup> CR/PR at II-1.

<sup>105</sup> CR/PR at II-1.

<sup>106</sup> CR/PR at II-1.

<sup>107</sup> Original Determination at 11.

<sup>108</sup> Japanese Respondents' Prehearing Brief at 9.

no discernible adverse impact determination regarding subject imports from Japan, we find this argument to be unpersuasive.<sup>109</sup>

For these reasons, we exercise our discretion to cumulate subject imports from Italy and Japan in these reviews.

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

### A. Legal Standard in a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping 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 duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>110</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual 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>111</sup> Thus, the likelihood standard is prospective in nature.<sup>112</sup> The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>113 114</sup>

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<sup>109</sup> We also note that investment in U.S. production is not unique to Japanese subject producers. In the original investigations, the Italian subject producer purchased Allied Signal’s U.S. granular PTFE resin production facilities. Although the Italian producer’s new U.S. affiliate began operations in 1986, the Italian producer continued to ship increasing volumes of low-priced subject imports to the United States. 1988 Confidential Staff Report at A-21.

<sup>110</sup> 19 U.S.C. § 1675a(a).

<sup>111</sup> SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). 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.” SAA at 883.

<sup>112</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>113</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 without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 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, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>114</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) at 15-17, 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 this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit

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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>115</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>116 117</sup>

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>118</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>119</sup>

## **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>120</sup> The following conditions of competition are relevant to our determinations.

Granular PTFE resin is produced and sold in two forms in the United States, filled and unfilled. Apparent consumption of granular PTFE resin is largely derived from demand for the products that it is used to make. These products include gaskets, seals and rings for the automotive industry; gaskets,

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<sup>114</sup> (...continued)  
addresses the issue.

<sup>115</sup> 19 U.S.C. § 1675a(a)(5).

<sup>116</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), 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>117</sup> In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

<sup>118</sup> 19 U.S.C. § 1675a(a)(1).

<sup>119</sup> 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the orders under review. *See* CR at I-11, PR at I-9. 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. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>120</sup> 19 U.S.C. § 1675a(a)(4).

linings, and packings for chemical applications; and insulators and tape for electrical applications.<sup>121</sup> Most granular PTFE resin is sold to processors, which mold granular PTFE resin into an intermediate product.<sup>122</sup> The granular PTFE market is considered to be relatively mature,<sup>123</sup> and although information pertaining to demand is somewhat mixed, it is generally anticipated that U.S. demand for granular PTFE resin will remain fairly steady within the foreseeable future.<sup>124</sup> Overall, apparent U.S. consumption has risen over \*\*\* percent since the time of the original investigations.<sup>125</sup> More specifically, apparent U.S. consumption of PTFE resin has increased irregularly from \*\*\* pounds in 1987 to \*\*\* pounds in 1999, and to \*\*\* pounds in 2004.<sup>126</sup>

The U.S. market is supplied by domestic producers, subject country producers, and producers in nonsubject countries. During the period of review, U.S. producers held shares of the U.S. market in terms of quantity that were generally \*\*\* than those reported during the original investigations.<sup>127</sup> Domestic producers' market share by quantity was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>128</sup> Subject imports' market share was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>129</sup> The market share of nonsubject imports was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>130</sup>

At the time of the original investigations, there were five firms producing granular PTFE resin in the United States: DuPont (unfilled); ICI Americas (filled and unfilled); Ausimont, U.S.A., Inc., (filled and unfilled); Custom Compounding, Inc. (filled); and Whitford Polymers, Inc. (filled).<sup>131</sup> Since that time, the composition of the domestic industry has changed. Currently, there are five domestic manufacturers of granular PTFE resin: AGC, DuPont, Daikin America, Dyneon, and PTFE.<sup>132</sup> AGC and Daikin are affiliates of Japanese subject producers, as is DuPont.

Granular PTFE resin production is technologically complex and capital intensive due in part to corrosive and highly flammable materials used in processing. The high costs associated with operating and maintaining a granular PTFE resin plant require manufacturers to sustain high capacity utilization rates to stay profitable.<sup>133</sup> U.S. capacity utilization, which decreased from \*\*\* percent in 1985 to \*\*\* percent in 1987, fluctuated throughout the second period of review.<sup>134</sup> In these reviews, the domestic industry's capacity utilization rates were \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>135</sup>

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<sup>121</sup> CR at II-5, PR at II-3-4.

<sup>122</sup> CR/PR at II-1.

<sup>123</sup> First Five-Year Review Determination at 15.

<sup>124</sup> CR at II-6, PR at II-4.

<sup>125</sup> CR at II-6, PR at II-4.

<sup>126</sup> CR/PR at Table I-1, CR at II-5-6, PR at II-4.

<sup>127</sup> CR/PR at Table I-1.

<sup>128</sup> CR/PR at Table I-1.

<sup>129</sup> CR/PR at Table I-1.

<sup>130</sup> CR/PR at Table I-1.

<sup>131</sup> 1988 Confidential Staff Report at A-13-14.

<sup>132</sup> CR/PR at Table III-1.

<sup>133</sup> First Five-Year Review Determination.

<sup>134</sup> CR/PR at Table I-1.

<sup>135</sup> CR/PR at Table I-1.

Domestic and imported granular PTFE resin are considered to be generally interchangeable.<sup>136</sup> Price is considered to be the second most important factor in purchasing decisions after product quality.<sup>137</sup> Prices for granular PTFE resin are influenced by processing, raw materials, and transportation costs.<sup>138</sup> Most granular PTFE resin in United States is sold via long- or short-term contracts.<sup>139</sup> Both AGC and DuPont reported that a sizeable portion of their contracts contain meet-or-release provisions.<sup>140</sup>

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping 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>141</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.

In its original determinations, the Commission found that the volume of cumulated subject imports was significant. In so doing, it noted that the subject imports increased sharply during the period of investigation. Specifically, it found that from 1985 to 1987, shipments of subject imports increased by \*\*\* percent.<sup>142</sup> At the same time, it noted that subject imports’ market share increased from \*\*\* percent in 1985 to \*\*\* percent in 1987, before falling from \*\*\* percent in January-March 1987 to \*\*\* percent in the corresponding period in 1988.<sup>143</sup>

In the first five-year reviews, the Commission found that subject import volume would likely be significant if the orders were revoked. The Commission found the past ability of the Italian and Japanese producers to easily divert granular PTFE resin shipments from their home markets to the United States, their export orientation, together with their apparent substantial capacity, as well as their incentive to maintain high capacity utilization rates, indicated that subject producers were likely to commence significant exports to the United States upon revocation of the antidumping duty orders.<sup>144</sup>

During the period examined in these reviews, the volume of cumulated subject imports generally increased but remained below the volume levels achieved during the original investigations due in large measure to the \*\*\* of subject imports from Japan.<sup>145</sup> The volume of such cumulated imports was \*\*\* pounds in 1999, \*\*\* pounds in 2000, \*\*\* pounds in 2001, \*\*\* pounds in 2002, \*\*\* pounds in 2003, and

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<sup>136</sup> CR at II-16, PR at II-10.

<sup>137</sup> CR at II-11, PR at II-7.

<sup>138</sup> CR/PR at V-3.

<sup>139</sup> CR/PR at V-3.

<sup>140</sup> CR/PR at V-3.

<sup>141</sup> 19 U.S.C. § 1675a(a)(2).

<sup>142</sup> Original Determination at 26.

<sup>143</sup> Original Determination at 26.

<sup>144</sup> First Five-Year Determination at 14-15.

<sup>145</sup> CR/PR at Table I-1.



\*\*\* pounds in 2004.<sup>146</sup> Cumulated subject imports' market share was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>147</sup>

In these reviews, the failure of certain subject foreign producers to provide requested data have prevented our assembling a single consistent and comprehensive set of capacity data for subject foreign producers of granular PTFE resin. Therefore, in discussing subject producer capacity, we rely on questionnaire data as well as available public data.

Several factors support the conclusion that subject import volume is likely to be significant if the orders are revoked. First, there is substantial production capacity in the subject countries. According to available data, Daikin, the \*\*\* Japanese subject producer, has \*\*\* pounds of capacity to produce all PTFE.<sup>148</sup> Asahi and MDF's capacity to produce granular PTFE resin in Japan was estimated to be \*\*\* pounds in 2004.<sup>149</sup> Similarly, in Italy, capacity to produce granular PTFE resin was estimated to be \*\*\* pounds.<sup>150</sup> The combined production capacity of the Italian and Japanese subject producers is equal to nearly \*\*\* percent of U.S. production and \*\*\* percent of U.S. consumption for 2004.

We note that there are limited data pertaining to foreign capacity utilization rates during the second period of review. However, subject producers need not increase their exports to the United States by means of their unused capacity in order to export significant volumes of the subject merchandise to the United States. The record indicates that both the Italian and Japanese granular PTFE resin industries must rely on their export markets and have demonstrated their ability to shift their exports among countries. In the original investigations, the Italian subject producer exported \*\*\* to \*\*\* percent of its shipments of the subject product.<sup>151</sup> As noted earlier, the volume of subject imports from Italy are already substantial and, in 2004, were higher than they were in any year during the original period of investigation.<sup>152</sup> As both DuPont and the Japanese respondents indicated, these low-priced imports are already adversely affecting domestic prices.<sup>153</sup> In addition to the already appreciable volume of subject imports, the Italian producer would have an incentive to increase its exports to the United States if the orders were revoked, given its need to maximize capacity in order to remain profitable. The Italian producer's substantial presence in the U.S. market demonstrates that the Italian producer relies extensively on the U.S. market to maintain capacity utilization levels. Because the U.S. market is an attractive market due to its higher prices relative to most other markets and relatively large size,<sup>154</sup> the Italian producer has additional incentive to increase its exports to the United States if the orders were lifted.

In the original investigations, reporting Japanese subject producers exported close to \*\*\* of their shipments of granular PTFE resin. Indeed Japanese subject producers' home market shipments declined, while exports to the United States rose.<sup>155</sup> The record indicates that Japanese granular PTFE resin production capacity presently is \*\*\* than current Japanese home market demand. In 2004, Japanese

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<sup>146</sup> CR/PR at Table I-1.

<sup>147</sup> CR/PR at Table I-1.

<sup>148</sup> DuPont's Posthearing Brief at Attachment B.

<sup>149</sup> CR at IV-6, PR at IV-2-3, CR (as revised) Table IV-4A.

<sup>150</sup> CR at IV-5, IV-6, CR (as revised) at Table IV-4A.

<sup>151</sup> 1988 Confidential Staff Report at Table 20.

<sup>152</sup> CR/PR at Table I-1.

<sup>153</sup> Japanese Respondents Posthearing Brief at 4.

<sup>154</sup> DuPont's Prehearing Brief at 6-7; CR/PR at Table I-1.

<sup>155</sup> 1988 Confidential Staff Report at Table 21.

demand for granular PTFE was approximately \*\*\* pounds, which roughly represents \*\*\* percent of Japanese production capacity for granular PTFE resin.<sup>156</sup>

Japanese subject producers would have an incentive to increase their exports to the U.S. market if the orders were revoked. As noted above, the record indicates that Japanese demand for the subject product is \*\*\* than Japanese subject producers' production capacity.<sup>157</sup> Despite the fact that the Japanese market has traditionally commanded high prices for granular PTFE resin, Japanese subject producers must rely extensively on export markets in order to maximize their capacity utilization. Moreover, the record indicates that Japanese producers are facing shrinking opportunities in other markets due to the sharp buildup in Chinese granular PTFE resin production capacity.<sup>158</sup> Indeed, Daikin, the \*\*\* Japanese subject producer, stated that \*\*\*.<sup>159</sup> Furthermore, the Japanese producers, Daikin and Asahi have established channels of distribution through their affiliates that will enable them to increase their sales to the United States within a foreseeable period of time following revocation of the orders.<sup>160</sup>

Accordingly, we conclude that the likely volume of the subject merchandise, both in absolute terms and relative to consumption and production in the United States, would be significant, absent the restraining effect of the orders.<sup>161</sup>

#### **D. Likely Price Effects of Subject Imports**

In evaluating the likely price effects of subject imports if the antidumping duty orders are 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>162</sup>

In the original determinations, the Commission found that the subject imports and domestic like product were relatively substitutable, that price was an important factor in purchasing decisions, that subject imports consistently undersold the domestic like product by significant margins, and that domestic prices declined as a result.<sup>163</sup>

In the first five-year reviews, the Commission determined that revocation of the orders would likely lead to significant underselling and significant price depression and suppression within a reasonably foreseeable time.<sup>164</sup> It noted that, although the evidence in the record as to current pricing was

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<sup>156</sup> CR at IV-7, PR at IV-3.

<sup>157</sup> CR at IV-7, PR at IV-3.

<sup>158</sup> DuPont's Prehearing Brief at 20-21.

<sup>159</sup> \*\*\*.

<sup>160</sup> The record indicates that there are no barriers to the importation of the subject merchandise into countries other than the United States.

<sup>161</sup> Due to the limited response by interested parties, there is limited or no information in the record pertaining to product shifting or inventories. Accordingly, we do not rely on these factors in reaching our likely volume determination.

<sup>162</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>163</sup> Original Determination at 26.

<sup>164</sup> First Five-Year Determination at 15.

limited, it appeared that cumulated subject imports continued to undersell the domestic like product.<sup>165</sup> The Commission found that, in light of the continued underselling in the face of the orders, the importance of price in purchasing decisions, and the incentive of producers to maximize capacity utilization, cumulated imports would enter the United States at prices that would significantly depress or suppress U.S. prices.<sup>166</sup>

Prices for domestic granular PTFE resin have declined, although not steadily, over the second period of review.<sup>167</sup> The price of product 1 fell by \*\*\* percent between 1999 and 2004, the price of product 2 fell by \*\*\* percent, product 3 by \*\*\* percent, the price of product 4 fell by \*\*\* percent, and the price for product 5 fell by \*\*\* percent.<sup>168</sup> Both DuPont and AGC attribute the decline in U.S. prices in part to the presence of low-priced imports from China and Russia, as well as low-priced subject imports from Italy.<sup>169</sup>

There is extremely limited data regarding price comparisons in the record due in part to the lack of participation on the part of most of subject producers and importers as well as the \*\*\* of Japanese imports following imposition of the orders.<sup>170</sup> No price comparisons were available for Italian subject imports.<sup>171</sup> Prices comparisons for Japanese subject imports were available for only one product and for only two quarters during the period of review.<sup>172</sup> In these two price comparisons, the Japanese product oversold the U.S. product in both quarters.<sup>173</sup> The record, however, also indicates that the average unit values for subject imports from Italy and Japan were lower than the AUVs for the domestic product.<sup>174</sup> It is unclear whether the lower AUVs for the subject product relative to the U.S. product are due to differences in the product mix. In the original investigations, absent the discipline of the orders, subject imports from both Italy and Japan consistently undersold the domestic product.<sup>175</sup>

As noted above, cumulated subject imports and the domestic products are generally substitutable, and price is an important factor in purchasing decisions. If the orders were revoked, cumulated subject imports likely will enter the U.S. market, at highly competitive prices, particularly in light of the presence of low-priced nonsubject imports, in order to obtain sales and increase market share.<sup>176</sup> In such circumstances, particularly when demand is anticipated to be stable, domestic producers will be forced to respond to the subject imports' prices or lose market share. Moreover, current sales contracts will provide little protection to domestic producers since, as both DuPont and AGC testified, their contracts contain "meet-or-release clauses," which would force them to lower prices or lose sales.<sup>177</sup>

As explained in the section discussing likely volume, there is an incentive for subject producers to ship to the U.S. market since subject producers would be able to receive a higher price in the U.S.

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<sup>165</sup> First Five-Year Determination at 15.

<sup>166</sup> First Five-Year Determination at 15.

<sup>167</sup> CR/PR at Table V-1.

<sup>168</sup> CR at V-5, PR at V-4.

<sup>169</sup> Japanese Respondents' Prehearing Brief at 4; DuPont's Prehearing Brief at 6-7; Tr. at 119.

<sup>170</sup> CR/PR at Table I-1.

<sup>171</sup> CR at V-5, PR at V-4.

<sup>172</sup> CR at V-5, PR at V-4, CR/PR at Table V-1.

<sup>173</sup> CR at V-5, PR at V-4, CR/PR at Table V-1.

<sup>174</sup> CR at Table I-1.

<sup>175</sup> 1988 Confidential Staff Report at Tables 35 and 36.

<sup>176</sup> The record indicates that subject producers may already be engaged in aggressive pricing. DuPont in its posthearing brief cites a number of examples in which subject producers offered a competing product at prices less than the domestic product in the United States. DuPont's Prehearing Brief at 26-27.

<sup>177</sup> Tr. at 29-30, 159-60.

relative to third-country markets, even as they undersold the U.S. product to increase sales. In light of the importance of price in the market, the substitutability of domestic and subject product, the negative price effects of low-priced imports in the original investigations, the underselling by subject imports during the original investigations, and the incentive to obtain market share in the relatively high-priced, large, and stable U.S. market, we find it likely that cumulated subject imports will likely have adverse price effects on domestic prices. We determine that, if the orders were revoked, significant volumes of cumulated subject imports likely will significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product within a reasonably foreseeable time.

### **E. Likely Impact of Subject Imports**

In evaluating the likely impact of imports of cumulated subject merchandise if the antidumping duty orders are 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: (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>178</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>179</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 are revoked.<sup>180</sup>

In the original determinations, the Commission found that the increasing volume of the low-priced cumulated subject imports and the significant market share accounted for by those imports depressed prices and caused the U.S. industry to suffer growing financial losses despite increasing apparent consumption.<sup>181</sup> In so doing, it noted that U.S. consumption of granular PTFE resin increased substantially, from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>182</sup> It further noted that U.S. domestic

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<sup>178</sup> 19 U.S.C. § 1675a(a)(4).

<sup>179</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy” 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. Commerce expedited its determinations in its five year reviews of granular PTFE resin from the subject countries and found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the following margins: Italy–Montefluos S.p.A./Ausimont U.S.A. and All Others at 46.46 percent; Japan: Daikin Industries at 103.00 percent, Asahi Glass Fluoropolymers Co., Ltd. at 51.45 percent and All Others at 91.74 percent. CR at I-11, PR at I-4.

<sup>180</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>181</sup> Original Determination at 29.

<sup>182</sup> Original Determination at 18.

shipments increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>183</sup> The Commission also found that domestic capacity utilization for granular PTFE resin production fell, income-and-loss data for granular PTFE resin operations showed declines, and the industry suffered growing operating losses during the period of investigation, with net income following a similar trend.<sup>184</sup>

In the first five-year reviews, the Commission found that material injury would likely continue or recur should the antidumping duty orders be revoked.<sup>185</sup> Specifically, it found that revocation of the antidumping duty orders likely would lead to significant increases in the volume of cumulated subject imports at prices that would undersell the domestic product and significantly depress U.S. prices.<sup>186</sup> In addition, the Commission found that volume and price effects of the cumulated subject imports likely would have a significant negative impact on the domestic industry and would likely cause the domestic industry to lose market share.<sup>187</sup> Moreover, it concluded that the loss in market share and subsequent decrease in capacity utilization would be particularly harmful in this capital-intensive industry. The Commission observed that price and volume declines would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry.<sup>188</sup> It determined that this reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments.<sup>189</sup> In addition, the Commission found it likely that revocation of the orders would result in employment declines for domestic firms.<sup>190</sup>

In the current reviews, DuPont contends that material injury to the domestic industry is likely to recur should the antidumping duty orders be revoked, given the likely increase in subject import volume and likely price effects. It asserts that the domestic industry is vulnerable to likely material injury because it is already suffering \*\*\* losses and experiencing price declines.<sup>191</sup> Given that the domestic industry is currently vulnerable, DuPont maintains that revocation of the antidumping duty orders will spur an increase of low-priced imports of granular PTFE resin from Italy and Japan and result in serious consequences for the domestic industry.<sup>192</sup> Although the Japanese respondents dispute that subject imports from Japan will adversely affect the domestic industry, they agree that the overall financial condition of the domestic industry indicates that it is "very vulnerable to material injury" by unfairly priced imports due to steadily declining profits and prices.<sup>193</sup>

In the first five-year reviews, the Commission determined that the industry had improved due to the decline in subject imports following imposition of the orders.<sup>194</sup> In these second reviews, the record indicates that, despite these initial improvements and the orders in effect on the subject countries, the domestic industry's condition began to deteriorate after 2001. The domestic industry generally

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<sup>183</sup> Original Determination at 18.

<sup>184</sup> Original Determination at 21-22.

<sup>185</sup> In the first five-year reviews, the Commission did not find the domestic industry to be vulnerable. First Five-Year Review Determination at 17-18.

<sup>186</sup> First Five-Year Review Determination at 18.

<sup>187</sup> First Five-Year Review Determination at 18.

<sup>188</sup> First Five-Year Review Determination at 18.

<sup>189</sup> First Five-Year Review Determination at 18.

<sup>190</sup> First Five-Year Review Determination at 17-18.

<sup>191</sup> DuPont's Prehearing Brief at 27-29.

<sup>192</sup> DuPont's Prehearing Brief at 27-29.

<sup>193</sup> Japanese Respondents' Posthearing Brief at 8.

<sup>194</sup> First Five-Year Review Determination at 18.

experienced declines in shipments from 2000 to 2003, although shipments improved somewhat in 2004.<sup>195</sup> Capacity utilization rates fell from a high of \*\*\* percent in \*\*\* to a low of \*\*\* percent in \*\*\*, but increased to \*\*\* percent in 2004.<sup>196</sup> Employment levels fluctuated throughout the second period of review but were lower in 2004 than in 1999.<sup>197</sup>

The unit values of U.S. shipments of granular PTFE resin steadily fell from 2001 to 2004.<sup>198</sup> The cost of goods sold (“COGS”) per pound showed an overall increase between 1999 and 2003, but declined in 2004. While all components of COGS generally increased on a per-pound basis from 1999 to 2003, raw material costs \*\*\*, reportedly due to higher costs for TFE monomer, the primary input into granular PTFE resin.<sup>199</sup> As a result, the domestic industry \*\*\* of \$\*\*\* in 2002, \*\*\* in 2003, and \*\*\* in 2004.<sup>200</sup> The domestic industry’s operating margins were \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>201</sup> The domestic industry’s capital expenditures fluctuated throughout the period, with expenditures reported in 2004 lower than the reported high in 2000. Research and development expenses generally declined from 2001 to 2004.<sup>202</sup>

Given the overall financial deterioration of the domestic industry, we find that the domestic industry is currently in a weakened state, as contemplated by the vulnerability criterion of the statute.

As discussed above, revocation of the antidumping duty orders would lead to significant increases in the volume of cumulated subject imports at prices that would undersell the domestic product and significantly depress U.S. prices. In addition, the volume and price effects of the cumulated subject imports would have a significant negative impact on the domestic industry and would likely cause the domestic industry to lose market share. Moreover, the loss in market share and subsequent decrease in capacity utilization would be particularly harmful in this capital-intensive industry.

The price and volume declines would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry’s production, sales, and revenue levels would have a direct adverse impact on the industry’s profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the orders will result in employment declines for domestic firms.

Accordingly, based on the limited record in these reviews, we conclude that, if the antidumping duty orders were revoked, subject imports from Italy and Japan would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on granular PTFE resin from Italy and Japan 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>195</sup> CR/PR at Table I-1.

<sup>196</sup> CR/PR at Table I-1.

<sup>197</sup> CR/PR at Table III-2

<sup>198</sup> CR/PR at Table I-1.

<sup>199</sup> CR /PR at Table III-4.

<sup>200</sup> CR/ PR at Table III-5.

<sup>201</sup> CR/ PR at Table III-5.

<sup>202</sup> CR/PR at Table III-7.

# SEPARATE AND DISSENTING VIEWS OF VICE CHAIRMAN DEANNA TANNER OKUN AND COMMISSIONER DANIEL R. PEARSON

## I. INTRODUCTION

Section 751(d)(2) of the Tariff Act of 1930, as amended (“the Act”), requires that the U.S. Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty order or terminate a suspended investigation in a five-year review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission (“Commission”) determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.<sup>1</sup> Based on the record in these second five-year reviews, we determine that material injury is likely to continue or recur within a reasonably foreseeable time if the antidumping duty order on subject imports of granular polytetrafluoroethylene resin (“granular PTFE resin”) from Italy is revoked. We also determine that material injury is not likely to continue or recur within a reasonably foreseeable time if the antidumping duty order on subject imports of granular PTFE resin from Japan is revoked.

We join our colleagues’ discussion regarding domestic like product and domestic industry. We write separately to discuss the legal standard governing five-year reviews, cumulation, conditions of competition, and to provide our analysis of the statutory factors.

## II. SUMMARY

The Commission’s original determinations focused on the evidence that despite rapidly increasing consumption of granular PTFE resin, the principal economic indicators of the industry’s performance deteriorated during the period examined, and accelerated toward the end of the period. In particular, the Commission cited the fact that the volume of U.S. shipments, although increasing, did not keep up with increasing consumption. The Commission found that the substantially increased volumes of subject imports from Italy and Japan at declining prices contributed materially to the industry’s deteriorating performance.

During the period of the original investigations, the three leading firms of the domestic industry were Ausimont U.S.A., DuPont, and ICI Americas. There was one Italian producer of subject product, which was related to domestic producer Ausimont. There were three Japanese producers of subject product, Daikin Industries, Ltd., DuPont-Mitsui Fluorochemicals, Ltd., and Asahi Fluoropolymers Co., Ltd. The last two were joint ventures of Japanese PTFE producers with domestic producers DuPont and ICI Americas, respectively. Both DuPont and ICI Americas supported the petitions and the Commission found their subject imports from Japan to be negligible. Domestic producer Ausimont imported subject product from its sister corporation in Italy and \*\*\*.

Since the original determinations in 1988, the domestic granular PTFE resin industry has undergone a significant transformation. The three largest producers now are AGC Chemicals, Inc., Daikin America, Inc., and DuPont. Japanese producer Daikin made significant investments in the United States by establishing Daikin America and commencing commercial production of granular PTFE in early 1994 at a greenfield facility in Decatur, AL. In 1999, Asahi Glass Co., joint-venture parent of Japanese producer Asahi, acquired both Asahi and U.S. producer ICI Americas. Moreover, the U.S. and Japanese producers generally have adopted a strategy of situating production facilities for PTFE products in regions throughout the world to supply their host markets (*e.g.*, Japan, the United States and the European Union). Finally, Ausimont, now Solvay Solexis, shut down one of its older facilities immediately

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<sup>1</sup> 19 U.S.C. § 1675(d)(2).

following the conclusion of the original investigations and opened a new PTFE finishing facility, producing finished grades of granular PTFE resin using imported subject wet raw polymer from its parent producer in Italy.

In light of differences in current and likely conditions of competition, we do not exercise our discretion to cumulate subject imports from Italy with subject imports from Japan. Specifically, the U.S. investment patterns of both the Italian and Japanese producers differ remarkably and these patterns have influenced the current and likely export strategies of the two subject countries' industries. The Italian producer disinvested in production in the United States by converting one of the largest domestic producers from the original investigations into a finishing operation and then resold the original PTFE production facilities back to the original owner who later closed them. In contrast, Japanese producers invested heavily in the United States and increased the size of the domestic industry, *i.e.*, Asahi Glass converted the original joint venture between Asahi and ICI Americas into sole ownership of both and Daikin began production in the United States. Moreover, in light of DuPont's joint venture in Japan, the three Japanese producers of PTFE resin now are all closely related to the three major domestic producers of PTFE resin. These investment patterns have brought about differences between Italy and Japan with respect to subject import patterns. While subject import volume from Italy was consistently in the U.S. market at relatively stable levels during the period of review, subject import volume from Japan was very small.

Based on these differences, in the absence of the order, the likely volume of subject imports from Italy would be significant. Italian producer Solvay Solexis has a finishing plant in Orange, TX that depends on a continuous flow of imports of raw wet polymer from Italy, which are subject to the order. Moreover, the record indicates that Italian imports, along with non-subject imports from China and Russia, are the lowest-priced in the U.S. market. Finally, the U.S. industry has been suffering losses for several years and thus is vulnerable to import competition. Therefore, we find that revocation of the antidumping order on imports from Italy would be likely to lead to a significant increase in the volume of subject imports that would undersell the domestic like product and significantly suppress or depress U.S. prices. As such, these volume and price effects of the subject imports would have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry.

In contrast, in the absence of the order, the likely volume of subject imports from Japan would not be significant. While corporate relationships existed between Japanese and domestic producers in the original investigation, the two industries now are completely intertwined. The substantial and continuing investment in U.S. facilities by the two U.S. producers with Japanese corporate parents (Daikin America and AGC) over the past decade indicates that it is unlikely that the Japanese corporate parents would rationalize production between their U.S. and Japanese production facilities to such an extent as to result in a significant net shift in the volumes of granular PTFE resin produced in the United States versus that produced in Japan. To a significant degree, the Japanese producers, like U.S. producer DuPont, have adopted the corporate strategy of locating production facilities for PTFE products in regions throughout the world to supply their host markets. Indeed, we note that DuPont's joint venture is Japan's \*\*\* producer, and it will not export any of its sizable production to the United States because it serves the Asian market and \*\*\*.

Moreover, to the extent that the Japanese parent corporations decide to undercut their U.S. investments, such a decision would be unlikely to result in significant shipments of subject merchandise from Japan. Rather, the incentives to export subject merchandise in the original investigations no longer exist. It is more likely that Daikin will ship subject merchandise from its new facility in China, as it currently is doing, rather than from its higher cost production facilities in Japan. Finally, the current lower prices in the U.S. market will serve as a disincentive to Japanese producers to export subject product to the U.S. market, particularly when Japan comparatively has the highest prices. Therefore, while the Japanese industry has the ability to significantly increase exports to the United States, it likely will not do so in the reasonably foreseeable future because of the corporate relationships between Japanese producers and domestic producers, the availability of lower-priced product from non-subject



sources, and lower prices in the U.S. market. Accordingly, we do not find that revocation of the order on PTFE resin from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### **III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ORDERS ARE REVOKED**

#### **A. Legal Standard**

##### **1. In General**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping or a countervailable subsidy is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2</sup> The Statement of Administrative Action (SAA) states that “under the likelihood standard, the Commission will engage in a counter-factual 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>3</sup> Thus, the likelihood standard is prospective in nature.<sup>4</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>5</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis in antidumping and countervailing duty investigations.”<sup>6</sup>

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, 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 order is revoked or the suspended investigation is terminated.”<sup>7</sup> It directs the Commission to take into account its prior injury determinations, 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 order is revoked or the suspension

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<sup>2</sup> 19 U.S.C. § 1675a(a).

<sup>3</sup> Statement of Administrative Action, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994) (SAA). 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.” SAA at 883.

<sup>4</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>5</sup> 19 U.S.C. § 1675a(a)(5).

<sup>6</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), 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>7</sup> 19 U.S.C. § 1675a(a)(1).

agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>8</sup>

## 2. Facts Available

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.<sup>9</sup> We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties' suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, 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."<sup>10</sup>

## 3. The "Likely" Standard

The legal standard the Commission is to apply is whether revocation of an order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."<sup>11</sup> The U.S.

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<sup>8</sup> 19 U.S.C. § 1675a(a)(1). 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. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886. We note that no duty absorption findings have been made by Commerce. Confidential Staff Report (INV-CC-192, November 10, 2005, as modified by INV-CC-202, November 29, 2005) (hereinafter CR) at I-10, Public Staff Report (hereinafter PR) at I-4.

<sup>9</sup> Section 776 of the Act 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.*, 155 F. Supp. 2d at 765 ("the 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>10</sup> SAA at 869.

<sup>11</sup> 19 U.S.C. § 1675a(a).

Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>12 13 14</sup>

In evaluating the likely volume of imports of subject merchandise if an order is revoked or a suspended investigation is terminated, 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>15</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>16</sup>

In evaluating the likely price effects of subject imports if an order is revoked or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products 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 domestic like products.<sup>17</sup>

In evaluating the likely impact of imports of subject merchandise if an order is revoked or a suspended investigation is terminated, 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: (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>18</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

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<sup>12</sup> See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (2003) (“‘likely’ means probable within the context of 19 U.S.C. §§ 1675(c) and 1675a(a)”); Nippon Steel Corp., et al. v. United States, Slip Op. 02-153 at 7-8 (Dec. 24, 2002) (same) (Nippon); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 6 n.6 (Dec. 20, 2002) (Usinor Industeel III); and Usinor v. United States, Slip Op. 02-70 at 43-44 (July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”) (Usinor).

<sup>13</sup> The Court has interpreted the word likely to mean probable or “more likely than not.” The Court’s “likely” standard means that the continuation or recurrence of material injury must be “more likely than not,” otherwise the order must be revoked. Accordingly, Vice Chairman Okun applies this 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, Inv. Nos. 731-TA-707-709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

<sup>14</sup> While, for purposes of these reviews, Commissioner Pearson does not take a position on the correct interpretation of “likely,” he notes that he would have made negative determinations under any interpretation of “likely” other than that equating “likely” with merely “possible.”

<sup>15</sup> 19 U.S.C. § 1675a(a)(2).

<sup>16</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>17</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>18</sup> 19 U.S.C. § 1675a(a)(4).

industry.<sup>19</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 are revoked.<sup>20 21</sup>

## **B. Conditions of Competition**

In evaluating the impact of subject imports on the domestic industry if the orders are revoked, the statute directs the Commission to evaluate all the relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>22</sup> In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for granular PTFE resin.

We are mindful of the statutory requirement to take into consideration the Commission’s original determinations. The Commission found that the principal indicators of the industry’s performance showed that, while apparent consumption of granular PTFE resin increased dramatically, U.S. producers’ performance deteriorated, particularly in 1987 as shipments of generally lower-priced subject imports increased 34 percent from 1985 to 1987 and captured an increasing and significant market share.<sup>23</sup> The Commission reached an affirmative determination in these investigations in August of 1988. As the following indicates, however, because of significant changes in patterns of global supply, we find that the conditions of competition that prevailed during the original investigations are not likely to prevail upon revocation of the orders, particularly the order on Japan.

### **1. U.S. and Global Demand**

Granular PTFE resin is produced and sold in two forms in the United States, filled and unfilled. Apparent consumption of granular PTFE resin largely is derived from demand for the products that it is used to make. These products include gaskets, seals, and rings for the automotive industry; gaskets, linings, and packings for chemical applications; and insulators and tape for electrical applications.<sup>24</sup> Most granular PTFE resin is sold to processors, which mold granular PTFE resin into an intermediate product.<sup>25</sup> While the granular PTFE market is considered to be relatively mature, it continues to grow.<sup>26</sup> Overall,

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<sup>19</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy” 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 its expedited final results of these five-year reviews, with respect to the antidumping duty orders on Italy and Japan, Commerce determined the following likely dumping margins: Italy: 46.46 percent; and Japan: 51.45 percent to 103.00 percent. CR at I-10, PR at I-4.

<sup>20</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>21</sup> 19 U.S.C. § 1675a(6).

<sup>22</sup> 19 U.S.C. § 1675a(a)(4).

<sup>23</sup> USITC Pub. 2112 at 22, 25-26.

<sup>24</sup> CR at II-5, PR at II-3.

<sup>25</sup> CR/PR at II-1.

<sup>26</sup> Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385-386 (Review) USITC Pub. 3260 (“First Five-Year Review Determination”) at 15.

apparent U.S. consumption has risen \*\*\* percent since the time of the original investigations.<sup>27</sup> More specifically, apparent U.S. consumption of PTFE resin has increased irregularly from \*\*\* pounds in 1987 to \*\*\* pounds in 1999, and to \*\*\* pounds in 2004.<sup>28</sup> While demand has slowed from its strong growth in the 1990s, it has irregularly increased by \*\*\* percent over the period of review.<sup>29</sup> Generally, it is anticipated that U.S. demand for PTFE will continue to grow at a rate of 2 percent to 4 percent within the foreseeable future.<sup>30</sup>

The largest markets for PTFE are Western Europe, the United States, China and Japan, in that order.<sup>31</sup> As in the United States, demand in overseas markets has increased since the period of the original investigations. Increases in demand are anticipated to continue for several years. Global apparent consumption is expected to increase steadily by \*\*\* percent each year through 2009.<sup>32</sup> More specifically, an industry consultant projects the following average annual consumption growth rates through 2009: Japan (1.7 percent) and Western Europe (4.2 percent).<sup>33</sup> Chinese consumption is projected to increase an average of \*\*\* percent each year through 2009.<sup>34</sup>

Based on this record information, therefore, we find it likely that world demand for PTFE will continue to grow over the reasonably foreseeable future.<sup>35</sup> We also find it likely that demand in the U.S. market will continue to grow.

## 2. Supply

The U.S. market is supplied by domestic producers, subject country producers, and producers in non-subject countries. During the period examined in these reviews, U.S. producers held shares of the U.S. market in terms of quantity that were generally somewhat higher than those reported during the original investigations.<sup>36</sup> Domestic producers' market share by quantity was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>37</sup> The market share for subject imports from Italy was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>38</sup> Subject imports from Japan during the second review period have been very small, virtually nonexistent.<sup>39</sup> Indeed, only \*\*\* pounds of Japanese subject merchandise were imported into the U.S. market in 2003, and, thus, their market share \*\*\* was \*\*\*.<sup>40</sup> The largest changes in supply came from increases from

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<sup>27</sup> CR/PR at Table I-1.

<sup>28</sup> CR/PR at Table I-1; CR at II-5-6, PR at II-3.

<sup>29</sup> CR/PR at Table C-3.

<sup>30</sup> CR at II-6-7, PR at II-4. DuPont reported that industry consultant SRI Consulting projects consumption in the United States to grow an average 4.0 percent a year through 2009. DuPont Posthearing Brief at Attachment A, pg. 8.

<sup>31</sup> See \*\*\* (EDIS No. 242568).

<sup>32</sup> \*\*\* (EDIS No. 242568).

<sup>33</sup> DuPont Posthearing Brief at Attachment A, pg. 8. DuPont confirms that these estimates are consistent with its internal projections. *Id.*

<sup>34</sup> \*\*\* (EDIS No. 242568).

<sup>35</sup> The Commission traditionally has avoided specifying a precise "reasonably foreseeable" period in particular cases given that doing so could itself be somewhat speculative and could involve arbitrary cutoffs. Nevertheless, in view of the nature of this industry and market, we have given significantly greater weight to developments likely to occur in the next two years than to those pertaining to later dates.

<sup>36</sup> CR/PR at Table I-1.

<sup>37</sup> CR/PR at Table I-1.

<sup>38</sup> CR/PR at Table I-1.

<sup>39</sup> CR/PR at Table I-1. Hearing Transcript at 136-137 (Neeley) ("{w}e think that the Japanese imports have been really tiny"). DuPont concurs with Asahi's analysis. DuPont Posthearing Brief at Attachment A, pg. 6.

<sup>40</sup> CR/PR at Table I-1. DuPont Posthearing Brief at Attachment 5.

non-subject countries. The market share of non-subject imports was \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>41</sup>

The two largest non-subject producers of PTFE are China and Russia. Indeed, while China's production \*\*\*. Moreover, the Chinese industry has \*\*\* capacity utilization rate (about \*\*\* percent) and it exported about \*\*\* percent of its PTFE production in 2004.<sup>42</sup> In June 2005, the European Communities imposed provisional antidumping duties on imports of granular PTFE originating from China and Russia.<sup>43</sup> Both DuPont and Japanese respondent (Asahi Glass)/U.S. producer (AGC Chemicals America) have expressed concern about the volume of low-priced imports from China and Russia.<sup>44</sup> Both parties also have indicated that domestic producer Daikin has begun to import subject product from China.<sup>45 46</sup>

### 3. U.S. Industry and Subject Countries' Industries

During the period of the original investigations, the domestic industry consisted of five firms.<sup>47</sup> Measured by production, the three leading firms were Ausimont U.S.A., DuPont, and ICI Americas.<sup>48</sup> At the time of the original investigations and again in the first five-year reviews conducted by the Commission, there was one Italian producer of subject product, Montefluos, S.p.A., a subsidiary of Ausimont, N.V., and three Japanese producers of subject product, Daikin Industries, Ltd., DuPont-Mitsui Fluorochemicals, Ltd., and Asahi Fluoropolymers Co., Ltd.<sup>49</sup> During the original investigations, both domestic producers DuPont and ICI Americas, through its holding company, owned a \*\*\*-percent share of their joint ventures in Japan, DuPont-Mitsui and Asahi, respectively.<sup>50 51</sup> Finally, domestic producer Ausimont was owned by Ausimont, N.V., a holding company in the Netherlands, which was owned by a holding company in Italy, which in turn owned the Italian producer.<sup>52</sup> At the end of the period of the original investigations, domestic producer Ausimont imported subject product from its sister corporation in Italy and \*\*\*, Elizabeth, NJ, that it had purchased from AlliedSignal and \*\*\*. At the time of the original investigations, Ausimont planned \*\*\*.<sup>53</sup>

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<sup>41</sup> CR/PR at Table I-1.

<sup>42</sup> \*\*\* (EDIS No. 242568).

<sup>43</sup> CR at IV-5, PR at IV-2. Definitive measures, if taken, would be issued in December 2005.

<sup>44</sup> See Hearing Transcript at 105 (Meltzer) (DuPont) ("Well, one aspect of that strategy will be to pay very close attention to the need to seek import relief against the Russian and Chinese material, as have the European producers"); Hearing Transcript at 165-166 (Brozzetti) (Asahi).

<sup>45</sup> See Hearing Transcript at 152 (Brozzetti) (Asahi) ("what we're seeing in the U.S. market is more material coming in from {Daikin's} Chinese plant, as opposed to any material coming in from their Japanese facilities"); Hearing Transcript at 173-174 (Meltzer) (DuPont).

<sup>46</sup> Daikin is not the only domestic producer importing subject product from non-subject countries. DuPont imported subject merchandise from \*\*\* during the period of review. We note that a portion of the decline in \*\*\*. DuPont Posthearing Brief at Attachment A, pg. 11.

<sup>47</sup> Granular Polytetrafluoroethylene Resin from Italy and Japan, Invs. Nos. 731-TA-385-386 (Final), USITC Pub. 2112, August 1988, A-13.

<sup>48</sup> USITC Pub. 2112 at A-13-14.

<sup>49</sup> USITC Pub. 2112 at A-52 (Italy), A-54 (Japan).

<sup>50</sup> Confidential Staff Report (INV-L-061, August 4, 1988) ("Original Staff Report") at A-74; USITC Pub. 2112 at A-54. Asahi was owned by a joint venture between Asahi Glass Co., Ltd. (Japan) and Imperial Chemical Industries PLC ("ICI PLC") (United Kingdom). USITC Pub. 2112 at A-54. ICI PLC owned the U.S. holding company that owned ICI Americas. USITC Pub. 2112 at A-14 and n.1.

<sup>51</sup> We note that both DuPont and ICI Americas supported the petitions and the Commission found their subject imports from Japan to be negligible. USITC Pub. 2112 at 15 and B-6.

<sup>52</sup> USITC Pub. 2112 at A-14.

<sup>53</sup> Original Staff Report at A-21 and n. 3; USITC Pub. 2112 at A-14 and n. 3.

Since 1988, the domestic and global granular PTFE resin industry has grown and become further concentrated. While the domestic industry still consists of five firms, the three largest now are AGC Chemicals, Inc., Daikin America, Inc., and DuPont.<sup>54 55</sup> Japanese producer Daikin made significant investments in the United States by establishing Daikin America and commencing commercial production of granular PTFE in early 1994 at a greenfield facility in Decatur, AL.<sup>56</sup> In 1999, Asahi Glass Co., joint-venture parent of Japanese producer Asahi, acquired both Asahi and U.S. producer ICI Americas.<sup>57</sup> Finally, in a departure from fully integrated U.S. production of granular PTFE resin, Ausimont shut down its aging Elizabeth, NJ facility immediately following the conclusion of the original investigations and the facility was sold back to AlliedSignal in 1989. In 1990, Ausimont, now Solvay Solexis, completed construction of its new PTFE finishing facility at its Orange, TX site, producing finished grades of granular PTFE resin using imported subject wet raw polymer from its parent producer in Italy.<sup>58</sup>

Thus, the U.S. investment patterns of both the Italian and Japanese producers differ remarkably and these patterns have had profound effects on the composition of the industry in the United States. On the one hand, the Italian producer disinvested in production in the United States by converting one of the largest domestic producers from the original investigations into a finishing operation. On the other hand, the Japanese producers invested heavily in the United States and increased the size of the domestic industry, *i.e.*, Asahi Glass converted the original joint venture between Asahi and ICI Americas into sole ownership of both and Daikin began production in the United States. Finally, in light of DuPont's more than 40-year old joint venture in Japan, the three Japanese producers of PTFE resin are all now closely related to the three major domestic producers of PTFE resin.<sup>59</sup>

The U.S. and Japanese producers generally have adopted a strategy of situating production facilities for PTFE products in regions throughout the world to supply their host markets (*e.g.*, Japan, the United States and the European Union). For example, DuPont testified that generally its "regional facilities support the local markets."<sup>60</sup> DuPont has production facilities in the United States, Japan, and the Netherlands.<sup>61</sup> Asahi Glass testified that this was its strategy, too.<sup>62</sup> Asahi Glass has production facilities in the United States, Japan, and the United Kingdom.<sup>63</sup> The only exception is Daikin, which does not have a production facility in Europe. Rather it has production facilities in the United States,

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<sup>54</sup> CR at I-18-19, PR at I-10-11. The remaining firms include compounders or finishing operations.

<sup>55</sup> DuPont's global share of total PTFE capacity is approximately \*\*\* percent; Daikin \*\*\* percent; and Asahi \*\*\* percent. \*\*\* (EDIS No. 242568).

<sup>56</sup> USITC Pub. 3260 at I-7. Hearing Transcript at 47 (Colven). Asahi Prehearing Brief at Exhibit 1 (\$150 million initial investment, \$60 million expansion in 1995).

<sup>57</sup> CR at IV-7, PR at IV-3. The investment in 1999 by AGC in the ICI facilities in the United States and the United Kingdom was approximately \*\*\* million. Asahi Posthearing Brief at 5 (Response to Commissioner and Staff Questions).

<sup>58</sup> USITC Pub. 3260 at I-7 and CR at IV-1, PR at IV-1.

<sup>59</sup> DuPont's joint venture in DuPont-Mitsui Fluorochemicals, Ltd. dates from 1962. It is the \*\*\* largest producer of all varieties of PTFE in Japan (including non-subject), controlling about \*\*\* of Japanese capacity. CR at I-19, PR at I-11. The agreement provides a license to the joint venture to produce and sell PTFE under the Teflon® name in certain Asian countries, specifically \*\*\*. Hearing Transcript at 90-92 (Colven) (confirming that DuPont's joint venture uses only DuPont's Teflon® tradename on its product); EDIS No. 241501. The joint venture agreement allows DuPont-Mitsui to sell Teflon® products \*\*\*. EDIS No. 241501. Thus, DuPont's Japanese joint venture cannot \*\*\*.

<sup>60</sup> Hearing Transcript at 68 (Colven). In response to a question concerning DuPont's strategy for its imports of subject product from non-subject sources, DuPont responded that \*\*\*. DuPont Posthearing Brief at Attachment A, pg. 11.

<sup>61</sup> CR at I-19, PR at I-11.

<sup>62</sup> Hearing Transcript at 148 (Brozzetti) ("We, as DuPont, we sell primarily our products in our own region").

<sup>63</sup> CR at I-19, PR at I-11.

Japan, and now in China.<sup>64</sup> There is no information on the record, however, to indicate that Daikin participates in any significant way in the European market as an exporter.

#### **4. Other Conditions**

Granular PTFE resin production is technologically complex and capital intensive due in part to corrosive and highly flammable materials used in processing. The high costs associated with operating and maintaining a granular PTFE resin plant require manufacturers to sustain relatively high capacity utilization rates to stay profitable. U.S. capacity utilization, which decreased from \*\*\* percent in 1985 to \*\*\* percent in 1987, improved since the original investigations but fluctuated throughout the second period of review.<sup>65</sup> The domestic industry's capacity utilization rates were \*\*\* percent in 1999, \*\*\* percent in 2000, \*\*\* percent in 2001, \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.<sup>66</sup>

Quality is considered the most important factor in purchasing decisions, followed by price.<sup>67</sup> Prices for granular PTFE resin are influenced by processing, raw materials, and transportation costs.<sup>68</sup> Most granular PTFE resin in United States is sold via long-or short-term contracts.<sup>69</sup> Both AGC and DuPont reported that a sizeable portion of their contracts contain meet-or-release provisions.<sup>70</sup>

### **C. Cumulation**

#### **1. Framework**

Section 752(a) of the Act provides that:

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>71</sup>

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>72</sup> We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that

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<sup>64</sup> CR at I-19, PR at I-11.

<sup>65</sup> CR/PR at Table I-1.

<sup>66</sup> CR/PR at Table I-1.

<sup>67</sup> CR/PR at Table II-1.

<sup>68</sup> CR/PR at V-1.

<sup>69</sup> CR at V-3, PR at V-3.

<sup>70</sup> CR at V-3, PR at V-3.

<sup>71</sup> 19 U.S.C. § 1675a(a)(7).

<sup>72</sup> 19 U.S.C. § 1675a(a)(7).



imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>73</sup> With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied as Commerce initiated all the reviews on December 1, 2004.

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>74</sup> Only a “reasonable overlap” of competition is required.<sup>75</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are terminated. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.<sup>76</sup>

Significant differences in the conditions of competition with respect to the subject imports from Japan versus subject imports from Italy lead us to decline to cumulate subject imports from both countries. Because we decline to cumulate subject imports from Italy and Japan on the basis of differences in conditions of competition, we find it unnecessary to decide the issue of no discernible adverse impact with respect to subject imports from Italy and Japan.<sup>77</sup>

## 2. Likelihood of a Reasonable Overlap of Competition

Below we examine the four factors the Commission customarily considers in determining whether there will be a likely reasonable overlap of competition. For our determinations on Italy and

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<sup>73</sup> SAA, H.R. Rep. No. 103-316, vol. I (1994).

<sup>74</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (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 (CIT 1989).

<sup>75</sup> *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (CIT 1996); *Wieland Werke, AG*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (CIT 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*, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp.2d 1353 (CIT 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>76</sup> *See, e.g., Torrington Co. v. United States*, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); *Metallwerken Nederland B.V. v. United States*, 728 F. Supp. 730, 741-42 (CIT 1989); *Asociacion Colombiana de Exportadores de Flores v. United States*, 704 F. Supp. 1068, 1072 (CIT 1988).

<sup>77</sup> *Cf. Top-of-the-Stove Stainless Steel Cooking Ware from Korea*, Inv. Nos. 701-TA-267 and 731-TA-304 (Review)(Remand), USITC Pub. 3485 at 5 (Jan. 2002) (declining to address criterion of no discernible adverse impact in the absence of evidence of a reasonable overlap of competition).

Japan, we find a likely reasonable overlap of competition among subject imports from all sources and between these imports and the domestic like product if the orders were revoked.

In the original investigations, the Commission found a reasonable overlap of competition between subject imports and among subject imports and domestic like product and therefore cumulated subject imports. In the first five-year reviews, the Commission likewise cumulated subject imports from both subject countries, based on a likely reasonable overlap of competition and no significant differences in conditions of competition among the subject imports and between subject imports and the domestic like product.<sup>78</sup>

*Fungibility.* The Commission found this factor satisfied in the original investigations as well as in the first five-year reviews. In these reviews, the record indicates that the domestic product and subject imports are substitutable products, with some limitations. Both subject imports and the domestic like product share the same chemical and physical properties.<sup>79</sup> However, the different grades of granular PTFE resin are not wholly fungible in that specific customer requirements are important.<sup>80</sup> Moreover, there exist differences in the types of products imported from Italy and Japan. Like domestic production, imports of Japanese product are granular PTFE resin. Imports of subject product from Italy, however, differ in that they are brought into the United States as wet raw polymer in bulk.<sup>81</sup> Wet raw polymer has no separate end use application. Rather, the product is converted at a plant in Orange, TX, which dries and chops the imported wet raw polymer before it is sold.<sup>82</sup> While Commerce determined in its 1993 anti-circumvention inquiry of imported PTFE wet raw polymer from Italy that this unfinished product should be included in the scope of the order, differences exist between they types of subject imports from Italy and Japan.<sup>83</sup>

Notwithstanding these limitations, most domestic producers indicated that the domestic and subject products were always or frequently interchangeable.<sup>84</sup> Importers were more mixed in their responses, with most importers reporting that U.S. and subject imported product were either frequently or sometimes interchangeable rather than always interchangeable. Purchasers' responses for subject countries were divided when comparing U.S. and Italian product, with three each responding that they were always or frequently interchangeable and two each reporting that they were either sometimes or never interchangeable. Four purchasers reported that U.S. and Japanese product were always interchangeable, while three each reported that they were frequently and sometimes interchangeable and two reported they were never interchangeable. While most responding purchasers (three each) reported that Italian and Japanese product were either always or frequently interchangeable, another three reported that Italian and Japanese product were only sometimes or never interchangeable.<sup>85</sup> We note that these results likely are based on market participants comparing finished granular PTFE resin from the subject sources (after it is converted from the wet raw polymer) and not what actually is imported from Italy with subject imports from Japan.

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<sup>78</sup> First Five-Year Review Determinations, USITC Pub. 3260 at 9-10. We note, however, that two Commissioners did not cumulate subject imports from Italy and Japan. See Additional and Dissenting Views of Commissioner Carol T. Crawford at 19-20 (finding a reasonable overlap of competition but declining to exercise discretion to cumulate) and Dissenting Views of Commissioner Thelma J. Askey at 29-30 (finding that subject imports from Japan are not likely to have a discernable adverse impact on the domestic industry based on the corporate relationships between Japanese producers and U.S. producers).

<sup>79</sup> CR at I-13, PR at I-7.

<sup>80</sup> CR at II-9-10, PR at II-6-7.

<sup>81</sup> CR at II-4, PR at II-3.

<sup>82</sup> CR at II-4, PR at II-3.

<sup>83</sup> 58 FR 21100, Apr. 30, 1993.

<sup>84</sup> CR at II-16, PR at II-11.

<sup>85</sup> CR/PR at Table II-3.

Purchasers were asked in these reviews to explain why products from country pairs were not interchangeable. Four reported differences in quality, two reported that the products were specialized and thus not interchangeable, one reported differences in freight, handling, and storage costs, one reported that once its bill of materials is set it cannot change suppliers without testing and permission from its purchasers, and one reported that its production using product from a new supplier would require expensive retooling. Two importers explained their responses on interchangeability, with one responding that for what it produces, granular PTFE resin from most countries was interchangeable. The other reported that product from different countries could differ in many ways in both physical properties and appearance.<sup>86</sup>

*Channels of Distribution.* The Commission found this factor satisfied in the original investigations. During this period of review, the domestic product and subject imports primarily are sold to processors that mold the resin directly into intermediate products.<sup>87</sup>

*Geographic Overlap.* In the original investigations, respondents agreed that imported subject product generally competed directly with the domestic product and that both were sold through similar channels of distribution to similar markets.<sup>88</sup> During this period of review, this factor, however, is more difficult to evaluate, given that, since the orders were imposed, imports of subject merchandise from Japan have been virtually nonexistent because domestic producers now produce granular PTFE resin in the United States.<sup>89</sup> The record indicates that Japanese product is \*\*\*,<sup>90</sup> \*\*\* firm importing the Italian subject product \*\*\* because Italian product (wet raw polymer) is imported into the United States and then converted into finished granular PTFE resin.<sup>91</sup> After conversion, the finished product likely is sold nationwide.

*Simultaneous Presence in Market.* The Commission found this criterion satisfied in the original investigation. Subject imports from Japan, however, have been virtually nonexistent during the period of review. Subject imports from Italy have been present during each year of the period of review.<sup>92</sup>

*Conclusion.* Information in the record indicates that despite some differences subject imports from Italy and Japan are likely to be fungible with each other and with the domestic like product, as was the case in the original investigations. The record does not indicate any changes in channels of distribution since the original investigations. While subject imports from Japan have been virtually nonexistent during the period of review, Japanese respondent Asahi indicated that it would import specialized products or higher grades of granular PTFE from Japan.<sup>93</sup> Thus, subject imports from Japan likely would have the same continuous presence in the U.S. market and geographic presence, as they did during the original investigations.

Consequently, the conclusions the Commission reached in the original investigations concerning reasonable overlap of competition generally also are applicable to the issue of likely overlap of competition in these five-year reviews. Accordingly, with respect to subject imports from Italy and

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<sup>86</sup> CR at II-17, PR at II-11.

<sup>87</sup> CR at II-1, PR at II-1.

<sup>88</sup> Original Determination at 23.

<sup>89</sup> Hearing Transcript at 136-137 (Neeley) (“{w}e think that the Japanese imports have been really tiny”). DuPont concurs with Asahi’s analysis. DuPont Posthearing Brief at Attachment A, pg. 6.

<sup>90</sup> CR at II-1 n. 2, PR at II-1 n. 2.

<sup>91</sup> CR at II-1 n. 2. PR at II-1 n. 2.

<sup>92</sup> CR/PR at Table IV-2.

<sup>93</sup> Hearing Transcript at 115 (Brozzetti).

Japan, we find that there is a likely overlap of competition with the domestic like product and also with each other.

### 3. Other Considerations

Our cumulation analysis in a five-year review encompasses more than an examination of whether there would likely be a reasonable overlap of competition of the products in the U.S. market. To aid us in our decision whether to exercise our discretion to cumulate, we examine the current and likely differences in the conditions of competition. We find that there have been changes in certain conditions of competition since the orders were imposed. Based on this analysis, we do not exercise our discretion to cumulate subject imports from Italy and Japan.

Fundamentally, the record indicates a substantial change in the conditions of competition since the time of the original investigations, namely that the U.S. investment patterns of both the Italian and Japanese producers differ remarkably and these patterns have influenced the current and likely export strategies of the two subject countries' industries. As noted above in our discussion of conditions of competition, the Italian producer disinvested in production in the United States by converting one of the largest domestic producers from the original investigations into a finishing operation. In contrast, the Japanese producers invested heavily in the United States and increased the size of the domestic industry. Specifically, Asahi Glass purchased domestic producer ICI Americas and Daikin constructed a greenfield production facility in the United States. Moreover, in light of DuPont's joint venture in Japan, the three Japanese producers of PTFE resin now are all closely related to the three major domestic producers of PTFE resin. We also observe that these investment patterns have brought about differences between Italy and Japan with respect to import patterns. While subject import volume from Italy was consistently present in the U.S. market at relatively stable levels during the period of review, subject import volume from Japan was virtually nonexistent. Thus, the subject Italian industry has exported subject product to its finishing facility in the United States and is likely to continue to do so. By contrast, the subject Japanese industry has invested in actual U.S. production of subject merchandise, generally has adopted the strategy of locating production facilities for PTFE products in regions throughout the world to supply their host markets, has had virtually no exports to the United States, and thus is not likely to export significant quantities of subject merchandise in the future.

Finally, the Italian industry is very export-oriented. While it appears that Italy's sole producer of PTFE, Solvay, has the capacity to satisfy apparent Italian consumption, it does not.<sup>94</sup> According to information provided by DuPont, the Italian industry supplies only about \*\*\* percent of the demand in Italy. Thus, a significant amount of Italian consumption is met by imports, leaving Solvay with the ability to export significant quantities.<sup>95</sup>

Differences in import patterns are likely to continue in the future given the Italian producer's current focus on supplying the U.S. market and the fact that all of the Japanese producers are affiliated with the domestic producers. Thus, while the Japanese industry has the ability to significantly increase exports to the United States, it likely will not do so in the reasonably foreseeable future because of the corporate relationships between Japanese producers and domestic producers.

In light of differences in current and likely conditions of competition, we do not exercise our discretion to cumulate subject imports from Italy with subject imports from Japan.

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<sup>94</sup> CR at IV-5-6, PR at IV-2-3.

<sup>95</sup> See DuPont Prehearing Brief at 16-17.

**D. Revocation of the Antidumping Order on Imports from Italy Is Likely to Lead to a Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

**1. Likely Volume of Subject Imports from Italy**

In the original investigations, the Commission cumulated imports from Italy and Japan. In these reviews, we do not exercise our discretion, under 19 U.S.C. §1675a(a)(7), to cumulate imports from Japan with imports from Italy, based on significant differences in the conditions of competition with respect to the subject imports from both countries. As a result, we have taken into account the Commission's previous volume findings, recognizing the difference represented by imports from Japan.

In the original investigations, the Commission found that volume and market share of subject imports from Italy and Japan increased significantly over the investigation period.<sup>96</sup> The cumulated subject PTFE resin imports' market share by quantity rose steadily throughout the period examined, but declined when the interim periods were compared.<sup>97</sup> The Commission did not comment specifically on the trend in volume for Italy. The record indicates, however, that the volume of subject imports from Italy steadily increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987.<sup>98</sup>

Similarly, in the first five-year reviews, the Commission cumulated imports from Japan and Italy. It noted, however, that for Italy, capacity to produce the subject product increased 67 percent from 1987 (the time of the original investigation) to 1997.<sup>99</sup> It also cited evidence that a substantial proportion of domestic consumption in Italy was not produced in that country, and that Italian producers still relied heavily on export shipments.

In these second five-year reviews, because we did not receive a response from the sole known Italian producer, Solvay Solexis, we have very little record information regarding the factors we must examine under 19 U.S.C. 1675a(2) in determining whether increases in the volume of subject imports are likely in the event of revocation of the order. Hence, based on our authority under 19 U.S.C. 1677e(a), we rely primarily on information provided by domestic producer DuPont. With regard to existing unused capacity, the record indicates a 2005 capacity of \*\*\* metric tons for the subject product, granular PTFE.<sup>100</sup> DuPont estimates that in 2004, Italy had an \*\*\*, which is significant in proportion to the 2005 estimate.<sup>101</sup> In addition, DuPont points out that, as was the case in the first five-year reviews, the Italian producer supplies only around \*\*\* percent of the demand in Italy.<sup>102</sup> There also is some scope for product-shifting by the Italian producer, as it is reported to be able to produce "emulsion-grade" product.<sup>103</sup> Moreover, DuPont notes that recent prices in the European market are considerably lower than prices in the U.S. market. In particular, in 2004, the average price for granular PTFE resin in the United States was \$\*\*\* per kilogram, whereas the average price in the European market was \$\*\*\* per kilogram.<sup>104</sup> This price differential provides a powerful incentive for the Italian producer to ship to the U.S. market.

Finally, Solvay Solexis has a finishing plant in Orange, TX that depends on a continuous flow of imports of raw wet polymer from Italy, along with established sales channels and a substantial customer base. Indeed, during the period examined in this review, subject imports from Italy were approximately

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<sup>96</sup> USITC Pub. 2112 at 25-26.

<sup>97</sup> The Commission discounted this decline, noting that it was likely due to the pendency of the investigations.

<sup>98</sup> CR/PR at Table I-1.

<sup>99</sup> USITC Pub. 3260 at 14.

<sup>100</sup> CR at IV-5, PR at IV-2.

<sup>101</sup> DuPont Prehearing Brief at 5-7.

<sup>102</sup> *Id.* at 16-17.

<sup>103</sup> CR at IV-5; PR at IV-2.

<sup>104</sup> DuPont Prehearing Brief at 7.

equal to their levels during the original investigation period.<sup>105</sup> This reflects the continuing importance of the U.S. market for the Italian producer.

In sum, based on the demonstrated ability of the Italian producer to increase rapidly imports into the U.S. market, its continued presence in the market, its substantial excess production capacity, its reliance on export markets, and its incentives to increase imports into the United States in the absence of the order make it likely that, in the event the order on granular PTFE resin from Italy is revoked, the likely volume of subject imports from Italy would be significant.

## 2. Likely Price Effects of Subject Imports from Italy

In evaluating the likely price effects of subject imports if the 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 with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.<sup>106</sup>

In the original investigation, the Commission found that subject imports from Italy and Japan had undersold the domestic like product in 60 of the 78 direct comparisons between producer and importer prices.<sup>107</sup> It also found that, on an overall basis, imports exerted downward pressure on domestic prices for the competing like product. In the first five-year review, the Commission cited these findings and also noted that, given the general substitutability of subject imports with the domestic like product, price appeared to be an important factor in purchasing decisions.<sup>108</sup>

In this review, we can draw very few conclusions from the pricing data, as we received no information from the sole Italian producer, Solvay Solexis. Prices for domestic granular PTFE resin have declined steadily from 2001.<sup>109</sup> The price of product 1 fell by \*\*\* percent between 1999 and 2004, the price of product 2 fell by \*\*\* percent, the price of product 3 by \*\*\* percent, the price of product 4 fell by \*\*\* percent, and the price for product 5 fell by \*\*\* percent.<sup>110</sup> Anecdotal evidence from both DuPont and AGC attribute the decline in U.S. prices to the presence of low-priced imports from China and Russia, as well as low-priced subject imports from Italy.<sup>111</sup> We find it significant that domestic prices have declined more rapidly in this second five-year review period than they did in the original investigation.<sup>112</sup> The

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<sup>105</sup> CR/PR at Table I-1. In 2004, subject imports from Italy reached a periodic high of \*\*\* million pounds, compared to \*\*\* million pounds in 1987, the last year of the original period of investigation.

<sup>106</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>107</sup> USITC Pub. 2112, at 25-27 (Views of the Commission). The Commission did not perform a separate underselling analysis for imports from Italy, but there is no evidence on the record that the incidences of underselling were any less frequent for Italy than for Japan.

<sup>108</sup> USITC Pub. 3260 at 16.

<sup>109</sup> CR/PR at Tables V-1 and V-2.

<sup>110</sup> CR at V-5, PR at V-4.

<sup>111</sup> Asahi Posthearing Brief at 4; DuPont Prehearing Brief at 6-7; DuPont Posthearing Brief at Attachment A, pg. 9; Hearing Transcript at 23-24, 119. See also Hearing Transcript at 165-166 (Brozzetti) (“What we see in the marketplace is the Italian product is always priced much lower than where our pricing and our U.S. competitor’s prices are at accounts.” In response to a question about comparing Italian prices to those from China and Russia, Mr. Brozzetti responded that they were about the same).

<sup>112</sup> In the original investigation, prices for U.S. producers’ domestic shipments of unfilled granular PTFE resin declined by 7.6 percent over two years. DuPont Posthearing Brief at 14. In this second five-year review, prices for the same product declined nearly \*\*\* percent over a 2-year period. CR/PR at Table V-2 (prices for product 3).

subject product does seem to be somewhat sensitive to price, although quality was ranked first in importance more consistently by purchasers.<sup>113</sup>

Hence, given the likely significant volume of imports, the importance of price in the granular PTFE market, the substitutability of subject imports and the domestic like product, the price effects of low-priced imports from Italy in the original investigation, and the incentive that exists for subject imports to enter the U.S. market, we find a likelihood of significant negative price effects from the subject imports. We conclude that, if the order on granular PTFE from Italy were revoked, significant volumes of subject imports from Italy would likely undersell significantly the domestic product and gain market share and would likely have significant depressing or suppressing effects on the prices of the domestic like product.

### 3. Likely Impact of Subject Imports from Italy

In the original investigations, the Commission found that despite rapidly increasing consumption, the principal economic indicators of the industry's performance deteriorated during the period examined, and accelerated toward the end of the period.<sup>114</sup> In particular, the Commission cited the fact that the volume of U.S. shipments, although increasing, did not keep up with increasing consumption. The Commission also cited growing operating losses during the period of investigation, with the largest annual loss occurring at the end of the period. In the first five-year reviews, the Commission noted improvements in the condition of the domestic industry following declines in the volume of subject imports. Specifically, the Commission observed that additional U.S. jobs had been created in the domestic PTFE industry, and concluded that the industry was not vulnerable.<sup>115</sup>

This review presents a sharp contrast to the first five-year reviews. Thus, we conclude that the U.S. industry is in a weakened state, and is thus vulnerable within the meaning of 19 U.S.C. 1675a(a)(1)(c). After sustaining \*\*\* operating margins in 1999 and 2000, the industry's profitability declined, and the industry has suffered losses in each of the last three calendar years.<sup>116</sup> Capacity utilization levels in 2004 are higher than in previous years, but the unit value of shipments declined \*\*\* percent between 1999 and 2004. We note that data on the industry's cost of goods sold do not support a conclusion that industry losses are due to any particular cost pressure.<sup>117</sup> Rather, it is more likely that the increased losses are related to price declines for the product. There is no evidence on the record that conditions in the industry are likely to improve significantly.<sup>118</sup>

Although it is anticipated that the domestic PTFE market will continue to grow, we find, however, that such growth likely will not be sufficient to absorb the likely significant increase in subject imports if the order on Italy were revoked. As discussed above, revocation of the antidumping order on imports from Italy would be likely to lead to a significant increase in the volume of subject imports that would undersell the domestic like product and significantly suppress or depress U.S. prices. We find that these volume and price effects of the subject imports would necessarily have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Accordingly, we conclude that, if the order on imports from Italy were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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<sup>113</sup> CR/PR at Table II-1.

<sup>114</sup> USITC Pub. 2112 at 17-22. The Commission discounted a reversal of these trends in the most recent interim period, citing the pendency of the investigations.

<sup>115</sup> USITC Pub. 3260 at 17.

<sup>116</sup> CR/PR at Table C-3. Operating income margins were \*\*\* percent of sales in 1999, \*\*\* percent in 2000, and \*\*\* percent in 2001. They then fell to a loss of \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.

<sup>117</sup> CR/PR at Table C-3. Total costs of goods sold increased only \*\*\* percent over the 6-year period of review. Unit costs of goods sold actually declined \*\*\* percent over that same period.

<sup>118</sup> CR at II-6-7; PR at II-4.

**E. Revocation of the Antidumping Order on Imports from Japan Is Not Likely to Lead to a Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

**1. Likely Volume of Subject Imports from Japan**

In the original investigations, the Commission cumulated imports from Italy and Japan. In these reviews, we do not exercise our discretion, under 19 U.S.C. §1675a(a)(7), to cumulate imports from Japan with imports from Italy, based on significant differences in the conditions of competition with respect to the subject imports from both countries. As a result, we have taken into account the Commission's previous volume findings, recognizing the difference represented by imports from Italy.

In the original investigations, the Commission found that volume and market share of subject imports from Italy and Japan increased significantly over the investigation period.<sup>119</sup> The cumulated subject PTFE resin imports' market share by quantity rose steadily throughout the period examined, but declined when the interim periods were compared.<sup>120</sup> The record indicates that the volume of subject imports from Japan steadily increased from \*\*\* pounds in 1985 to \*\*\* pounds in 1987 and had \*\*\* the market share of subject imports from Italy in 1987.<sup>121</sup>

Similarly, in the first five-year reviews, the Commission cumulated imports from Japan and Italy. While it did not have capacity or production data for the subject merchandise in Japan, it noted that Japanese capacity to produce all PTFE resins (including non-subject merchandise) outstripped estimated consumption of subject product by almost \*\*\*.<sup>122</sup> Japanese imports, however, had declined to zero during the first five-year reviews.<sup>123</sup> According to the Commission majority, the past ability of the Japanese producers to divert granular PTFE resin shipments from their home markets to the United States, their export orientation, together with their apparent substantial capacity, as well as their incentive to maintain high capacity utilization rates, indicated that Japanese subject producers were likely to commence significant exports to the United States upon revocation of the antidumping duty order.<sup>124</sup>

During the original period of investigation, Japan was a large source of imported granular PTFE resin for the U.S. market at \*\*\* percent share of the market in 1985, the beginning of the period of investigation. Japan was the \*\*\* imports.<sup>125</sup> The antidumping duty order had a significant restraining effect on subject imports from Japan, falling precipitously after imposition of the order.<sup>126</sup> Over the course of last 17 years, the amount of reported U.S. shipments of granular PTFE resin produced in the United States has increased from \*\*\* pounds in 1987 to \*\*\* pounds by 2004. U.S. shipments of imports from non-subject countries have increased between 1987 and 2004, rising from \*\*\* pounds to \*\*\*

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<sup>119</sup> USITC Pub. 2112 at 25-26.

<sup>120</sup> The Commission discounted this decline, noting that it was likely due to the pendency of the investigations.

<sup>121</sup> CR/PR at Table I-1.

<sup>122</sup> First Five-Year Review Determination at 12, USITC Pub. 3260 at 14.

<sup>123</sup> USITC Pub. 3260 at 24. We note that two Commissioners made negative determinations with respect to Japan in the first five-year reviews. See Additional and Dissenting Views of Commissioner Carol T. Crawford at 19-27 (decumulating Japan and finding the volume of subject imports from Japan likely would not be significant in part due to the fact that Japanese producers were related to U.S. producers) and Dissenting Views of Commissioner Thelma J. Askey at 29-34 (finding that subject imports from Japan are not likely to have a discernible adverse impact on the domestic industry based on the corporate relationships between Japanese producers and U.S. producers and that subject imports from Japan are not likely to have significant volume, price or other effects on the domestic industry for the same reason).

<sup>124</sup> USITC Pub. 3260 at 14-15.

<sup>125</sup> CR/PR at Table I-1.

<sup>126</sup> USITC Pub. 3260 at 24.



pounds, while U.S. shipments of Japanese imports have tumbled from \*\*\* pounds to \*\*\* pounds.<sup>127</sup> Although domestic producer market share has remained fairly stable since 1987, the market is much larger today than it was at the end of the original period of investigation.<sup>128</sup>

As noted above, the record indicates a substantial change in the conditions of competition since the time of the original investigations, namely the sizeable investment in productive facilities in the United States by two of the three Japanese manufacturers of granular PTFE resin. Therefore, although we conclude that the antidumping duty order contributed significantly to the reduction in shipments of subject merchandise to the United States, we do not view this change in the market as one that is likely to be reversed within a reasonable foreseeable time if the order is revoked.

We note that there is limited questionnaire data pertaining to subject Japanese capacity, production, and home market and export shipments. While Japanese producer Daikin did not provide the Commission with a foreign producer questionnaire response nor a domestic producer questionnaire response for its U.S. affiliate, it was never a party in this proceeding. More troubling is the fact that DuPont failed to have its 50/50 joint venture in Japan submit a foreign producer questionnaire response. When questioned about this failure, DuPont responded that it would do what it could, but it noted that it did not have a controlling interest in this facility.<sup>129</sup> DuPont later provided virtually meaningless data. We note that DuPont's joint venture accounts for approximately \*\*\* percent of the total Japanese PTFE capacity and is Japan's \*\*\* largest producer.<sup>130</sup> Of course, we know that DuPont's joint venture will not export any of its sizable production to the United States because \*\*\*.<sup>131</sup> The third Japanese producer with a U.S. affiliate, Asahi Glass, submitted both foreign producer and domestic producer questionnaire responses. Asahi Glass accounts for approximately \*\*\* percent of total Japanese PTFE capacity and is Japan's \*\*\* largest producer.<sup>132</sup>

Based on the partial responses of two of three Japanese manufacturers, capacity utilization has increased from \*\*\* percent in 1987 to almost \*\*\* percent in 2004.<sup>133</sup> This high level of capacity utilization was the result of the temporary closure of Daikin's Japanese production facility due to an explosion at its plant.<sup>134</sup> During this period, there was a supply shortage in Japan and Japanese producers sourced granular PTFE wherever they could, including from the United States.<sup>135</sup> To the extent that DuPont argues that Daikin now is looking to ship increased volumes to the U.S. market after coming back online in Japan,<sup>136</sup> we note that Daikin had not been shipping any significant volumes of subject merchandise to the United States before its facility closed last year and Daikin \*\*\*. Even prior to this accident, however, Japanese capacity utilization for two of the three subject producers was still significantly higher than it was in 1987, ranging from \*\*\* percent for unfilled granular PTFE resin to \*\*\* percent for filled granular PTFE resin.<sup>137</sup>

While the record indicates that Japanese demand for the subject product is less than Japanese producers' total PTFE production capacity, much of this production capacity is for non-subject merchandise and the record is unclear as to how easy it is to shift from production of one type of product

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<sup>127</sup> CR/PR at Table I-1.

<sup>128</sup> CR/PR at Table I-1.

<sup>129</sup> Hearing Transcript at 21-23 (Colven and Meltzer).

<sup>130</sup> CR at I-19, PR at I-11.

<sup>131</sup> EDIS No. 241501.

<sup>132</sup> CR at I-19, PR at I-11.

<sup>133</sup> Original Staff Report at Table 21; CR/PR at Table IV-4A.

<sup>134</sup> CR at IV-6, PR at IV-3; Hearing Transcript at 117 (Brozzetti).

<sup>135</sup> Hearing Transcript at 117 (Brozzetti); DuPont Posthearing Brief at 8. Indeed, Daikin Japan \*\*\*. CR at IV-6, PR at IV-3.

<sup>136</sup> DuPont Posthearing Brief at Attachment A, pg. 10.

<sup>137</sup> CR/PR at Table IV-4A.

to another.<sup>138</sup> Moreover, the record indicates that the Japanese market commands the highest prices for subject product, thereby making the U.S. market less attractive.<sup>139</sup> Finally, Japanese manufacturers dominate their home market and have a number of viable export markets.<sup>140</sup> There are no reported antidumping duty orders in place against Japanese granular PTFE resin except in the United States.<sup>141</sup>

As we previously noted, the level of investment in U.S. production facilities by several U.S. producers with Japanese corporate parents is significant.<sup>142</sup> In light of the substantial and continuing investment in U.S. facilities by the two U.S. producers with Japanese corporate parents (Daikin America and AGC) over the past decade, we find it unlikely that the Japanese corporate parents would rationalize production between their U.S. and Japanese production facilities to such an extent as to result in a significant net shift in the volumes of granular PTFE resin produced in the United States. To a significant degree, the Japanese producers, Asahi Glass and DuPont specifically, have adopted the corporate strategy of locating production facilities for PTFE products in regions throughout the world to supply their host markets (*e.g.*, Japan, the United States and the European Union). Indeed, DuPont's Japanese joint venture is licensed \*\*\*.

Finally, DuPont argues that Japanese producers Asahi Glass and Daikin will either undercut their U.S. investments by exporting significant quantities of subject merchandise to the United States or will rationalize U.S. production by having their U.S. affiliates produce more profitable non-subject fluoropolymers. As evidence, DuPont notes that Daikin is willing to undercut its U.S. production by importing subject merchandise from its facility in China.<sup>143</sup> To the extent that the Japanese-owned U.S. producers shift to non-subject production or the Japanese parent corporations decide to undercut their U.S. investments, it is unlikely to result in significant shipments of subject merchandise from Japan. Rather, it is more likely that Daikin will ship subject merchandise from its facility in China, as it currently is doing, rather than from its higher cost production facilities in Japan.<sup>144 145</sup> Revoking the order on imports from Japan would not alter this dynamic.

Based on the foregoing, we find it likely that producers in Japan would not, upon revocation of the order, increase exports significantly to the U.S. market.<sup>146</sup> Consequently, we find that revocation of the antidumping duty order is not likely to lead to an increase in the volume of subject imports from Japan such that the likely volume of subject imports would be significant.

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<sup>138</sup> CR at IV-7, PR at IV-3. We note that Japanese producers had difficulty supplying their home market demand for subject product after Daikin's facility closed last year. This suggests that product shifting is not easily accomplished.

<sup>139</sup> Hearing Transcript at 166 (Brozzetti) ("Right now, . . . we're looking at Japan probably priced the highest; then Europe, because of exchange rate{s}; followed by the U.S."); DuPont Posthearing Brief at Attachment 2.

<sup>140</sup> As noted previously, DuPont's joint venture \*\*\*. While Asahi Glass primarily serves its home market, it has had stable exports to \*\*\*. Hearing Transcript at 116 (Brozzetti); CR/PR at Tables IV-4 and IV-5.

<sup>141</sup> CR at IV-5, PR at IV-2.

<sup>142</sup> Daikin constructed a greenfield PTFE resin facility in Decatur, AL in 1993-94. USITC Pub. 3260 at I-7. AGC accounted for \*\*\* of capital expenditures in 2003 and 2004. Most of these capital expenditures involved \*\*\*. CR at III-10, PR at III-4.

<sup>143</sup> Hearing Transcript at 173-174 (Meltzer).

<sup>144</sup> Hearing Transcript at 180 (Neeley) (" . . . but what we think would happen, and it's fairly clearly already has happened, is that in absence of an order, because {Daikin} has a major facility in China, they would turn to China, as they have now. It makes much more sense to bring the low-end material, the granular material in from China rather than from Japan").

<sup>145</sup> While Daikin stated that \*\*\*, we note that Daikin also answered that it \*\*\*. CR at D-9, PR at D-6 (Response to question II-6); CR at D-11, PR at D-8 (Response to question II-15).

<sup>146</sup> See SAA at 890.

## 2. Likely Price Effects of Subject Imports from Japan

In the original investigations, the Commission found that subject imports from Italy and Japan had undersold the domestic like product in 60 of the 78 direct comparisons between producer and importer prices.<sup>147</sup> It also found that, on an overall basis, imports exerted downward pressure on domestic prices for the competing like product. In the first five-year review, the Commission cited these findings and also noted that, given the general substitutability of subject imports with the domestic like product, price appeared to be an important factor in purchasing decisions.<sup>148</sup>

In this review, because all of the Japanese producers have U.S. affiliates engaged in production of the domestic like product, imports of Japanese subject product have virtually ceased. Prices were available for only one product and for only two quarters during the period.<sup>149</sup> According to these two price comparisons, the Japanese product oversold the U.S. product for which data were available.<sup>150</sup> As noted above, while prices for domestic like product have declined, anecdotal evidence from both DuPont and AGC attribute the decline in U.S. prices to the presence of low-priced imports from China and Russia, as well as low-priced subject imports from Italy.<sup>151</sup>

As noted in the section discussing likely volume, the current lower prices in the U.S. market will serve as a disincentive to Japanese producers to export subject product to the U.S. market particularly when Japan has higher prices.<sup>152</sup> Moreover, given the fact that all producers in the U.S. market are affiliated with Japanese producers, we find it unlikely that, absent the order, competitive conditions would return to those prevailing prior to imposition of the order. Consistent with our finding that it is unlikely that there will be significant volumes of granular PTFE resin from Japan absent the order, we find it unlikely that imports will have any significant price effects on the domestic market if the order is revoked. There is simply no incentive for Japanese producers to revert to widespread price undercutting or to engage in aggressive pricing practices with regard to exports from Japan to the U.S. market if the order is revoked. Thus, we find that revocation of the antidumping duty order likely would not lead to significant underselling by the subject imports of the domestic like product, or to significant price depression and suppression, within a reasonably foreseeable time.

## 3. Likely Impact of Subject Imports from Japan

In the original investigations, the Commission found that despite rapidly increasing consumption, the principal economic indicators of the industry's performance deteriorated during the period examined, and accelerated toward the end of the period.<sup>153</sup> In particular, the Commission cited the fact that the volume of U.S. shipments, although increasing, did not keep up with increasing consumption. The

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<sup>147</sup> USITC Pub. 2112, at 25-27 (Views of the Commission). The Commission did not perform a separate underselling analysis for imports from Japan, but there is no evidence on the record that the incidences of underselling were any more frequent for Japan than for Italy.

<sup>148</sup> USITC Pub. 3260 at 16.

<sup>149</sup> CR at V-5, PR at V-4; CR/PR at Table V-1.

<sup>150</sup> CR/PR at Table V-1. While the record indicates that the average unit values for subject imports were lower than the AUVs for the domestic product, it is unknown whether the lower AUVs for the subject product results from product mix issues.

<sup>151</sup> Asahi Prehearing brief at 4; DuPont Prehearing Brief at 6-7; Tr. at 119. See also Hearing Transcript at 165-166 (Brozzetti) ("What we see in the marketplace is the Italian product is always priced much lower than where our pricing and our U.S. competitor's prices are at accounts." In response to a question about comparing Italian prices to those from China and Russia, Mr. Brozzetti responded that they were about the same).

<sup>152</sup> Hearing Transcript at 166 (Brozzetti); DuPont Posthearing Brief at Attachment 2.

<sup>153</sup> USITC Pub. 2112 at 17-22. The Commission discounted a reversal of these trends in the interim period, citing the pendency of the investigations.

Commission also cited growing operating losses during the period of investigation, with the largest annual loss occurring at the end of the period. In the first five-year reviews, the Commission noted improvements in the condition of the domestic industry following declines in the volume of subject imports. Specifically, the Commission observed that additional U.S. jobs had been created in the domestic PTFE industry, and concluded that the industry was not vulnerable.<sup>154</sup>

As explained above in the likely impact section for Italy, we conclude that the U.S. industry is in a weakened state, and is thus vulnerable. The industry has suffered losses in each of the last three calendar years.<sup>155</sup> These losses appear to be related to price declines for the product. While there is no evidence on the record that conditions in the industry are likely to improve, we do not find it likely that revocation of the order on Japan would result in a significant increase in the volume of subject imports from Japan. Although we acknowledge that there may be a small increase in the volume of subject merchandise in the event of revocation, we do not find it likely that a small increase in the volume of subject imports would depress or suppress the domestic industry's prices significantly, or have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. Any marginal reduction in the industry's production, shipments, sales, and revenue levels would not have a direct adverse impact on the industry's profitability or its ability to raise capital and make and maintain necessary capital investments. Accordingly, based on the record in this review, we conclude that, in the event of revocation of the order, subject imports likely would not have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

#### **IV. CONCLUSION**

For the foregoing reasons, we determine that revocation of the antidumping duty order on granular PTFE resin from Italy would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We also determine that revocation of the antidumping duty order on granular PTFE resin from Japan would not be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

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<sup>154</sup> USITC Pub. 3260 at 17.

<sup>155</sup> CR/PR at Table C-3. Operating income margins were \*\*\* percent of sales in 1999, \*\*\* percent in 2000, and \*\*\* percent in 2001. They then fell to a loss of \*\*\* percent in 2002, \*\*\* percent in 2003, and \*\*\* percent in 2004.

## PART I: INTRODUCTION AND OVERVIEW

### BACKGROUND

On December 1, 2004, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (“the Act”), that it had instituted reviews to determine whether revocation of the antidumping duty orders on granular polytetrafluoroethylene (“PTFE”) resin from Italy and Japan would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective March 7, 2005, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the reviews is provided in the following tabulation.<sup>1</sup>

Effective date	Action
August 24, 1988	Commerce’s antidumping duty order on Japan (53 FR 32267)
August 30, 1988	Commerce’s antidumping duty order on Italy (53 FR 33163)
May 3, 1999	Commission’s institution of first reviews (64 FR 23677)
December 14, 1999	Commission’s determinations in first reviews (64 FR 72362, December 27, 1999)
December 1, 2004	Commission’s institution of current (second) reviews (69 FR 69954)
March 7, 2005	Commission’s decision to conduct full reviews (70 FR 14713, March 23, 2005)
May 4, 2005	Commission’s scheduling of the reviews (70 FR 24613, May 10, 2005)
July 6, 2005	Commerce’s final results of expedited reviews (70 FR 38872)
August 15, 2005	Commission’s revised schedule (70 FR 48973, August 22, 2005)
October 25, 2005	Commission’s hearing <sup>1</sup>
November 30, 2005	Commission’s vote
December 13, 2005	Commission’s determinations transmitted to Commerce

<sup>1</sup> App. B contains a list of witnesses who appeared at the hearing.

### The Original Investigations

On November 6, 1987, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of granular PTFE resin from Italy and Japan.<sup>2</sup> In August 1988, Commerce made final affirmative dumping determinations, with margins as follows: Italy - Montefluos S.p.A./Ausimont U.S.A., 46.46 percent, and all others, 46.46 percent; Japan - Daikin Industries, Inc., 103.00 percent, Asahi Fluoropolymers Co., Ltd., 51.45 percent, and all others, 91.74 percent. The Commission made its final affirmative injury determinations in August 1988, and Commerce issued antidumping duty orders on August 24, 1988 (Japan) and August 30, 1988 (Italy).

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<sup>1</sup> The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission’s web site (internet address [www.usitc.gov](http://www.usitc.gov)). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site.

<sup>2</sup> The petition was filed by E.I. du Pont de Nemours & Co., Inc. (“DuPont”).

Table I-1 presents a summary of data from the original investigations, from the first review in 1999, and from these reviews; figure I-1 shows U.S. imports of granular PTFE resin during 1985-87 and 1998-2004.<sup>3</sup>

**Table I-1**

**Granular PTFE resin: Summary data from the original investigations, the first reviews, and the current reviews, 1985-1987 and 1997-2004**

\* \* \* \* \*

**Figure I-1**

**Granular PTFE resin: U.S. shipments of imports from Italy, Japan, and all other sources, 1985-87 and U.S. imports from Italy, Japan, and all other sources, 1998-2004**

\* \* \* \* \*

### **Statutory Criteria and Organization of the Report**

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

*(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*

*(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*

*(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*

*(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*

*(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . .*

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<sup>3</sup> Data for 1985-87 and for 1998 are U.S. importers’ shipments. Data for 1999-2004 are U.S. imports from questionnaire responses (for imports from Japan and for imports from all other countries except for Italy, China, and Russia) and from adjusted official Commerce statistics for imports from Italy, China, and Russia. Adjustments to the official Commerce statistics are based on information provided in domestic interested party DuPont’s posthearing brief, attachment A (responses to specific questions from Commissioners), pp. 6-7 and attachment 4. For U.S. imports from Italy, DuPont estimates that 25 percent of the imports from Italy reported in official Commerce statistics are subject product, based on public data available from the most recently completed administrative review on the producer in Italy. DuPont also developed estimates for U.S. imports from China and Russia of the subject product, based \*\*\* official Commerce import statistics.

(2) *VOLUME.*--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) 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.

(3) *PRICE.*--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) *IMPACT ON THE INDUSTRY.*--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) 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.

*The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.*

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”

Information obtained during the course of the reviews that relates to the above factors is presented throughout this report. A summary of data collected in the reviews is presented in appendix C.

U.S. industry data are based on questionnaire responses of four firms (AGC Chemicals, Dyneon, DuPont, and PTFE Compounds) that accounted for the majority of U.S. production of granular PTFE resin during 2004.<sup>4</sup> Data on U.S. imports from China, Italy, and Russia are from adjusted official Commerce statistics,<sup>5</sup> and data on U.S. imports from Japan and all other sources are from responses to the Commission's questionnaire for importers. Responses by U.S. producers, importers, and purchasers of granular PTFE resin and producers of granular PTFE resin in Italy and Japan to a series of questions concerning the significance of the existing antidumping duty orders and the likely effects of revocation are presented in appendix D.

### **COMMERCE'S RESULTS OF EXPEDITED REVIEWS**

On July 6, 2005, Commerce, in expedited reviews, found that revocation of the antidumping duty orders on granular PTFE resin from Italy and Japan would likely lead to continuation or recurrence of dumping as follows: Italy--Montefluos S.p.A./Ausimont U.S.A.,<sup>6</sup> 46.46 percent *ad valorem*; all others, 46.46 percent; Japan--Daikin Industries, Inc., 103.00 percent; Asahi Glass Fluoropolymers, Inc., 51.45 percent; all others, 91.74 percent.<sup>7</sup> Commerce has not issued duty absorption determinations with respect to these orders.

### **COMMERCE'S ADMINISTRATIVE REVIEWS**

Commerce has conducted numerous administrative reviews of the antidumping duty orders on granular PTFE resin from Italy (Montefluos S.p.A. and Ausimont S.p.A.) and Japan (Daikin), as shown in the following tabulation:

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<sup>4</sup> U.S. producer Daikin America, Inc. provided extremely limited information in response to the Commission's questionnaire. Possible U.S. producer Solvay Solexis did not respond to the Commission's questionnaire despite repeated attempts by staff to obtain a response. A representative of Daikin stated that \*\*\*.

<sup>5</sup> The adjustments to the official Commerce statistics are based on information provided in DuPont's posthearing brief, attachment 4.

<sup>6</sup> Solvay Solexis S.p.A. and Solvay Solexis, Inc., are the successors-in-interest to Ausimont S.p.A. and Ausimont U.S.A., Inc., respectively.

<sup>7</sup> Commerce's notice is presented in app. A.



<b>Period of review</b>	<b>Date results published</b>	<b>Margin (percent)</b>
<b>Italy</b>		
04/20/1988 - 07/31/1989	December 11, 1990 (55 FR 50854)	Montefluous 20.79 All others 20.79
08/01/1989 - 07/31/1990	November 15, 1991 (56 FR 58031)	Montefluous 23.57 All others 23.57
08/01/1991 - 07/31/1992	April 21, 1995 (60 FR 19884)	Ausimont 13.31 All others 46.46
08/01/1992 - 07/31/1993	October 17, 1995 (60 FR 53737)	Ausimont 2.26 All others 46.46
08/01/1993 - 07/31/1994	May 20, 1996 (61 FR 25195)	Ausimont 6.64 All others 46.46
08/01/1994 - 07/31/1995	February 6, 1997 (62 FR 5590) and April 29, 1997 (62 FR 23219)	Ausimont 15.21 All others 46.46
08/01/1995 - 07/31/1996	September 16, 1997 (62 FR 48592)	Ausimont 5.95 All others 46.46
08/01/1996 - 07/31/1997	September 14, 1998 (63 FR 49080)	Ausimont 45.72 All others 46.46
08/01/1998 - 07/31/1999	September 12, 2000 (65 FR 54993)	Ausimont 0.72
08/01/1999 - 07/31/2000	January 15, 2002 (67 FR 1960)	Ausimont 2.15 All others 46.46
08/01/2000 - 07/31/2001	January 15, 2003 (68 FR 2007)	Ausimont 12.08 All others 46.46
<b>Japan</b>		
08/01/1991 - 07/31/1992	September 27, 1993 (58 FR 50343)	Daikin 10.99 All others 91.74
08/01/1992 - 07/31/1993	June 27, 1995 (60 FR 33188)	Daikin 23.33 All others 91.74
08/01/1993 - 07/31/1994	January 26, 1996 (61 FR 1343)	Daikin 53.68 All others 91.74

In addition, on September 22, 2004, Commerce initiated an administrative review on Asahi Glass Fluoropolymers, Ltd. (Japan), but the review was rescinded on August 1, 2005 because Commerce determined that the party requesting the reviews did not have entries that correspond to the sale of granular PTFE resin during the period of review upon which to assess antidumping duties.<sup>8</sup> On September 28, 2005, Commerce initiated administrative reviews on Solvay Solexis, S.p.A (Italy) and Asahi Glass Fluoropolymers, Ltd. (Japan) for the period of August 1, 2004 through July 31, 2005.<sup>9</sup>

<sup>8</sup> 70 FR 44088, August 1, 2005.

<sup>9</sup> 70 FR 56631, September 28, 2005.

**DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY  
OFFSET ACT FUNDS TO AFFECTED DOMESTIC PRODUCERS**

The Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”) (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.<sup>10</sup> During the period of review, qualified U.S. producers of granular PTFE resins were eligible to receive disbursements from U.S. Customs and Border Protection (“Customs”) under CDSOA relating to both antidumping duty orders on the subject product. All disbursements went to DuPont; its claims for the Italy and Japan cases were the same in each fiscal year. The following tabulation shows the disbursements and claims for fiscal years 2001-04:

Item	2001	2002	2003	2004
<b>Disbursements<sup>1</sup> (dollars)</b>				
<b>By import source:</b>				
<b>Italy</b>	870,429	88,869	71,371	505,131
<b>Japan</b>	20,312	11,118	51,780	1,830
<b>Total</b>	890,742	99,986	123,151	506,962
<b>Amount claimed<sup>2</sup> (\$1,000)</b>				
<b>U.S. producers' claims:</b>				
<b>Italy</b>	39,206	34,721	31,400	133,698
<b>Japan</b>	39,206	34,721	31,400	133,698
<b>Total</b>	78,412	69,442	62,800	267,395
<sup>1</sup> As presented in Section I of Customs' CDSOA <i>Annual Reports</i> . <sup>2</sup> Qualifying expenditures incurred by domestic producers since the issuance of an order, as presented in Section I of Customs' CDSOA <i>Annual Reports</i> .  Note: Preliminary funds for FY 2005 are \$614,368.07 for Italy and \$5,816.05 for Japan.  Source: U.S. Customs and Border Protection's CDSOA <i>Annual Reports</i> .				

**THE SUBJECT PRODUCT**

The imported product subject to the antidumping duty orders under review, as defined by Commerce, is granular PTFE resin, filled or unfilled, from Italy or Japan. The orders also cover granular PTFE wet raw polymer exported from Italy to the United States, but exclude PTFE dispersions in water and fine powders from either Italy or Japan.<sup>11</sup> The product is classified under HTS subheading

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<sup>10</sup> Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. § 1675(c)).

<sup>11</sup> *Granular Polytetrafluoroethylene Resin from Italy and Japan, Investigations Nos. 731-TA-385 and 386 (Review)*, USITC Publication 3260, December 1999, p. I-5, and Commerce's *Federal Register* notice of final results in the current (second) reviews (70 FR 38872, July 6, 2005).

3904.61.00<sup>12</sup> and enters at the bound column 1-general duty rate of 5.8 percent *ad valorem*. The HTS subheading is provided for convenience and for Customs purposes; the written description remains dispositive as to the scope of the product coverage.

### Physical Characteristics

Granular polytetrafluoroethylene resin (“PTFE resin”) is a high molecular weight crystalline fluoropolymer produced by the aqueous suspension polymerization of tetrafluoroethylene (TFE) monomer. PTFE resin polymers are commonly known as Teflon®, a product of DuPont, although every producer of PTFE resin has its own specific trade name.<sup>13</sup> The subject product is a specialty white, waxy crystalline fluoropolymer material known for its chemical inertness, excellent heat and chemical resistance, electrical insulation properties, mechanical strength and toughness, low coefficient of friction (lubricity), and functionality over a wide temperature range. The product may be produced as a fully fluorinated homopolymer or contain certain copolymer additives that aid in the fabrication of end use products by significantly reducing the melt viscosity.<sup>14</sup> The product typically ranges in particle size from 20 microns (μ) and a bulk density of 250 grams per liter (g/l), to 650μ and 705g/l depending upon the end-use application.<sup>15 16</sup> It is commonly sold in several different grades, including various sizes of powder (including pre-sintered powder), as pellets, and as compounded molding powders containing fillers like fiberglass and carbon.<sup>17 18</sup> Filled compounds, known as compounded molding powders in the industry, are easily produced from PTFE granular powders by mixing 5 percent to 60 percent by weight of inorganic fillers that selectively enhance properties.<sup>19</sup>

### Uses<sup>20</sup>

Because of its high molecular weight and concomitant high melting point and melt viscosity, subject PTFE resin cannot be processed by conventional thermoplastic methods such as injection molding or extrusion. Thus, the product is typically processed by the more physically demanding processes of compression molding or ram extrusion, followed by fusing the individual PTFE particles together (sintering) at temperatures just below the melting point.<sup>21</sup> Compression molded products are typically fabricated into basic stock shapes of cylinders and cubes to be machined into seals, bearings, bushings, piston rings, and diaphragms. Additionally, PTFE sheet is skived (mechanically shaved) for chemical

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<sup>12</sup> HTS subheading 3904.61.00 is a larger category than the scope of these orders, as it also includes PTFE dispersions in water as well as fine powders. However, subject granular PTFE was specifically defined for purposes of reporting import data under a new statistical category, HTS statistical reporting number 3904.61.0010, in the 2005 HTS, Supplement 1, effective July 1, 2005; however, data will not be collected until January 2006.

<sup>13</sup> Teflon® is DuPont’s registered trademark for a wide variety of fluorinated polymers. Daikin’s PTFE products are sold under the Polyflon™ name, while Dyneon’s PTFE products are sold under various Dyneon™ designations.

<sup>14</sup> <http://www.dyneon.com>, retrieved April 22, 2005.

<sup>15</sup> <http://www.teflon.com>, retrieved April 20, 2005.

<sup>16</sup> A micron is one millionth of a meter.

<sup>17</sup> Molding powder description and samples were provided to staff by \*\*\*.

<sup>18</sup> \*\*\*. Staff correspondence with \*\*\*.

<sup>19</sup> <http://www.teflon.com>, retrieved April 20, 2005.

<sup>20</sup> Domestically produced granular PTFE resin is typically compounded by downstream processors in the United States, while most imports of granular PTFE are thought to be in compound form. Staff correspondence with \*\*\*.

<sup>21</sup> Granular PTFE resin is used in numerous applications, including automotive and chemical processing. A large part of DuPont’s granular resins is sold in the industrial specialties segment. Hearing transcript, p. 12 (Colvin).

vessel linings and gaskets. Ram extrusion products<sup>22</sup> are typically fabricated into solid rods, tubing, and extruded profiles to be machined into seals, bushings, piston rings, and linings for chemical pipe.<sup>23</sup>

Finely divided subject granular PTFE powders known as “fine cut” in the industry are used for a variety of applications including high-performance mechanical and electrical applications, skived film and sheet, gaskets, bridge or pipeline bearing pads, piston rings, diaphragms, seal rings, valve seats, and linings. Pelletized resins are preferred for the fabrication of ball valve seats, seals, discs, labware, and smaller parts. These resins are also used to produce tank and pipe linings, ducting and expansion joints and bellows, piston rings, and other large complex moldings. Parts fabricated from pelletized resins have superior physical and electrical properties. Other selected properties of various pelletized grades are high tensile strength and surface smoothness, and free-flowing characteristics excellent for high-speed automatic molding applications. Presintered resins are hard, free-flowing materials with excellent tensile strength properties. These resins are typically used to produce rods, tubing, and profiles formed by ram extrusion. Presintered forms are roughly \*\*\*.<sup>24</sup>

### Manufacturing Process

Granular PTFE resin is synthesized by the aqueous suspension polymerization of tetrafluoroethylene (TFE) monomer alone or in combination with relatively smaller amounts of copolymer additives. The resulting white polymer is characterized by long, stringy, irregular particles roughly three-eighths inch in length and flexible in nature. Following the cessation of vigorous agitation, the stringy particles settle to the bottom of the reactor where they are discharged as wet raw polymer.<sup>25</sup> Wet raw polymer flows in two different directions: (1) for pelleting; and (2) for the production of fine- to ultra-fine granular powder and presintered granular powder. Pelleted product is formed by passing wet raw polymer through a \*\*\* and then pelletized, dried, and discharged to a pack-out facility. Granular powders are formed by \*\*\* where it is dried and then \*\*\* to produce finished fine cut resin products of varying sizes. \*\*\*.<sup>26</sup>

Producers were asked whether since 1988 they produced other products on the same equipment and machinery used in the production of granular PTFE resin or used the same production and related workers employed to produce other products, or anticipated doing so in the future. \*\*\* answered “No.”<sup>27</sup>

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<sup>22</sup> Ram extrusion is a continuous molding process.

<sup>23</sup> <http://www.teflon.com>, retrieved April 20, 2005.

<sup>24</sup> Staff fax correspondence from \*\*\*.

<sup>25</sup> *Encyclopedia of Chemical Technology, Fluorine Compounds, Organic; Volume 11, Kirk-Othmer*, 1980, p. 6.

<sup>26</sup> Staff fax correspondence from \*\*\*.

<sup>27</sup> Producers were asked whether they produce or sell reprocessed granular PTFE or granular PTFE scrap; \*\*\* stated “No” except for \*\*\* which stated “Yes” for scrap. Producers were asked whether reprocessed granular PTFE or granular PTFE scrap compete with virgin granular PTFE; \*\*\* stated “Yes,” \*\*\* stated “No,” and \*\*\* stated that it is possible only in very limited circumstances such as in low value/low quality applications where contamination or ASTM-level performance is not required.

## Domestic Like Product Issues

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.<sup>28</sup>

### The Original Investigations

In the original investigations, the Commission found that the like product consisted of all granular PTFE resin, both filled and unfilled, coextensive with the scope of the investigations and with the like product argued for by petitioner DuPont and supported by the second-largest U.S. producer (at that time), ICI Americas, Inc.<sup>29</sup> Respondent Ausimont U.S.A. had argued that there were two like products consisting of (1) unfilled granular PTFE resin of all grades<sup>30</sup> and (2) all filled granular PTFE resin, regardless of the type or amount of filler.

The Commission found that unfilled PTFE resin is the basic component of all filled resin, although the nature, volume, and value of the fillers differ.<sup>31</sup> The "need" for further processing, i.e., filling, depended on the intended use of the manufactured product. Filled PTFE resin retained the desirable qualities of the unfilled product to various degrees, while meeting the additional requirements of various applications (different fillers in varying proportions impart qualities to, or enhance certain qualities of, the unfilled PTFE). The Commission found that compared to the costs of manufacturing the unfilled PTFE resin, the costs of compounding (filling), exclusive of material costs, were low, and the equipment for filling operations was significantly less expensive than the equipment for the manufacture of unfilled resin. With regard to interchangeability, the choice of unfilled or a specific filled PTFE resin for production of a specific product depended largely on the intended use of the product and the qualities necessary for that end use, and for at least some end uses, filled and unfilled PTFE resins were interchangeable. Both filled and unfilled PTFE resins were processed into various articles of trade on similar types of processing equipment (e.g., molding or ram extrusion), and many of these articles were produced from either unfilled or filled PTFE resin. Filled and unfilled resin were manufactured by different processes: production of the unfilled product was initially a chemical process, followed by drying, grinding, and baking, whereas the production of the filled product was a mechanical operation devoted to evenly compounding an unfilled resin with filler materials of differing types and quantities. The two operations were carried out on different equipment. Information available in the current reviews

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<sup>28</sup> If the subject product is an intermediate product, the Commission may employ its five-factor "semifinished/finished products" test consisting of (1) uses (whether the upstream product is dedicated to the production of the downstream product); (2) markets (whether there are separate markets for the upstream and downstream products); (3) characteristics and functions (whether there are differences in the physical characteristics and functions of the upstream and downstream products); (4) value (whether there are differences in the production costs and/or sales values (transfer values or market prices as appropriate) of the upstream and downstream products); and (5) transformation processes (the significance and extent of the processes used to transform the upstream product into the downstream product).

<sup>29</sup> *Granular Polytetrafluoroethylene Resin from Italy and Japan*, USITC Publication 2112, August 1988, pp. 3-13.

<sup>30</sup> In the preliminary phase of the original investigations, Ausimont argued that the three standard grades (pelletized, fine-cut, and presintered) of granular PTFE resin were distinct like products. Ausimont apparently abandoned that argument in the final phase of those investigations.

<sup>31</sup> The reasons for the Commission's findings are abridged from its views in *Granular Polytetrafluoroethylene Resin from Italy and Japan*, USITC Publication 2112, August 1988, pp. 3-13.

indicates that the bases for the cited reasons for the Commission's finding of one like product in the original investigations have not changed substantially.

### **The First Five-Year Reviews**

In the first reviews, the Commission found that the like product consisted of "granular PTFE resin," coextensive with the scope of the investigations, for the reasons stated in the Commission's views in the original investigations.<sup>32 33</sup>

### **The Current (Second) Five-Year Reviews**

In their responses to the Commission's notice of institution in these second five-year reviews, domestic interested party DuPont did not object to the definitions of domestic like product that the Commission found previously, and respondent interested parties AGC Chemicals America, Inc. and Asahi Glass Fluoropolymers, Ltd., stated that they agreed with the definition of domestic like product as provided in the Commission's notice of institution in the reviews (i.e., granular PTFE resin, coextensive with the scope).

## **U.S. MARKET PARTICIPANTS**

### **U.S. Producers**

There are three known U.S. producers<sup>34</sup> of unfilled granular PTFE resin: (1) E.I. du Pont de Nemours and Co., Inc. ("DuPont"), with its plant in Parkersburg, WV; (2) AGC Chemicals America, Inc. ("AGC"), Downingtown, PA; and (3) Daikin America, Inc. ("Daikin"), Decatur, AL.<sup>35</sup> AGC and Dyneon LLC ("Dyneon"), Oakdale, MN,<sup>36</sup> also produce filled granular PTFE resin, and \*\*\* the filled product. In addition, PTFE Compounds, Newcastle, DE, produces (only) filled granular PTFE, from unfilled product that is \*\*\*. All of the above firms were sent questionnaires and all but the possible producer Solvay Solexis<sup>37</sup> have responded, although Daikin's response had extremely limited information.

\*\*\* produce the unfilled product directly from raw materials, or from "scratch" as indicated in the questionnaire responses; they produce only granular PTFE resin from PTFE wet raw polymer. \*\*\*.<sup>38</sup> Producers were asked whether in their opinion filled granular PTFE competes with unfilled granular PTFE resin. \*\*\* stated "No."

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<sup>32</sup> *Granular Polytetrafluoroethylene Resin from Italy and Japan*, USITC Publication 3260, December 1999, pp. 4-5.

<sup>33</sup> The Commission noted that the scope of the review concerning Italy was slightly broader than the scope in the original investigation on Italy, as a result of Commerce's amending of the scope on Italy in 1993 to cover wet raw polymer, an intermediate product exported from Italy to the United States. The amendment of the scope raised the possibility of two domestic like products (granular PTFE resin and wet raw polymer). However, no party argued for two domestic like products. The Commission stated that it appeared that the two products shared fundamental characteristics and that there was no domestic production of wet raw polymer for sale. *Ibid.*, p. 4, fn. 18.

<sup>34</sup> Questionnaires were sent to 15 firms that were thought to produce granular PTFE resins at some point during the last 20 years.

<sup>35</sup> DuPont supports the continuation of the antidumping duty orders. \*\*\*.

<sup>36</sup> Dyneon's compounding plant is located in Aston, PA. It \*\*\*.

<sup>37</sup> Solvay Solexis reported that \*\*\*.

<sup>38</sup> Producers were asked whether PTFE fine powders and PTFE dispersions compete with granular PTFE resin. \*\*\* stated "No" and \*\*\* stated "No" for powder and "Yes" for dispersions.

DuPont is the largest known producer of PTFE (which consists not only of granular PTFE resin but also of PTFE fine powder and PTFE aqueous dispersions) in the United States and globally. The firm has a total annual PTFE capacity of approximately \*\*\* metric tons globally, and \*\*\* metric tons in the United States. Its other plants are in the Netherlands (\*\*\* metric tons) and Japan (\*\*\* metric tons). In the United States, DuPont's share of total capacity is approximately \*\*\* percent from its plant at Parkersburg, WV, \*\*\* AGC Chemicals Americas, Inc. ("Asahi") at Bayonne, NJ (\*\*\*); Daikin America, Inc. at Decatur, AL (\*\*\*);<sup>39</sup> and Solvay Solexis at Orange, TX (\*\*\*).<sup>40</sup> All of these producers are back-integrated into fluorocarbons and other basic feedstocks.

In Japan, Daikin accounts for approximately \*\*\* percent of the total PTFE capacity; DuPont-Mitsui, \*\*\* percent; and Asahi, \*\*\* percent. In Italy, Solvay is the only known producer of PTFE, where it has an annual capacity of approximately \*\*\* metric tons. Asahi also has a \*\*\* metric ton plant in the United Kingdom; Daikin, a \*\*\* metric ton plant in China. Dyneon, \*\*\*, \*\*\* has a \*\*\* metric ton plant in Germany, and \*\*\*.<sup>41</sup> \*\*\*.<sup>42</sup>

Of the five most well-known global producers of granular PTFE resin, DuPont's share of total PTFE capacity is approximately \*\*\* percent; Daikin \*\*\* percent; Asahi \*\*\* percent; Dyneon \*\*\* percent; and Solvay \*\*\* percent.<sup>43</sup>

### U.S. Importers

Questionnaires were sent to 28 firms identified in proprietary data provided by Customs, records in previous investigations, and by \*\*\*. In addition, importer questionnaires were sent to the 15 firms that were sent producers' questionnaires. Eight importers supplied useable data: \*\*\*.

### U.S. Purchasers

Questionnaires were sent to 45 purchasers identified by known importers and producers, records in previous investigations, and \*\*\*. In addition, purchasers' questionnaires were sent to the 28 firms identified as possible importers as well as to the 15 firms that were sent the producers' questionnaire. Twenty firms have returned questionnaires with useable data.

## APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-2 presents apparent U.S. consumption for the review period and table I-3 presents U.S. market shares for the same period.

**Table I-2**  
**Granular PTFE resin: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1999-2004**

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<sup>39</sup> In Daikin's questionnaire response the \*\*\*.

<sup>40</sup> \*\*\*.

<sup>41</sup> Ibid.

<sup>42</sup> DuPont's prehearing brief, pp. 20-21.

<sup>43</sup> \*\*\*.

**Table I-3**  
**Granular PTFE resin: U.S. market shares, 1999-2004**

\* \* \* \* \*



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

### **U.S. MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION**

Granular PTFE resin is sold as filled or unfilled resin. Most of what the U.S. producers sell is sold as unfilled product, \*\*\* percent by quantity in 1999 and \*\*\* percent in 2004.

In the original investigations, U.S.-produced and subject imported granular PTFE resin were sold through similar channels of distribution to similar markets. No direct sales to end users were reported, nor were there any sales to independent distributors. Most granular PTFE resin was sold to processors that molded mainly intermediate products. In addition, users of filled granular PTFE resin either did the compounding work themselves or purchased the product from compounders.

\*\*\* responding U.S. producers<sup>1</sup> and three of the four responding importers reported selling nationwide.<sup>2</sup> The remaining importer sold in the Northeast only. Delivery is typically arranged by the producer or importer, with \*\*\* responding U.S. producers and all five responding importers reporting that they arrange transportation.<sup>3</sup> Producers and importers were also asked to estimate the share of their granular PTFE resin sales that occurred within distance ranges. Of the three responding U.S. producers, two sold \*\*\* to locations between 101 and 1,000 miles from their facilities. The other U.S. producer sold \*\*\* percent within 100 miles, \*\*\* percent over 100 miles, and \*\*\* percent between 101 and 1,000 miles.<sup>4</sup> Of the four responding importers, two reported selling some product within 100 miles of their facilities; one sold half or more between 101 and 1,000 miles; and two sold all their imported granular PTFE resin to locations over 1,000 miles from their facilities.

Twenty purchasers supplied questionnaire responses.<sup>5</sup> Nineteen of these were either processors or end users. Of these 19 firms, 12 reported producing products other than subject PTFE, one reported that it was a custom processor, one stated that it was a processor of filled granular PTFE resin, and five were processors/end users but did not report what they produce.<sup>6</sup> The one remaining purchaser was a distributor and reported that it sold product to processors.

### **SUPPLY AND DEMAND CONSIDERATIONS**

#### **U.S. Supply**

##### **Domestic Supply**

Based on available information, staff believes that U.S. granular PTFE resin producers are likely to respond to changes in demand with only moderate changes in shipments of U.S.-produced granular PTFE resin to the U.S. market. Factors contributing to this degree of responsiveness are discussed below.

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<sup>1</sup> Producers include \*\*\*.

<sup>2</sup> Only importers that sold granular PTFE resin answered this question. \*\*\*.

<sup>3</sup> Throughout Parts II and V of this report, \*\*\*, \*\*\*.

<sup>4</sup> \*\*\*.

<sup>5</sup> The largest purchasers supplying questionnaire responses (in terms of the quantity of granular PTFE resin they purchased) were \*\*\*.

<sup>6</sup> The questionnaire asked whether purchasers were processors, distributors, end users, or other; however, from their responses the distinction as to whether they are actually processors and/or end users is not clear. One purchaser that reported "other" is a compounder of filled resin; its responses have been included with the processors/end users' responses.

### *Industry capacity*

Domestic capacity for producing granular PTFE resin increased from \*\*\* pounds in 1987 to \*\*\* pounds in 1999 and to \*\*\* pounds in 2004. U.S. producers' reported capacity utilization for granular PTFE resin increased from \*\*\* percent in 1987 to \*\*\* percent in 1999 and \*\*\* percent in 2004. This current high level of capacity utilization suggests that U.S. producers of granular PTFE resin may have little available capacity with which they could increase production of granular PTFE resin in the event of a price change. According to DuPont, capacity utilization rates of 80 to 85 percent are necessary for profitably running its plant.<sup>7</sup>

### *Lead times*

Two of the three responding U.S. producers, \*\*\*, reported that over \*\*\* percent of their sales are from inventories. In contrast, \*\*\* reported selling over \*\*\* percent on produced-to-order bases. Two importers reported the share of their product that they sold from inventories; both sold 100 percent from inventories. Lead times for the U.S. producers ranged from 2 to 10 days from inventory and from 10 to 30 days for sales to order. The two importers that sold from inventories reported lead times of two to three days. Another importer, which did not indicate whether it sold from inventories or on a made-to-order basis, reported that its lead time was about eight weeks.

### *Alternative markets*

Domestic producers' exports, as a percentage of total shipments, fell between 1987 and 1999 but then grew to a higher share of production in 2004 than they had been in 1987; exports accounted for \*\*\* percent of total shipments in 1987, \*\*\* percent in 1999, and \*\*\* percent in 2004. The low-to-moderate level of exports during the period indicates that domestic granular PTFE resin producers are likely to be somewhat constrained in their ability to shift shipments between the United States and other markets in response to price changes. In their questionnaire responses, \*\*\* responding U.S. producers, \*\*\*, reported export shipments. \*\*\* responded on how easily they could shift between U.S. and alternative markets in a 12-month period. \*\*\* exports accounted for \*\*\* of U.S. exports of the subject product reported by U.S. producers. \*\*\* reported that once the product had been approved it was relatively easy to shift to exports; however, it reported that there were extra costs such as freight, duties, and exchange rates risks that would affect profitability. \*\*\* reported that it did not shift its sales between countries but would follow customers as they shifted locations. \*\*\* responding producers reported tariff barriers in other markets, but reported no other barriers. One U.S. producer reported that it was subject to the "normal" tariffs abroad; the other two reported tariff rates of between 2 and 6.5 percent for sales to Europe, Japan, and Brazil.

### *Inventory levels*

U.S. producers' inventories, as a share of U.S. producers' total shipments, rose irregularly from \*\*\* percent in 1987 to \*\*\* percent in 1999 and \*\*\* percent in 2004. These moderate inventory levels suggest that U.S. producers have some ability to respond to changes in demand with moderate changes in the quantity shipped from inventories. DuPont reported that it builds inventories when it anticipates

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<sup>7</sup> Hearing transcript, p. 80 (Colven).

scheduled maintenance to satisfy its customers during the shutdown, but did not know of any market situation causing inventories to be higher or lower than normal.<sup>8</sup>

### ***Production alternatives***

All four responding producers stated that they could not switch production from granular PTFE resin to other products. \*\*\*.

### **Supply of Subject Imports to the U.S. Market**

Relatively little new country-specific data were available in these reviews because of the dearth of questionnaire responses. In 1987, Italian capacity was \*\*\* million pounds, capacity utilization was \*\*\* percent, inventories accounted for \*\*\* percent of total shipments, and sales to other markets accounted for \*\*\* percent of total sales. The Italian product is brought into the country as wet raw polymer in bulk.<sup>9</sup> There is a finishing plant in Orange, TX that dries and chops the Italian imported wet raw polymer. According to AGC Chemicals, this is, however, a “simple process.”<sup>10</sup>

In 1987, Japanese capacity was \*\*\* million pounds, capacity utilization was \*\*\* percent, inventories were \*\*\* percent, and sales to other markets were \*\*\* percent of total sales. Japanese data for 2004 are incomplete; however, reported capacity to produce the unfilled product was \*\*\* pounds, capacity utilization was \*\*\* percent,<sup>11</sup> inventories accounted for \*\*\* percent of shipments, sales to export markets other than the United States accounted for \*\*\* percent of shipments, and \*\*\* was reported to be shipped to the U.S. market in 2004. There is no evidence of imports of raw wet polymer from Japan. According to AGC Chemicals, its current imports from Japan are specialized products.<sup>12</sup>

In 2004, Daikin’s facility in Japan was shut down due to an explosion. This reduced Japanese capacity in much of 2004 and according to DuPont caused Daikin’s U.S. plant to shift production from subject product to produce more profitable fluorinated ethylene-propylene (“FEP”).<sup>13 14</sup>

### **U.S. Demand**

U.S. demand for granular PTFE resin depends on the level of demand for downstream products using granular PTFE resin including gaskets, seals, and rings for use in the automotive industry; gaskets, linings, and backings for chemical applications; and insulators and tape for electrical applications.

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<sup>8</sup> Hearing transcript, p. 94 (Colven).

<sup>9</sup> Hearing transcript, p. 51 (Boyce).

<sup>10</sup> Hearing transcript, p. 49 (Meltzer).

<sup>11</sup> Dupont argued that there was significant excess capacity in Japan. Hearing transcript, p. 6 (Meltzer).

<sup>12</sup> Hearing transcript, p. 135 (Brozzetti).

<sup>13</sup> Hearing transcript, pp. 107-109 (Colven) and p. 117 (Brozzetti).

<sup>14</sup> AGC Chemicals argued that the Daikin plant explosion in Japan in 2004 had a huge impact on the availability of granular PTFE resin supply in Japan. “There was no overcapacity in Japan in 2004; in fact, there was a huge shortage; Japanese companies were scrambling to find granular PTFE and other products, even in the United States.” Hearing transcript, p. 117 (Brozzetti).

## Demand Characteristics

Available data indicate that apparent U.S. consumption of granular PTFE resin increased irregularly from \*\*\* million pounds in 1987 to \*\*\* million pounds in 1999, and to \*\*\* million pounds in 2004. Overall, apparent consumption in 2004 was over \*\*\* percent higher than it had been in 1987.<sup>15</sup>

Producers, importers, and purchasers were asked to discuss trends in demand in the United States during the period 1988 to 2004.<sup>16</sup> Three of the four responding U.S. producers, three of four importers, and eight of 13 purchasers reported increased demand within the United States since 1987. One producer, one importer, and three purchasers reported that demand was unchanged; the remaining two purchasers reported that demand had fallen. Of the firms reporting demand growth, two of the three responding domestic producers, two of the three responding importers, and three of the seven purchasers reported that it was the result of economic growth. The one other producer reported demand had grown with growing use in automotive, semiconductor, and chemical processing industries.<sup>17</sup> Other reasons for growing demand reported by purchasers included increased demand for specific products, conversion of applications, and technological advances.<sup>18</sup> The one purchaser that reported why demand for granular PTFE resin had fallen stated that Italian processors had captured virtually the entire U.S. market.

Producers, importers, and purchasers were asked if they anticipated increased demand in the future either in the U.S. market or in other markets. Three producers reported that they anticipated changes; \*\*\* reported that demand would continue to follow the economic cycle; \*\*\* reported that demand would continue to grow at 2-3 percent per year based on world economic growth and development in China and India; and \*\*\* reported that future demand in the United States would fall as production of products using granular PTFE resin shifted to lower-cost regions. Three of the five responding importers reported that they expect no change, while the other two importers reported that demand will grow either with population or economic growth. Seven of 13 purchasers stated that they expect no change. Of the remaining six, two expect growth because of economic or population growth; one expects demand growth as suppliers target higher-priced perfluoroalkoxy (“PFA”) and FEP; two reported that they expected demand to fall with increased imports of “shapes” made from PTFE; and one reported that it expected imports to continue and that imports were reducing demand.

Seven of the 13 responding purchasers reported that demand for their end product had increased since 1988, three reported that demand was unchanged, and three reported that it had decreased. Five of the purchasers reported that their demand for granular PTFE resin had increased as a result of increased demand for their end product, although one of these reported that granular PTFE resin was such a minimal component that increased demand for their product had little effect. All three firms that reported decreased demand for their product reported that their demand for granular PTFE resin had fallen; one of these firms reported that imports had caused its consumption of granular PTFE resin to fall.

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<sup>15</sup> None of the domestic producers reported internally consuming granular PTFE resin within their domestic mills; however, \*\*\* reported transfers to related firms.

<sup>16</sup> Producers and importers were asked to respond for both U.S. demand and for demand outside the United States. One importer reported that U.S. demand had increased. The other firm did not report whether it was responding only for the United States or for the United States and the rest of the world. \*\*\* responded specifically for demand changes in the rest of the world, noting that demand was shifting to lower-cost regions.

<sup>17</sup> The one remaining importer reported that U.S. manufacturers were producing at or above capacity.

<sup>18</sup> One purchaser, \*\*\*, reported that demand had increased; however, it also reported that recently demand had fallen because of imports from China, Russia, and Italy.

## Substitute Products

Substitutes for granular PTFE resin are limited, although they exist for some uses. In the original investigations, PFA, FEP, stainless steel, and bronze were mentioned as substitutes for PTFE. In these reviews, two of the four responding U.S. producers, two of four responding importers, and four of nine responding purchasers reported that there were no substitutes for granular PTFE. \*\*\* reported that granular PTFE resin is typically used when other less expensive plastics are not adequate for the purpose, and that as a result there are typically no available substitutes. One producer, two importers, and five responding purchasers reported substitutes. Substitutes that were mentioned as being among the top three possible substitutes included PFA, PTFE fine powders, FEP, polyketone (“PEEK”), ultra-high-molecular-weight polyethylene (“UHMWPE”), and “various high temperature resins.” These firms reported that substitutes could be used in the production of absorbent tape, molded shapes, film, seal gaskets, pump bodies, valve seals, bearings, for chemical processing, in wear and abrasion applications, and in applications in which strength and stiffness at high temperatures are important. Molding granular PTFE resin tends to be difficult, and a number of purchasers reported that it was easier to mold PFA than granular PTFE resin. Information in the original investigations, however, indicate that PFA cost more than granular PTFE resin and therefore would only be used if the number of products produced in a run was so high that the initial cost of the molds could be offset by the reduced cost of production.<sup>19</sup>

Only one of the 11 responding purchasers reported that changes in the price of substitutes can affect the price of granular PTFE resin. This purchaser reported that PFA was better than granular PTFE resin for smaller, more complex shapes, and thus affected the market for granular PTFE resin. None of the five responding importers reported that changes in relative prices of substitutes can affect the price of granular PTFE resin. Neither of the two responding U.S. producers that reported substitutes for granular PTFE resin stated that they affect the price of granular PTFE resin.

Price changes for granular PTFE resin will likely have only a small effect on consumption. First, the substitutes for granular PTFE resin are limited and they tend to cost more than granular PTFE resin. Second, while the cost share of granular PTFE resin tends to be high in most products produced directly from it, most of these products are only a small share of the cost of the ultimate consumer goods made from these products. It is unlikely that there are many viable substitutes for the end products that use granular PTFE resin.

## Cost Share

Purchasers, importers, and producers were asked for the cost share of granular PTFE resin in the products in which it was used. Three producers, two importers, and 11 purchasers provided percentages believed to reflect the share of the cost of granular PTFE resin in the total cost of the products produced. Granular PTFE resin’s share of total costs tended to be high in most of the products reported. Two importers reported that granular PTFE resin’s share of the total cost of end products ranged from 30 percent to 60 percent; purchasers’ answers ranged from under 1 percent to 77 percent; and producers’ answers ranged from 30 to 70 percent. According to the purchasers, there were four products for which the cost of granular PTFE resin was 10 percent or less, three products for which the cost of granular PTFE resin was between 15 and 25 percent, six products for which the cost of granular PTFE resin was between 33 and 48 percent, and 11 products for which the cost of granular PTFE resin was greater than 50 percent of the total cost of the product. Cost shares were reported for disk drive filters, automobile brakes, automobile brake pads, “PTFE lined fig.,” swaged pipe spools, gloss-filled PTFE, virgin PTFE, carbon-filled PTFE, tape, thermaloc pipe and spools, film, “AQ seams,” gaskets, O-rings, U-rings, piston rings,

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<sup>19</sup> Economics Memorandum in the original investigations, August 5, 1988, pp. 26-27.

piston seals, backup rings, valve seats, step seals, molded machined parts, and PTFE compounds. Few of these products were end-use products.<sup>20</sup>

### **SUBSTITUTABILITY ISSUES**

In the original investigations, petitioners and respondents generally agreed that imported granular PTFE resin competed directly with the U.S.-produced product and that both were sold through similar channels of distribution to similar markets. According to the report in the original investigations, sales representatives typically carried a range of their companies' fluoropolymers products. As noted in the original investigations report, while granular PTFE resin could be substituted among producers with a "fair amount of ease," quality and performance differences enabled purchasers to differentiate among sources. Differences included levels of purity, dielectric strength, performance on processors' equipment, and ease of fabrication into specific items. These differences resulted in the end users qualifying their sources of supply. During the qualification process, a purchaser determines the cost and time required in adjusting its process or retooling in order to use a new source of granular PTFE resin. Once this qualification is done, it is easy for the purchaser to determine when it would be worthwhile to switch to a new lower-cost or better-quality source.

The degree of substitution between domestic and imported granular PTFE resin depends on factors such as specifications of the product that is produced in each country, product quality, consistency, relative price, and on conditions of sale such as reliability of supply, reliability of delivery, payment terms, and delivery/lead time. In the original investigations, staff reported that there was believed to be a moderate degree of substitution between domestic granular PTFE resin and that imported from Italy and Japan. Based on available data, staff believes that there may have been a shift towards a slightly higher degree of substitution since that time. However, AGC Chemicals reported that it did not believe that the fungibility between domestic and subject imported product had increased since the original investigation. It reported that "in most cases, each region's product would have to be individually qualified."<sup>21</sup>

Fifteen out of 20 purchasers required some form of prequalification or certification. Of these, 13 required it for all their purchases, one required it for 10 percent of its purchases, and the other did not report the share of the product requiring certification/prequalification. All 15 firms reported what they require for certification/prequalification. Their requirements included: ISO qualification; material must be engineered for its uses; performance testing and performance in areas such as tensile strength, shrinkage, and elongation; and product characteristics such as bulk density, particle size, or cleanness. Qualification of new suppliers is largely based on quality, with 13 of the 18 responding purchasers reporting quality specifically as one of the factors in determining a new supplier. Two purchasers' responses to how they qualified a new supplier were that they had not purchased from new suppliers recently because their current supplier has product with the characteristics that they want. One purchaser reported limiting its purchases to committed suppliers that could provide the consistency and commitment to the customer; one mentioned physical properties, consistency, and cleanliness; and one purchased based on price and the level of visual contamination. In total, seven purchasers mentioned price or cost as a factor in choosing a new supplier. Nine purchasers reported the time required to qualify a supplier; this varied from less than a full day to three years, with two requiring 2 weeks or less and six reporting times from 2 to 12 months.

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<sup>20</sup> In the original investigations, skived tape was reported to be the major example of a PTFE-based final product. Economics Memorandum, August 5, 1988, p. 24. One firm reported that 48 percent of the cost of "tape" was the cost of PTFE.

<sup>21</sup> Hearing transcript, pp. 124 and 148-149 (Brozzetti).

DuPont reported that “the granular business in the U.S. can shift from supplier to supplier almost instantaneously.” According to DuPont, “a recent case in point is the accident and shutdown of Daikin’s Kashima, Japan facility that was down for the majority of the year 2004.”<sup>22</sup> Nonetheless, DuPont also reported that the qualification process “usually takes one to three months,” but “there are some end uses -- for example automotive -- that may require longer lead time because the automotive industry tends to be a little more rigorous, but there are numbers of applications in fact that are even already qualified, so it’s not even required to do any testing. It’s just a matter of price being the decision factor.”<sup>23</sup>

## Factors Affecting Purchasing Decisions

### Major Factors in Purchasing

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase granular PTFE resin (table II-1). Quality was reported by the largest number of purchasers (nine firms) as the most important factor that they consider when choosing a supplier of granular PTFE resin. Price was reported most frequently as the second most important factor (seven firms). Availability and price/cost tied and as the most common third factor (four firms each). Other factors listed among the top three factors by more than one purchaser were contract/traditional supplier, product consistency, product line, availability, and reliability of supply or delivery.

**Table II-1**  
**Granular PTFE resin: Most important factors in selecting a supplier, as reported by purchasers**

Factor	First <sup>1</sup>	Second	Third <sup>2</sup>
Quality	9	1	2
Price/cost	4	7	4
Contract/traditional supplier	3	1	2
Product consistency	2	2	1
Product line	1	1	0
Availability	0	3	4
Reliability of supply/delivery	0	2	3
Other <sup>3</sup>	1	0	3

<sup>1</sup> Two purchasers reported quality/consistency as the most important factor; both items are recorded below.

<sup>2</sup> One purchaser reported both delivery and technical support as the third most important factors; both items are recorded below.

<sup>3</sup> “Other” includes meeting supply specifications for the first factor; technical support, versatility (i.e., product that can be used in multiple applications), and extension of credit were each reported as the third most important factor by one purchaser.

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

<sup>22</sup> Hearing transcript, p. 15 (Colven).

<sup>23</sup> Hearing transcript, p. 27 (Colven).

## **Factors Determining Quality**

Purchasers were asked to identify the factors that determine the quality of granular PTFE resin. Eighteen purchasers reported numerous factors including: physical properties such as particle size, particle distribution, color, and product consistency; contamination, such as cleanliness of the resin, purity, level of visual contaminants (pre- and post-processing), and lack of moisture; manufacturing characteristics and manufactureability such as stability during processing, tensile strength, elongation, shrink rates, consistency of shrinkage rates, porosity, and dielectric strength valves; industry standards and ASTM 4894; technical fit (such as meets or exceeds expected results in finished products, determined by customer's requirements, consistently meeting specifications); whether the application is electrical or chemical permeation; and bulk density.

## **Certification/Qualification Issues**

Purchasers were also asked if, since 1988, any domestic or foreign producer failed in its attempts to certify or qualify its granular PTFE resin with their firm or if any producer lost its approved status. Only three of the 19 responding purchasers reported that at least one supplier had failed; one firm reported that poor quality product from China had failed to qualify, one reported that Chinese and Russian material had failed to qualify, and one reported that \*\*\* could not make a resin after the customer changed its specifications.

## **Specific Country Sources**

Purchasers were also asked whether they or their customers specifically ordered granular PTFE resin from one country in particular over other sources of supply. Five of the 20 responding purchasers reported ordering by country.<sup>24</sup> One of these reported that Russian product was not as consistent; one reported that it ordered Chinese product based on price and availability; and three reported a preference for the U.S. product because of quality, delivery, and DuPont's brand name.

## **Purchases of the Lowest-priced Product**

Purchasers were asked if they always, usually, sometimes, or never purchase the lowest-priced product when buying granular PTFE resin. None of the firms always purchased the lowest-priced product, three usually purchased the least-expensive product, nine sometimes, and seven never purchased the least-expensive product. Thus, all purchasers had other factors that were more important than price in determining from whom they purchased.

## **Purchases from Higher-priced Sources**

Purchasers were also asked if they purchased granular PTFE resin from one source although a comparable product was available at a lower price from another source. Sixteen purchasers responded. One of these reported that when quality is the same, purchases are based on price. One reported that different sources are not comparable on quality of specifications. The other 14 provided reasons why they purchased from a source that might be more expensive. Reasons provided included quality, consistency, performance, meeting specifications, lead time, minimum order size, reliability of supply,

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<sup>24</sup> One purchaser reported that it did not purchase by country of origin but also reported that its purchases were based on its customers' requests.



delivery, customer preference, preference for U.S. source of supply, relationship with a supplier, contract agreements, technical support, purchase only from approved sources, and the high cost and large amount of time required to test new material.

### Importance of 15 Factors

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-2). The factors listed as very important were quality meets industry standards (19 firms), product consistency and availability (18 firms), price (16 firms), reliability of supply (15 firms), delivery time and quality exceeds industry standards (11 firms), technical support/service (10 firms), and delivery terms (9 firms). No other factor was reported as very important by more than six firms.

**Table II-2**  
**Granular PTFE resin: Importance of purchase factors, as reported by purchasers**

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	18	2	0
Delivery terms	9	7	4
Delivery time	11	9	0
Discounts offered	4	9	7
Extension of credit	5	6	9
Price	16	4	0
Minimum quantity requirement	2	11	7
Packaging	4	11	5
Product consistency	18	2	0
Quality meets industry standards	19	1	0
Quality exceeds industry standards	11	5	4
Product range	6	10	4
Reliability of supply	15	5	0
Technical support/service	10	7	3
U.S. transportation costs	5	8	7

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

### Changes in Purchasing Patterns

Purchasers were asked a number of questions about whether their purchasing patterns for granular PTFE resin from subject and nonsubject sources had changed since 1988. Three out of 16 responding purchasers reported that they had purchased granular PTFE resin from subject countries before 1988; one of these reported purchasing only Japanese product and the other two did not report whether they had purchased Italian or Japanese product or both. One of the three firms reported that it had discontinued purchases of subject granular PTFE resin because of the antidumping duty orders; the other two reported

shifting purchases because of new plants built in the United States. One reported that a Japanese manufacturer, Daikin, had built a plant in Georgia and the other that Daikin had built a plant in Alabama and Montedison (Ausimont) had built a plant in Texas. When asked about purchases from nonsubject countries, six firms reported that they had not purchased product from nonsubject countries either before or after the antidumping duty orders; four reported that their purchases from nonsubject countries were unchanged; one reported it did not know the country of origin of the product it purchased; one reported shifting because of the orders; three reported shifting for reasons other than the orders; and one reported that it had both shifted to purchasing nonsubject product because of the orders and had also changed purchases of nonsubject product for reasons not related to the orders.<sup>25</sup>

### **Purchases from Specific Producers and Countries**

Purchasers were asked how frequently they and their customers purchased granular PTFE resin from specific producers and from specific countries. The following tabulation summarizes the responses.

<u>Purchaser/customer decision</u>	<u>Always</u>	<u>Usually</u>	<u>Sometimes</u>	<u>Never</u>
Purchaser makes decision based on producer	7	1	7	4
Purchaser's customer makes decision based on producer	0	1	11	6
Purchaser makes decision based on country	4	0	3	12
Purchaser's customer makes decision based on country	0	1	6	10

Based on the available information presented above, purchasers often (i.e., at least sometimes) make purchasing decisions based on the producer of the granular PTFE resin, not necessarily by the country of origin. Their customers are less likely to make decisions based on either the producer or the country of origin, although these are sometimes important. Of those purchasers that reported that they always make decisions based on the manufacturer, almost all reported that either quality issues, specifications, and or product differences between producers drive their decisions. Other issues noted include experience with the product, dual sourcing, delivery time, consistency of product, and technical support.

### **Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports**

#### **Interchangeability**

Producers, importers, and purchasers were asked to report how frequently granular PTFE resin from different countries was interchangeable (table II-3). With regard to the interchangeability between domestic and subject imported granular PTFE resin, almost all responding U.S. producers reported that the domestic and imported products are always or frequently used in the same applications. Importers were more mixed in their responses, with most importers reporting that U.S. and subject imported product was either frequently or sometimes interchangeable rather than always interchangeable. Purchasers' responses for subject countries were divided when comparing U.S. and Italian product, with three each responding that they were always or frequently interchangeable and two each reporting that they were either sometimes or never interchangeable. Four purchasers reported that U.S. and Japanese product were always interchangeable, while three each reported that they were frequently and sometimes

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<sup>25</sup> One reported that its purchases varied from year to year, and one reported that it had only entered the market in 1999.

interchangeable and two reported they were never interchangeable. Most responding purchasers (three each) reported that Italian and Japanese product were either always or frequently interchangeable. In comparisons of the U.S. and subject products to nonsubject product, the most common answer was that they were sometimes interchangeable.

**Table II-3**

**Granular PTFE resin: U.S. firms' perceived degree of interchangeability of products produced in the United States, subject, and nonsubject countries<sup>1</sup>**

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Italy	1	2	0	0	1	2	0	0	3	3	2	2
U.S. vs. Japan	1	2	0	0	1	2	1	0	4	3	3	2
Italy vs. Japan	1	2	0	0	1	2	0	0	3	3	1	2
U.S. vs. nonsubject	0	4	0	0	1	2	2	0	2	3	7	0
Italy vs. nonsubject	0	3	0	0	0	3	0	0	1	1	5	2
Japan vs. nonsubject	0	2	1	0	1	2	2	0	1	1	7	1

<sup>1</sup> Producers, importers, and purchasers were asked if granular PTFE resin produced in the United States and in other countries is used interchangeably.

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

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

### Reasons for Non-interchangeability

Firms were asked to explain why products from country pairs were not interchangeable. Nine purchasers responded. Four reported differences in quality, two reported that the product was specialized and thus not interchangeable, one reported differences in freight, handling, and storage costs, one reported that once its bill of materials is set it cannot change suppliers without testing and permission from its purchasers, and one reported that its production using product from a new supplier would require expensive retooling. Two importers explained their responses on interchangeability, with one responding that for what it produces, granular PTFE resin from most countries was interchangeable. The other reported that product from different countries could differ in many ways in both physical properties and appearance. One U.S. producer reported that Japanese producers were reluctant to use material that did not consistently meet the Japanese producers' standards.

### Significance of Differences Other than Price

Producers and importers were asked to assess how often differences other than price were significant in sales of granular PTFE resin (table II-4). Only three importers and four producers answered this question. Firms were asked to report the differences other than price. One firm \*\*\* responded that Japanese product was occasionally imported for niche applications. \*\*\* reported that product from all pairs was frequently interchangeable, except for the pair Japan/other for which the product was sometimes interchangeable. This was because \*\*\*. Japanese processors, however, were particularly concerned about lot-to-lot consistency, making nonsubject product less substitutable for Japanese product.

**Table II-4  
Granular PTFE resin: U.S. firms' perceived significance of differences other than price between U.S.-produced and imported product<sup>1</sup>**

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. Italy	0	2	1	0	0	0	1	0
U.S. vs. Japan	0	2	1	0	0	1	0	0
Italy vs. Japan	0	2	1	0	0	1	0	0
U.S. vs nonsubject	0	1	3	0	0	1	1	1
Italy vs. nonsubject	0	2	1	0	0	1	0	0
Japan vs. nonsubject	0	0	3	0	0	1	1	0

<sup>1</sup> Producers and importers were asked if differences other than price between granular PTFE resin produced in the United States and in other countries were a significant factor in their sales of the products.

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

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

### Comparisons of Country Sources

Purchasers were also asked to compare domestically produced granular PTFE resin and granular PTFE resin produced in subject and nonsubject countries, for all country pairs for which they had actual experience. Respondents were asked to rate granular PTFE resin produced in one country as superior, comparable, or inferior to that from another country with respect to 15 different attributes. The most common comparison was between U.S. product and nonsubject product, with 12 comparisons;<sup>26</sup> five purchasers compared U.S. and Japanese product, three compared U.S. and Italian product, two firms compared Japanese and nonsubject product, one compared Italian and nonsubject product, and no firms compared Italian with Japanese product. Comparisons between granular PTFE resin that is domestically produced, produced in subject countries, and produced in nonsubject countries are reported in table II-5.

Two out of the three responding purchasers reported that the U.S. product was superior to the Italian product in delivery time and technical support. In all other factors, most if not all responding purchasers reported that U.S. and Italian products were comparable. Most firms comparing U.S. and Japanese product reported that they were comparable in all 15 factors. Purchasers were more likely to report that U.S., Italian, and Japanese product were superior to nonsubject product. Half or more of the responding purchasers reported that U.S. product was superior to nonsubject product in availability, delivery time, packaging, product consistency, quality exceeds industry standards, product range, and technical support. On the other hand, five of 12 responding firms reported that the U.S. product was inferior to nonsubject product on discounts offered, and seven of 11 reported that U.S. product was inferior (higher) in price. Only one firm compared product from Italy with nonsubject product, reporting

<sup>26</sup> Some of the purchasers compared U.S. product with product from a number of nonsubject countries; each of these comparisons was counted if responses differed between different nonsubject countries, otherwise the response is included only once.

**Table II-5  
Granular PTFE resin: Comparisons of imported and U.S. product, as reported by purchasers**

Factor	U.S. vs Italy			U.S. vs Japan			U.S. vs nonsubject <sup>1</sup>			Italy vs nonsubject			Japan vs nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
Availability	1	2	0	2	3	0	6	6	0	0	1	0	1	1	0
Delivery terms	1	2	0	1	4	0	5	7	0	0	1	0	1	1	0
Delivery time	2	1	0	2	3	0	6	5	1	1	0	0	2	0	0
Discounts offered	0	2	1	0	3	1	1	6	5	0	1	0	1	1	0
Extension of credit	0	3	0	0	4	0	3	9	0	1	0	0	2	0	0
Price <sup>2,3</sup>	0	2	1	1	3	1	0	4	7	0	0	0	0	0	1
Minimum quantity requirements	1	2	0	0	4	0	4	7	1	1	0	0	2	0	0
Packaging	0	3	0	0	4	0	6	6	0	1	0	0	2	0	0
Product consistency	1	2	0	0	5	0	6	6	0	1	0	0	2	0	0
Quality meets industry standards	0	3	0	0	4	0	5	7	0	1	0	0	2	0	0
Quality exceeds industry standards	0	3	0	0	4	0	6	6	0	1	0	0	2	0	0
Product range	1	2	0	1	3	0	7	5	0	1	0	0	2	0	0
Reliability of supply	1	2	0	0	4	0	5	6	1	0	1	0	1	1	0
Technical support/service	2	1	0	1	3	0	6	5	0	1	0	0	2	0	0
U.S. transportation costs	0	3	0	1	4	0	4	8	0	0	1	0	1	1	0

<sup>1</sup> Some firms reported answers for multiple nonsubject countries. When these answers differed among the different nonsubject countries, all answers have been reported.

<sup>2</sup> A rating of superior means that the price is generally lower. For example, if a firm reported "U.S. superior," it meant that the price of the U.S. product was generally lower than the price of the imported product.

<sup>3</sup> \*\*\* reported that U.S. product was both superior and inferior in price to Western European product (which was assumed to include Italy), and Japanese product was both superior and inferior in price to nonsubject product; these answers for price have not been reported in the table.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Not all companies gave responses for all factors. No firms compared imports from Italy with imports from Japan.

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

that the Italian product was superior for most factors but was comparable in availability, delivery terms, discounts, reliability of supply, and U.S. transportation costs. Two firms compared the Japanese product with nonsubject product on the 15 factors; only one of these compared price. For price, the one responding firm reported that the Japanese product's price was inferior (higher). The two firms agreed that product from Japan was superior in delivery time, extension of credit, minimum quantity requirements, packaging, product consistency, quality meets industry standards, quality exceeds industry standards, product range, and technical support/service; in all other cases, one each reported comparable and superior.

## Awareness of Country Sources

Purchasers were asked what sources they were aware of for granular PTFE resin. Eighteen knew of the U.S.-produced product. Eight reported knowing of product from subject sources.<sup>27</sup> Eight purchasers reported information on Russian product, and seven reported on Chinese product; other sources included Germany (4), the United Kingdom (2), India (1), the Netherlands (1), and Poland (1). Of the eight importers providing questionnaires, three imported from China, one from both China and Russia, one from Russia, one from both Germany and the Netherlands, and one from Japan and nonsubject sources.<sup>28</sup>

## ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were requested to provide comments in their prehearing briefs. No comments on the elasticities were included in their briefs; however, factors directly affecting the elasticity of substitution were addressed in the hearing.<sup>29</sup>

### U.S. Supply Elasticity<sup>30</sup>

The domestic supply elasticity for granular PTFE resin measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of granular PTFE resin. The elasticity of domestic supply depends on factors such as the level of excess capacity, the existence of inventories, and the availability of alternate markets for domestically produced granular PTFE resin. Analysis of these factors in the initial investigations indicated that the U.S. industry had a moderate-to-high capacity to increase domestic shipments in response to moderate price increases. In 1988, the supply elasticity was estimated to be in the range of 3 to 5, with the elasticity falling closer to 3 than 5. Since 1988, however, two Japanese producers have relocated production to the United States. There has been an increase in U.S. capacity but also a reduction in unused capacity, thus reducing U.S. producers' ability to respond to changes in prices. Since the original investigations, the rising capacity utilization has reduced the U.S. supply elasticity, and the current estimate is from 1 to 4.

### U.S. Demand Elasticity

The U.S. demand elasticity for granular PTFE resin measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of granular PTFE resin. This sensitivity depends on the availability and viability of substitute products as well as on the component share of granular PTFE resin in the production of downstream products. There are few products that can be successfully substituted for granular PTFE, although it may be possible to use imports of products produced from granular PTFE resin as substitutes. In the original investigations, demand was estimated to be inelastic to slightly elastic.

There are a large number of uses for granular PTFE resin. The share of the total cost of the end products accounted for by granular PTFE resin varies from less than 1 percent for some products to over 50 percent for others; however, in most of these applications the products are intermediate inputs and only a small part of the overall cost of the final product. In the original investigations, the aggregate demand

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<sup>27</sup> One of these reported knowing of Japanese product; one of these reported knowing Italian product; and the others did not report whether it knew of product from only one or both of the subject countries.

<sup>28</sup> \*\*\*.

<sup>29</sup> Hearing transcript, pp. 124 and 148-149 (Brozzetti).

<sup>30</sup> A supply function is not defined in the case of a non-competitive market.

elasticity for granular PTFE resin was estimated to be in the range of -0.5 to -1.5 for the U.S. market; staff believes that the demand elasticity is still likely to be in that range.

### **Substitution Elasticity**

The elasticity of substitution depends on the extent of product differentiation between the domestic and imported products. Product differentiation depends on factors such as the range of products produced, quality, availability, and reliability of supply. In the original investigations, the elasticity of substitution was estimated to be around 2. Since 1988, however, two Japanese producers have set up facilities for production in the United States. It is likely that product produced by the same firms in the United States and in Japan would be highly substitutable. This change probably would increase the elasticity of supply for at least some customers, thus reducing the elasticity of substitution to the range of 1 to 2. AGC Chemical, however, reported that product produced in different facilities, even if owned by the same corporation, typically would be qualified separately.<sup>31</sup> To the extent this is true, the elasticity of substitution would be more similar to what it was in the original investigations.

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<sup>31</sup> Hearing transcript, pp. 124 and 148-149 (Brozzetti).





## PART III: CONDITION OF THE U.S. INDUSTRY

Table III-1 presents responding firms' plant locations, affiliations, and products produced. Questionnaires were sent to 15 firms that were thought to produce granular PTFE resin at some point during the last 20 years. Five firms responded that they produced granular PTFE resin.

**Table III-1**

**Granular PTFE resin: U.S. producers, positions on continuation of orders, U.S. production locations, related and/or affiliated firms, and shares of 2004 reported U.S. production of filled and unfilled granular PTFE resin**

Producer	Position on continuation of orders	U.S. production location	Related and/or affiliated firms	Share of reported filled granular PTFE resin production in 2004 (percent)	Share of reported unfilled granular PTFE resin production in 2004 (percent)
AGC Chemicals	***	Downingtown, PA	ASAHI Glass Co., Ltd. is their parent company; ***	***	***
Daikin America, Inc.	***	Decatur, AL	*** Daikin Industries, Ltd., Osaka, Japan; related to Daikin Fluorochemicals China Co., Ltd., Jiangsu, China	***	***
DuPont	Supports	Parkersburg, WV	*** ownership of Mitsui-DuPont Fluorochemicals of Shimizu, Japan; *** the Netherlands	***	***
Dyneon	***	Oakdale, MN	*** 3M; related firms in Germany and the Netherlands	***	***
PTFE	***	New Castle, DE	***	***	***

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

### U.S. PRODUCERS' CAPACITY, PRODUCTION, CAPACITY UTILIZATION, SHIPMENTS, INVENTORIES, EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-2 presents data on U.S. producers' reported capacity, production, shipments, inventories, and employment-related indicators of the condition of the U.S. industry for 1999-2004. Capacity fluctuated slightly but remained at approximately \*\*\* million pounds in each year during 1999-2004.<sup>1</sup> Production also fluctuated, and reached a high of \*\*\* million pounds in 2004. Capacity utilization was fairly high throughout the period, reaching \*\*\* percent in 2004. U.S. producers' U.S. shipments ranged from \*\*\* million to \*\*\* million pounds, and were \*\*\* million pounds in 2004. Exports were relatively small. Inventories and the ratio of inventories to production and to total shipments were moderate. Employment-related indicators did not exhibit major fluctuations.

<sup>1</sup> Producers were asked to identify the constraints that set limits on their production capacity. \*\*\*.

**Table III-2**  
**Granular PTFE resins: U.S. capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1999-2004**

\* \* \* \* \*

Producers were asked whether they experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, prolonged shutdowns, curtailments of production, or any other changes in the character of their operations or organization relating to the production of granular PTFE resin since August 1988 when the antidumping duty orders under review were imposed. Responding producers essentially stated “No,” although \*\*\*.

Producers were asked whether they anticipated any changes in the character of their operations or organization relating to the production of granular PTFE resin in the future. Responding producers essentially stated “No,” although \*\*\*.

Producers were asked whether since 1988 they produced other products on the same equipment and machinery used in the production of granular PTFE resin or used the same production and related workers employed to produce granular PTFE resin, or anticipated doing so in the future. \*\*\* answered “No.”

Table III-3 presents U.S. producers’ shipments, by types, which fluctuated during the entire period examined.

**Table III-3**  
**Granular PTFE resins: U.S. producers’ shipments, by types, 1999-2004**

\* \* \* \* \*

## FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

### Background

Three U.S. producers, \*\*\*, provided usable financial data on their operations on granular PTFE resin.<sup>2</sup> These data account for the majority of U.S. production of granular PTFE resin in 2004.<sup>3</sup> \*\*\* reported internal consumption for the production of products other than the subject product, and \*\*\* reported transfers to related firms. Internal consumption and transfers accounted for \*\*\* and \*\*\* percent, respectively, of 2004 total sales value.

The financial data reflect firms’ reported operations on both filled and unfilled granular PTFE resin. \*\*\*.

### Operations on Granular PTFE Resin

Income-and-loss data for U.S. producers on their operations on granular PTFE resin are presented in table III-4. Selected financial data, by firm, are presented in table III-5. The domestic industry’s aggregate operating income increased between 1999 and 2000, then declined from \$\*\*\* in 2000 to an operating loss of \$\*\*\* in 2003 before improving somewhat in 2004 with a smaller operating loss. The

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<sup>2</sup> \*\*\* did not provide financial data for these reviews. \*\*\* only provided financial data for 2004; these data are therefore not presented in this section of the report. If \*\*\* were included in the data, the firm’s commercial sales (\*\*\*) would account for less than \*\*\* percent of the reporting firms’ quantity and value in 2004.

<sup>3</sup> U.S. producers and their fiscal year ends are \*\*\*.

quantity of net sales of granular PTFE resin increased irregularly by \*\*\* percent from 1999 to 2004, while net sales value per pound generally declined during the review period.

**Table III-4**  
**Granular PTFE resin: Results of operations of U.S. producers, fiscal years 1999-2004**

\* \* \* \* \*

**Table III-5**  
**Granular PTFE resin: Results of operations of U.S. producers, by firm, fiscal years 1999-2004**

\* \* \* \* \*

The cost of goods sold (“COGS”) per pound showed an overall increase between 1999 and 2003, but fluctuated from year to year and declined to its lowest level of the review period in 2004. Changes in COGS per pound and changes in net sales values per pound resulted in a general decline in gross profits per pound from 1999 through 2003 and increased gross profits per pound from 2003 to 2004. While all components of COGS generally increased on a per-pound basis from 1999 through 2003, raw material costs showed the biggest increase and reportedly increased due to higher costs for TFE monomer, the primary input into granular PTFE resin.<sup>4</sup>

Selling, general, and administrative (“SG&A”) expenses per pound generally increased, contributing to a decline in operating income per pound and to overall losses; however, from 2003 to 2004, increased gross profits and reduced SG&A expenses resulted in a reduction in the operating loss per pound.

A variance analysis for granular PTFE resin is presented in table III-6. The information for this variance analysis is derived from table III-4. The variance analysis provides an assessment of changes in profitability as it relates to changes in pricing, cost, and volume. The analysis shows that the decrease in operating income from 1999 to 2004 is attributable to the higher unfavorable price variance compared to smaller favorable net cost/expense and volume variances (in other words, unit sales prices and costs declined, and volume increased).<sup>5</sup>

**Table III-6**  
**Granular PTFE resin: Variance analysis on operations of U.S. producers, fiscal years 1999-2004**

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<sup>4</sup> E-mail response from \*\*\*, August 5, 2005. Regarding the per-pound decline in COGS from 2003 to 2004, DuPont stated that \*\*\* (e-mail response from \*\*\*, November 3, 2005).

<sup>5</sup> DuPont attributed the declining unit values during the period of review, specifically in the last three years, to competition from low-priced imports of granular PTFE resin from China and Russia, as well as to imports of wet, raw polymer from Italy that are further finished and sold at allegedly low prices in the United States. Hearing transcript, pp. 24-25 (Colven).

## Capital Expenditures and Research and Development Expenses

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table III-7. Aggregate capital expenditures and R&D expenses revealed no clear trends during the review period. \*\*\*. According to \*\*\*.<sup>6</sup> According to \*\*\*, \*\*\*.<sup>7</sup>

**Table III-7**

**Granular PTFE resin: Capital expenditures and research and development expenses of U.S. producers, fiscal years 1999-2004**

\* \* \* \* \*

## Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of granular PTFE resin to compute return on investment ("ROI"). Although ROI can be computed in many different ways, a commonly used method is income divided by total assets. Therefore, ROI is calculated as operating income divided by total assets used in the production, warehousing, and sale of granular PTFE resin.

Data on the U.S. granular PTFE resin producers' total assets and their ROI are presented in table III-8. The total assets utilized in the production, warehousing, and sale of granular PTFE resin increased from \$\*\*\* in 1999 to \$\*\*\* in 2001 and then declined to \$\*\*\* in 2004. The ROI irregularly declined from \*\*\* percent in 1999 to \*\*\* percent in 2003, then improved by \*\*\* percentage points in 2004. The trend of ROI was the same as the trend of the operating income margin during the reporting period.

**Table III-8**

**Granular PTFE resin: Value of assets and return on investment of U.S. producers, fiscal years 1999-2004**

\* \* \* \* \*

## Value Added

According to DuPont, the value added by converting unfilled granular PTFE resin into filled granular PTFE resin is estimated to be in the range of \*\*\* percent of total filled granular PTFE resin production costs during the review period, with a simple average of \*\*\* percent for the 1999-2004 time frame.<sup>8</sup>

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<sup>6</sup> E-mail response from \*\*\*.

<sup>7</sup> Written response from \*\*\*.

<sup>8</sup> E-mail response from \*\*\*.

## PART IV: U.S. IMPORTS AND THE INDUSTRIES IN ITALY AND JAPAN

### U.S. IMPORTERS

In response to Commission questionnaires sent to 28 firms identified in proprietary Customs information, previous investigation records, and by petitioners, eight firms supplied usable data concerning imports of granular PTFE resin; ten firms replied that they did not import granular PTFE resin during the period of review. Solvay Solexis, the largest importer of subject product from Italy, has a finishing plant in Orange, TX where it dries and chops wet raw polymers (subject product). Solvay Solexis did not provide import data in response to the Commission's request for information. Presented in table IV-1 are the responding U.S. importers.

**Table IV-1**  
**Granular PTFE resin: U.S. importers, locations, affiliations, sources of imports, and shares of reported 2004 U.S. imports**

\* \* \* \* \*

### U.S. IMPORTS

U.S. import data for 1999-2004 presented in table IV-2 and elsewhere in this report are based on questionnaire data and on adjusted official Commerce statistics, as discussed in Part I. Staff has repeatedly contacted non-responding importers to no avail.

**Table IV-2**  
**Granular PTFE resin: U.S. imports, by sources, 1999-2004**

\* \* \* \* \*

### RELATED PARTIES

DuPont has a joint venture with Mitsui-DuPont Fluorochemicals, Shimizu, Japan, which produces granular PTFE resin \*\*\*. AGC is wholly owned by Asahi Glass Co., Ltd., Tokyo, Japan. Daikin America is a subsidiary of Daikin Industries, Ltd. of Japan which also has a subsidiary in China (Daikin Fluorochemicals, Ltd.); all three produce granular PTFE resin in the United States. Ausimont USA, Inc. is owned by Ausimont S.p.A. of Italy; neither has responded to the Commission's request for information. Solvay Solexis, Inc., a party to the original investigations, has not responded to repeated requests for information from Commission staff.

AGC imported subject granular PTFE resin \*\*\*, when it imported \*\*\* pounds of \*\*\* granular PTFE resin from Japan, valued at \$\*\*\* (unit value of \$\*\*\* per pound),<sup>1</sup> which was equivalent to \*\*\* percent of the \*\*\* pounds of \*\*\* granular PTFE resin AGC produced in the United States \*\*\*.<sup>2</sup> \*\*\*.

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<sup>1</sup> The unit value is based on unrounded data.

<sup>2</sup> \*\*\*.

## U.S. IMPORTERS' INVENTORIES

Data collected in these reviews on the reporting U.S. importers' end-of-period inventories of subject granular PTFE resin are presented in table IV-3.

**Table IV-3**  
**Granular PTFE resin: U.S. importers' end-of-period inventories of imports, by source, 1999-2004**

\* \* \* \* \*

## DUMPING IN THIRD-COUNTRY MARKETS

On September 9, 2004, the Commission of the European Communities published notice in the *Official Journal of the European Union* of the initiation of an antidumping proceeding with regard to imports into the Community of certain granular PTFE originating in China and Russia. The European Commission's Regulation No. 862/2005 of June 7, 2005, imposed provisional antidumping duties on imports of certain granular PTFE originating in China and Russia. The provisional duties imposed were 62.7 percent for China and 36.6 percent for Russia. Community producers involved in the investigation include DuPont (Netherlands), Dyneon (Germany), and Solvay Solexis (Italy). Asahi Glass Fluoropolymers U.K. Limited, which is wholly owned by Asahi Glass Company Ltd. (Japan), is another Community producer, which responded to the European Commission's questionnaire but "took no position" with respect to the proceeding. Definitive measures, if taken, would be issued and published in the *Official Journal of the European Union* in early December 2005.

## THE INDUSTRIES IN ITALY AND JAPAN<sup>3</sup>

Solvay Solexis S.p.A. is the only known producer of granular PTFE resin in Italy. As of mid-year 2005, the firm had \*\*\* annual metric tons of capacity at Spinetta-Marengo, of which \*\*\* were subject granular PTFE resin product. The remainder was available as nonsubject emulsion-grade product. \*\*\*. The firm sells PTFE products under the Algoflon® trade name. Solvay acquired the plant from the former owner, Ausimont S.p.A., in May 2002, and changed the name to Solvay Solexis S.p.A. Ausimont was a 80/20 percent joint venture formed in December 2000 by Montedison, Italy and Longside International, a subsidiary of private equity capital firm Athena Private Equity, Luxembourg. Solvay Solexis did not respond to the Commission's questionnaire.

Solvay Solexis holds a \*\*\* of the global PTFE capacity relative to the \*\*\* producers Asahi, Daikin, DuPont, and Dyneon. The firm has a \*\*\* metric ton facility in the United States. Although Solvay ranks \*\*\* globally in terms of all types of fluoropolymer capacity among the top producers, the fluoropolymers business accounted for only about \*\*\* percent of its overall sales in 2001. In 2001, the last year of currently available data, Italy's consumption of PTFE in all forms was \*\*\*, or approximately equal to \*\*\*.

As of mid-year 2005, there were three known producers of PTFE in Japan having a combined annual capacity of \*\*\* metric tons as subject granular and nonsubject emulsion, or fine powder grades. Daikin Industries, Ltd. is \*\*\* DuPont-Mitsui Fluorochemicals with \*\*\* and Asahi Glass with \*\*\*.

Daikin Industries has an aggregate annual capacity of \*\*\* metric tons for Fluon® granular PTFE resin at two locations combined, Kashima, Ibaraki Prefecture, and Settsu, Osaka Prefecture. Daikin \*\*\*,

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<sup>3</sup> \*\*\*.

due to an explosion at that plant.<sup>4</sup> During this period, some products were reportedly \*\*\*. In late 2003, Daikin \*\*\*,

DuPont-Mitsui Fluorochemicals Co., Ltd. (a 50/50 joint venture of DuPont and Mitsui Chemicals) has \*\*\* annual metric tons of Teflon® PTFE capacity at Shimizu, Shizuoka Prefecture. In 2002, \*\*\*. The firm reportedly \*\*\*,

Asahi Glass Company, Ltd. has \*\*\* annual tons of Fluon® PTFE capacity at Ichihara, Chiba Prefecture. In 1999, Asahi Glass acquired ICI's granular PTFE resin business together with PTFE production facilities in Japan (formerly known as Asahi Glass Fluoropolymers), the United States, and the United Kingdom.

In 2004, Japanese PTFE consumption was approximately \*\*\* metric tons, or about \*\*\* percent of total estimated capacity for PTFE in all forms. Japan's consumption of granular PTFE was \*\*\* metric tons in 2004, representing \*\*\* of total Japanese PTFE consumption. The consumption of subject unfilled product (\*\*\* metric tons) was \*\*\* percent of Japan's total consumption of granular PTFE. Consumption of subject granular PTFE in Japan was \*\*\* metric tons in 1995 and \*\*\* metric tons in 2004, while consumption of nonsubject fine powder and aqueous dispersions grew from \*\*\* metric tons in 1995 to \*\*\* metric tons in 2004.

No questionnaire responses were received from the Italian producer, and only one Japanese producer responded. Tables IV-4 and IV-5 present data received from Asahi Glass, the parent company of the U.S. producer AGC Chemicals and DuPont-Mitsui. The tables are not combined because of the possibility of double-counting the filled and unfilled product.

**Table IV-4**  
**Filled granular PTFE resin: Reported production capacity, production, shipments, and inventories of Asahi Glass and DuPont-Mitsui (Japan), 1999-2004**

\* \* \* \* \*

**Table IV-5**  
**Unfilled granular PTFE resin: Reported production capacity, production, shipments, and inventories of Asahi Glass and DuPont-Mitsui (Japan), 1999-2004**

\* \* \* \* \*

### THE WORLD MARKET

Salient data on the world market in 2004 for PTFE in all forms are presented in table IV-6. Western Europe and the United States were the principal consuming areas.

**Table IV-6**  
**PTFE: Salient data on the world market, 2004**

\* \* \* \* \*

The projected annual average growth rate for apparent consumption of PTFE in all forms during 2004-09 is \*\*\* percent for the United States, \*\*\* percent for Western Europe, \*\*\* percent for Japan, \*\*\* percent for China, \*\*\* percent for the rest of the world, and \*\*\* percent for total world consumption.

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<sup>4</sup> This reportedly caused a tight supply-demand situation and higher prices in Japan, the United States, and Europe, based on information obtained from \*\*\*.





## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

The cost of granular PTFE resin depends largely on the costs of its inputs and processing. Granular PTFE resin is produced from TFE, and is expensive to produce because it uses fluorine which is a highly corrosive compound. Firms which produce PTFE typically also produce TFE because TFE is flammable and explosive and therefore difficult to transport and store.

#### **Transportation Costs to the U.S. Market**

Transportation costs for granular PTFE resin from Italy to the United States (excluding U.S. inland costs) in 2004 were equivalent to 3.7 percent of the customs value of the material from Italy, and from Japan the transportation costs were equivalent to 2.9 percent. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

#### **U.S. Inland Transportation Costs**

U.S. inland transportation costs for granular PTFE resin ranged from \*\*\* to \*\*\* percent for U.S. producers, with two of the three responding producers reporting costs between \*\*\* and \*\*\* percent. Five importers reported U.S. inland transportation costs which range from 0.4 to 3 percent, with four of these firms reporting costs ranging from 1.5 to 3 percent.

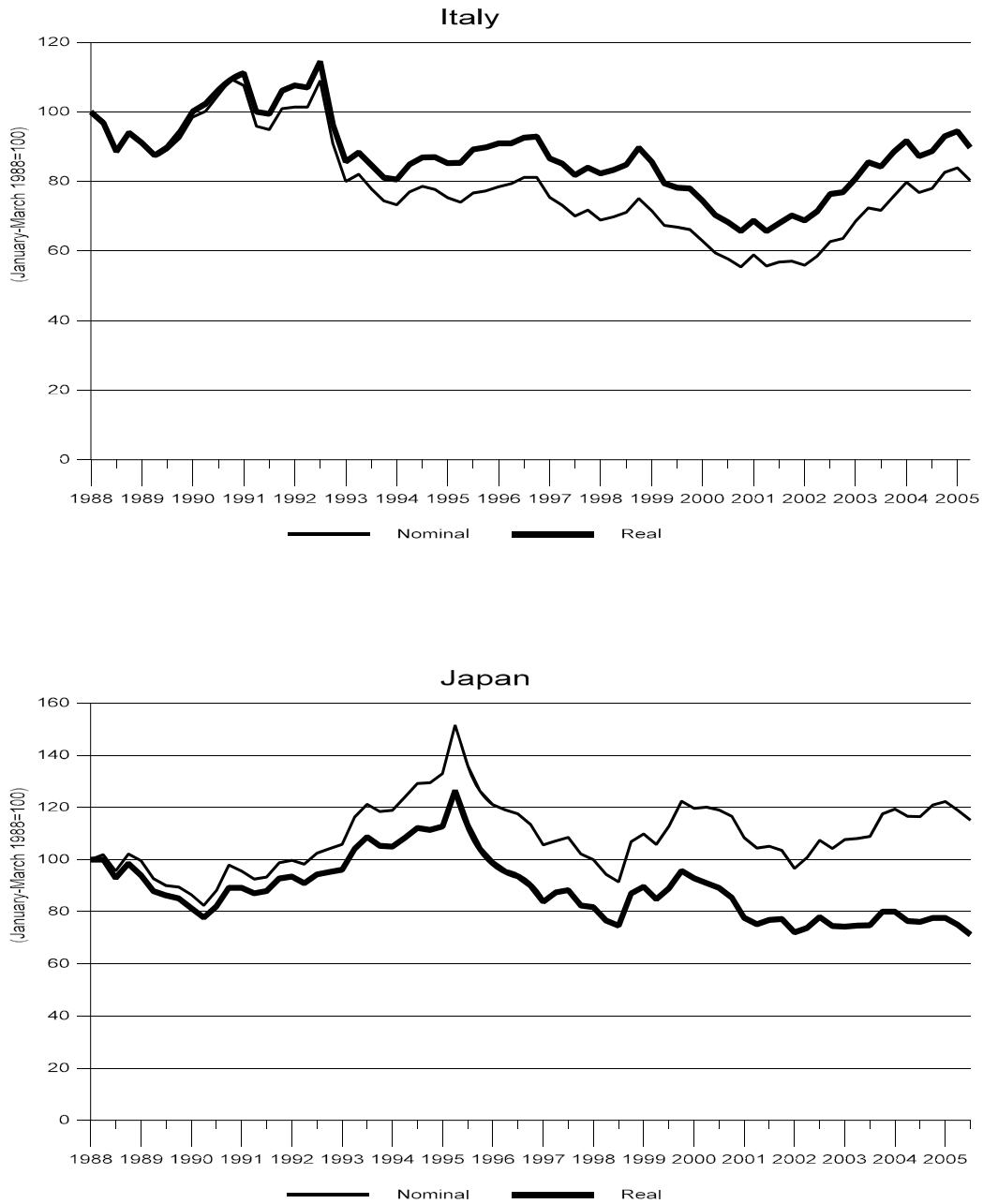
#### **Exchange Rates**

Quarterly real and nominal exchange rates reported by the International Monetary Fund for the currencies of Italy and Japan relative to the U.S. dollar during the period January 1988 to September 2005 are shown in figure V-1.<sup>1</sup>

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<sup>1</sup> Italian data are through June 2005 since third quarter 2005 data were not available for Italy.

**Figure V-1**  
**Exchange rates: Indices of the nominal and real exchange rates between the currencies of Italy and Japan relative to the U.S. dollar, by quarters, January 1988-September 2005**



Note: Data on Italy are through June 2005, since third quarter 2005 data were not available for Italy.

Source: International Monetary Fund, *International Financial Statistics*, <http://ifs.apdi.net/imf>, retrieved November 3, 2005.

## PRICING PRACTICES

\*\*\* responding U.S. producers reported that they used price lists; however, prices were frequently determined on a customer-by-customer basis. Out of four importers that gave usable responses, only one, \*\*\*, reported a price list. Three importers reported transaction-by-transaction pricing; one of these reported cost plus markups. \*\*\* responding producers sold \*\*\* percent of their product using long-term contracts, \*\*\* percent in short-term contracts of up to one year, and \*\*\* percent in spot sales.<sup>2</sup> Only one importer reported how it sold its product, reporting that all was sold using short-term contracts.

### Pricing Methods

Granular PTFE resin producers have several pricing methods. The typical long-term contract used by U.S. producers tends to be for two or three years; \*\*\* reported that prices could be renegotiated during the contract. \*\*\* at least sometimes have meet-or-release provisions in their contracts, and \*\*\* also reported that it had cost escalator provisions for certain market conditions. The only responding importer with long-term contracts reported that they were typically for 3 years, that it “sometimes” has meet-or-release provisions, “sometimes” has fixed prices and quantities, and “sometimes” allows price to be renegotiated during the contract. \*\*\* producers and two out of three responding importers reported that their short-term contracts were for one year; the other importer’s contracts were typically for 2 months. \*\*\* producers and two out of three responding importers reported that they at least sometimes have meet-or-release provisions in these short-term contracts.

Both DuPont and AGC Chemicals report that they frequently have reduced prices in order to keep the business under the meet-or-release provisions. AGC Chemicals reported that 95 percent of its contracts have a meet-or-release clause that frequently has been exercised in the last four years.<sup>3</sup> DuPont reported that “they show us a bona fide offer, a competitive offer, and we have to match it or we relieve them of the contract.”<sup>4</sup>

### Sales Terms and Discounts

\*\*\* responding producers and both responding importers reported selling on a delivered basis and that sales terms are net 30 days. \*\*\* responding producers reported some volume discounts to some customers; \*\*\* responded that prices are set on a case-by-case basis and that therefore there was no discount policy. Only one of the three responding importers reported volume discounts; the other two importers reported either no discounts or no discount policy.

## PRICE DATA

The Commission requested U.S. producers and importers of granular PTFE resin to provide quarterly data for the total quantity and f.o.b. value of five granular PTFE resin products that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1999 to December 2004. The products for which pricing data were requested are as follows:

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<sup>2</sup> \*\*\* reported selling \*\*\* percent of its product using long-term contracts, \*\*\* percent using short-term contracts, and did not report how the other \*\*\* percent of product was sold.

<sup>3</sup> Hearing transcript, p. 154 (Brozzetti).

<sup>4</sup> Hearing transcript, p. 28 (Colven).

**Product 1.**--Granular PTFE resin, pelletized grade with particle size of 325-700 microns, of type suitable for use in automatic, isostatic, or general molding, not filled.

**Product 2.**--Granular PTFE resin, fine cut (small particle) grade with particle size less than 100 microns, of type suitable for use in large billet moldings or general molding, not filled.

**Product 3.**--Granular PTFE resin, presintered grade (granular PTFE resin that has been reheated to produce a fused conglomerate and then reground) with particle size of 300-700 microns, of type suitable for use in ram extrusion, not filled.

**Product 4.**--Granular PTFE resin, fine cut grade filled with 25 percent glass.

**Product 5.**--Granular PTFE resin, fine cut grade filled with 25 percent carbon, or with a mixture of 25 percent carbon and graphite.

Three U.S. producers (\*\*\*) and one importer (\*\*\*) of granular PTFE resin from Japan provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. No importer provided data from Italy. By quantity, pricing data reported by responding firms for 1999-2004 accounted for approximately \*\*\* percent of reported U.S. producers' shipments of granular PTFE resin and for essentially 100 percent of reported U.S. shipments of subject imports from Japan.

### Price Trends and Comparisons

Purchasers were asked if there has there been a change in the price of granular PTFE resin since 1988, and if so, whether the price of U.S.-produced granular PTFE resin changed more or less than the price of imported granular PTFE resin from subject countries and from nonsubject countries. Six of the seven responding purchasers reported that prices had changed by the same amount.<sup>5</sup> The other purchaser reported that at various times prices of subject product had changed relative to prices of U.S. product.

Data on prices, quantities, and margins of underselling (overselling) of products 1 through 5 are presented in tables V-1 and V-2. Prices of products 1 through 5 are presented in figure V-2. Prices for subject imports were available for only one product and for only two quarters. The Japanese product oversold U.S. product in both quarters for which data were available, by \*\*\*. The prices of all U.S. products declined between 1999 and 2004, although not steadily. The price of U.S. product 1 fell by \*\*\* percent between 1999 and 2004, product 2 fell by \*\*\* percent, product 3 fell by \*\*\* percent, product 4 fell by \*\*\* percent, and product 5 fell by \*\*\* percent.

**Table V-1**  
**Granular PTFE resin: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 1999-December 2004**

\* \* \* \* \*

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<sup>5</sup> In addition, one purchaser did not report whether U.S. prices had changed relative to subject import prices, but later in the questionnaire response reported that both Italian and Japanese prices were now higher relative to U.S. product prices. This was the only purchaser that answered the latter question.

**Table V-2**

**Granular PTFE resin: Weighted-average f.o.b. prices and quantities of domestic products 2-5, by quarters, January 1999-December 2004**

\* \* \* \* \*

**Figure V-2**

**Granular PTFE resin: Weighted-average f.o.b. prices of domestic and imported products 1-5, January 1999-December 2004**

\* \* \* \* \*



**APPENDIX A**

***FEDERAL REGISTER* NOTICES AND STATEMENT ON ADEQUACY**





**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731-TA-385 and 386  
(Second Review)]

**Granular Polytetrafluoroethylene Resin  
From Italy and Japan**

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

**ACTION:** Institution of five-year reviews  
concerning the antidumping duty orders  
on granular polytetrafluoroethylene  
resin from Italy and Japan.

**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 granular polytetrafluoroethylene resin from Italy and Japan 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 consideration, the deadline for responses is January 21, 2005. Comments on the adequacy of responses may be filed with the Commission by February 14, 2005. 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:* December 1, 2004.

**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://>

<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. 04-5-103, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

[www.usitc.gov](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 August 24, 1988, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Japan (53 FR 32267). On August 30, 1988, Commerce issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Italy (53 FR 33163). Following five-year reviews by Commerce and the Commission, effective January 3, 2000, Commerce issued a continuation of the antidumping duty order on imports of granular polytetrafluoroethylene resin from Italy and Japan (65 FR 6147, February 8, 2000). The Commission is now conducting a second review to determine whether revocation of the order 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:

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

(2) The *Subject Countries* in these reviews are Italy and Japan.

(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 defined the Domestic Like Product as granular polytetrafluoroethylene resin. In its expedited five-year review determinations, the Commission defined the Domestic Like Product as granular polytetrafluoroethylene resin, coextensive with Commerce's scope.

(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 and expedited five-year review determinations, the Commission defined the Domestic

Industry as U.S. producers of granular polytetrafluoroethylene resin, both unfilled and filled.

(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 reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the “same particular matter” as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was “personal and substantial.” However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, 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 January 21, 2005. 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 February 14, 2005. 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 Fed. Reg. 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 if available) 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 1998.

(7) 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 2003 (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) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (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 or countervailing 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 and/or countervailing 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 and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of

producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (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 or countervailing 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) 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.

(10) 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 1998, 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 Countries, and such merchandise from other countries.

(11) (*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.

Issued: November 22, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-26483 Filed 11-30-04; 8:45 am]

BILLING CODE 7020-02-P

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**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731–TA–385 and 386  
(Second Review)]

**Granular Polytetrafluoroethylene Resin  
From Italy and Japan**

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

**ACTION:** Notice of Commission  
determination to conduct full five-year  
reviews concerning the antidumping  
duty orders on granular  
polytetrafluoroethylene resin from Italy  
and Japan.

**SUMMARY:** The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. 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:* March 7, 2005.

**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:** On March 7, 2005, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic response and the respondent interested party group response with respect to Japan to its notice of

institution (69 FR 69954, December 1, 2004) were adequate but found that the respondent interested party group response with respect to Italy was inadequate. However, the Commission determined to conduct a full review concerning subject imports from Italy to promote administrative efficiency in light of its decision to conduct a full review with respect to subject imports from Japan. 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.

**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: March 17, 2005.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-5701 Filed 3-22-05; 8:45 am]

**BILLING CODE 7020-02-P**

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**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731-TA-385-386  
(Review)]

**Granular Polytetrafluoroethylene Resin  
From Italy and Japan**

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

**ACTION:** Scheduling of full five-year  
reviews concerning the antidumping  
duty orders on granular  
polytetrafluoroethylene resin from Italy  
and Japan.

**SUMMARY:** The Commission hereby gives  
notice of the scheduling of full reviews  
pursuant to section 751(c)(5) of the  
Tariff Act of 1930 (19 U.S.C. 1675(c)(5))  
(the Act) to determine whether  
revocation of the antidumping duty  
orders on granular  
polytetrafluoroethylene resin from Italy  
and Japan 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:* May 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** Fred  
Ruggles (202-205-3187 or  
[fruggles@usitc.gov](mailto:fruggles@usitc.gov)), 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](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 December 1, 2004,  
the Commission determined that  
responses to its notice of institution of  
the subject five-year reviews were such  
that full reviews pursuant to section  
751(c)(5) of the Act should proceed (69  
FR 69954, December 1, 2004). A record  
of the Commissioners' votes, the  
Commission's statement on adequacy,  
and any individual Commissioner's  
statements are available from the Office  
of the Secretary and at the  
Commission's Web site.

*Participation in the review 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 these reviews as parties  
must file an entry of appearance with  
the Secretary to the Commission, as  
provided in section 201.11 of the  
Commission's rules, by 45 days after  
publication of this notice. A party that  
filed a notice of appearance following  
publication of the Commission's notice  
of institution of the reviews need not  
file an additional notice of appearance.  
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.

*Limited disclosure of business  
proprietary information (BPI) under an  
administrative protective order (APO)  
and BPI service list.*—Pursuant to  
section 207.7(a) of the Commission's  
rules, the Secretary will make BPI  
gathered in these reviews available to  
authorized applicants under the APO  
issued in the reviews, provided that  
the application is made by 45 days after  
publication of this notice. Authorized  
applicants must represent interested  
parties, as defined by 19 U.S.C. 1677(9),  
who are parties to the reviews. A party  
granted access to BPI following  
publication of the Commission's notice  
of institution of the reviews need not  
reapply for such access. A separate  
service list will be maintained by the

Secretary for those parties authorized to receive BPI under the APO.

**Staff report.**—The prehearing staff report in these reviews will be placed in the nonpublic record on August 17, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

**Hearing.**—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on September 9, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 30, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 1, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

**Written submissions.**—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is August 26, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is September 16, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before September 16, 2005. On September 29, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 3, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section

201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the 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.

**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.

Issued: May 5, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-9310 Filed 5-9-05; 8:45 am]

**BILLING CODE 7020-02-P**

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**DEPARTMENT OF COMMERCE****International Trade Administration****(A-475-703, A-588-707)****Granular Polytetrafluoroethylene Resin  
from Italy and Japan; Five-year  
("Sunset") Reviews of Antidumping  
Duty Orders; Final Results****AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.**SUMMARY:** On December 1, 2004, the  
Department of Commerce ("the  
Department") initiated a sunset review

of the antidumping duty orders on Granular Polytetrafluoroethylene Resin ("PTFE Resin") from Italy and Japan, pursuant to section 751(c) of the Tariff Act of 1930, as amended, ("the Act"). On the basis of the notice of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Reviews."

**EFFECTIVE DATE:** July 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit or Dana Mermelstein, Office 6, Antidumping/Countervailing Duty Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-5050 or (202) 482-1391.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 1, 2004, the Department initiated sunset reviews of the antidumping duty orders on PTFE Resin from Italy and Japan pursuant to section 751(c) of the Act. *See Initiation of Five-year ("Sunset") Reviews*, 69 FR 69891 (December 1, 2004). The Department received notices of intent to participate from a domestic interested party, E.I. DuPont de Nemours & Company ("DuPont"), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. DuPont claimed interested party status under section 771(9)(C) of the Act as a U.S. producer of a domestic like product. We received a complete substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, we did not receive 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 conducted expedited sunset reviews of these orders.

On April 7, 2005, the Department extended the time limit for final results of these sunset reviews to not later than June 29, 2005. *See Carbon Steel Butt-Weld Pipe Fittings From Brazil, Japan, the People's Republic of China, Taiwan, and Thailand, and Granular Polytetrafluoroethylene Resin From Italy*

*and Japan; Extension of Time Limit for the Final Results of Sunset Reviews of Antidumping Duty Orders*, 70 FR 17647 (April 7, 2005).

**Scope of the Orders**

*Italy*

The merchandise covered by this order is PTFE Resin, filled or unfilled, from Italy. The antidumping duty order also covers PTFE Resin wet raw polymer exported from Italy to the United States. *See Granular Polytetrafluoroethylene Resin From Italy; Final Determination of Circumvention of Antidumping Duty Order*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. The subject merchandise is classified under subheading 3904.61.00 of the Harmonized Tariff Schedule of the United States ("HTS").

*Japan*

The merchandise covered by this order is PTFE Resin, filled or unfilled, from Japan. PTFE Resin dispersions in water and PTFE Resin fine powders are excluded from the order. The merchandise covered by this antidumping duty order is currently classifiable under subheading 3904.61.00 of the HTS.

**Analysis of Comments Received**

All issues raised in these cases are addressed in the "Issues and Decision Memorandum" from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated June 29, 2005 ("Decision Memorandum"), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum 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 B-099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>, under the heading "July 2005". The paper copy and electronic version of the Decision Memorandum are identical in content.

**Final Results of Reviews**

We determine that revocation of the antidumping duty orders on PTFE Resin from Italy and Japan would likely lead to continuation or recurrence of

dumping at the following percentage weighted-average margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
<b>Italy.</b>	
Montefluos S.p.A./ Ausimont U.S.A .....	46.46 <sup>1</sup>
All Others .....	46.46
<b>Japan.</b>	
Daikin Industries, Inc. ...	103.00
Asahi Fluoropolymers, Inc. ....	51.45
All Others .....	91.74

<sup>1</sup> Solvay Solexis S.p.A. and Solvay Solexis, Inc., are the successors-in-interest to Ausimont S.p.A. and Ausimont U.S.A., Inc.

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

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: June 29, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-3550 Filed 7-5-05; 8:45 am]

**BILLING CODE 3510-DS-S**

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:** On May 10, 2005, the Commission established a schedule for the conduct of the subject five-year reviews (70 FR 24613, May 10, 2005). Subsequently, the Commission 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). Therefore, the Commission is revising its schedule for the reviews.

The Commission's new schedule for the reviews is as follows: The prehearing staff report will be placed in the nonpublic record on August 25, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules; the deadline for filing prehearing briefs is October 14, 2005; requests to appear at the hearing must be filed with the Secretary to the Commission not later than October 11, 2005; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 18, 2005; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 25, 2005; the deadline for filing posthearing briefs is November 3, 2005; the Commission will make its final release of information on November 18, 2005; and final party comments are due on November 22, 2005.

For further information concerning these reviews see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 16, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-16543 Filed 8-19-05; 8:45 am]

**BILLING CODE 7020-02-P**

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## **INTERNATIONAL TRADE COMMISSION**

**[Investigation Nos. 731-TA-385 and 386  
(Second Review)]**

### **Granular Polytetrafluoroethylene Resin From Italy and Japan**

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

**ACTION:** Revised schedule for the subject  
reviews.

**DATES:** Effective August 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** Fred  
Ruggles (202) 205-3187 or e-mail at  
[fred.ruggles@usitc.gov](mailto:fred.ruggles@usitc.gov), 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



*Polytetrafluoroethylene Resin from Italy and Japan: Investigation Nos. 731-TA-385 and 386 (Second Review).*

Issued: December 2, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E5-7024 Filed 12-7-05; 8:45 am]

BILLING CODE 7020-02-P

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**INTERNATIONAL TRADE  
COMMISSION**

**[Investigation Nos. 731-TA-385 and 386  
(Second Review)]**

**Granular Polytetrafluoroethylene Resin  
From Italy and Japan**

**Determinations**

On the basis of the record<sup>1</sup> developed in these 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)) (the Act), that revocation of the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan 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>2</sup>

**Background**

On December 1, 2004, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (69 FR 69954, December 1, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on May 4, 2005 (70 FR 24613). The hearing was held in Washington, DC, on October 25, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on December 13, 2005. The views of the Commission are contained in USITC Publication 3823 (December 2005), entitled *Granular*

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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)).

<sup>2</sup> Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissent with regard to the determination concerning Japan.



**EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY**  
in

*Granular Polytetrafluoroethylene Resin from Italy and Japan,*  
Inv. Nos. 731-TA-385 and 386 (Second Review)

On March 7, 2005, the Commission unanimously determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5).

With regard to each of the reviews, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received adequate responses from two producers of granular polytetrafluoroethylene resin, E.I. DuPont de Nemours & Co. and AGC Chemicals America, Inc (“AGCCA”). Because the Commission received an adequate response from domestic producers accounting for a substantial percentage of U.S. production, the Commission determined that the domestic interested party group response was adequate.

In the review concerning subject imports from Japan, the Commission received a joint response from AGCCA, which is also an importer of the subject merchandise, and Asahi Glass Fluoropolymers, Ltd., a Japanese producer and exporter of the subject merchandise. Because the Commission received an adequate response representing a substantial percentage of the production of granular polytetrafluoroethylene resin in Japan, the Commission determined that the respondent interested party group response for Japan was adequate. Accordingly, the Commission determined to proceed to a full review in *Granular Polytetrafluoroethylene Resin from Japan*.

The Commission did not receive a response from any respondent interested parties in the review concerning subject imports from Italy and therefore determined that the respondent interested party group response was not adequate. However, the Commission determined to conduct a full review concerning subject imports from Italy to promote administrative efficiency in light of its decision to conduct a full review with respect to *Granular Polytetrafluoroethylene Resin from Japan*. A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).

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**APPENDIX B**  
**HEARING WITNESSES**



**CALENDAR OF PUBLIC HEARING**

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

**Subject:** Granular Polytetrafluoroethylene (PTFE) Resin from Italy and Japan

**Inv. Nos.:** 731-TA-385 and 386 (Second Review)

**Date and Time:** October 25, 2005 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

**In Support of the Continuation of the Antidumping Duty Orders:**

Wilmer Cutler Pickering Hale and Dorr LLP  
Washington, DC  
on behalf of

**E.I. du Pont de Nemours & Company**

**John Colven**, Global Market Segment, Manufacturing, Industrial Specialities  
**Richard L. Boyce**, President, Econometrica International, Inc.

**Ronald I. Meltzer**                            )  
**Tammy J. Horn**                                ) – OF COUNSEL

**In Opposition to the Continuation of the Antidumping Duty Order on Japan:**

Greenberg Traurig, LLP  
Washington, DC  
on behalf of

**Asahi Glass, Ltd./AGC Chemicals America, Inc.**

**Adam Brozzetti**, Vice President, Sales and Marketing

**Jeffrey S. Neeley**                            ) – OF COUNSEL



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



**Table C-1**

**Filled granular PTFE resin: Summary data on U.S. producers' operations, 1999-2004**

\* \* \* \* \*

**Table C-2**

**Unfilled granular PTFE resin: Summary data on U.S. producers' operations, 1999-2004**

\* \* \* \* \*

**Table C-3**

**Granular PTFE resin: Summary data concerning the U.S. market, 1999-2004**

\* \* \* \* \*





**APPENDIX D**

**RESPONSES ON SIGNIFICANCE OF THE ORDERS/ANTICIPATED  
CHANGES**



## COMMENTS ON THE ANTIDUMPING DUTY ORDERS

Importers were asked the following two questions:

**II-11.**--“Describe the significance of the existing antidumping duty orders covering imports of granular PTFE resin from Italy and Japan in terms of their effect on your firm’s imports, U.S. shipments of imports, and inventories. You may wish to compare your firm’s operations before and after the imposition of the orders.” and;

**II-12.**--“Would your firm anticipate any changes in its imports, U.S. shipments of imports, or inventories of granular PTFE resin in the future if the antidumping duty orders on granular PTFE resin from Italy and Japan were to be revoked?”

Their responses are listed below.

\*\*\*

**II-11.** None.

**II-12.** None.

\*\*\*

**II-11.** None.

**II-12.** None.

\*\*\*

**II-11.** We see no effect.

**II-12.** None.

\*\*\*

**II-11.** No impact would occur - we buy product that is non-conforming or unsuitable for its intended use.

**II-12.** None.

\*\*\*

**II-11.** NA. We do not conduct any transactions with this type of material at this time. Prior transactions were only spot business.

**II-12.** None.

\*\*\*

**II-11.** \*\*\*.

**II-12.** None.

\*\*\*

**II-11.** There is minimal impact on our import volumes as long as the current measures remain in effect. \*\*\*.

If the current antidumping duty orders against imports from Italy and Japan are revoked, Italian and Japanese producers will increase their dumped imports into the U.S. market and capture market share at the expense of \*\*\*. \*\*\*.

**II-12.** Yes. As mentioned above, \*\*\* anticipates that it would have to increase its imports \*\*\*.

\*\*\*

**II-11.** The current dumping order on Japan has had no effect on our imports. Since \*\*\*. Thus, they have cut back their imports from Japan not because of the dumping order \*\*\*. The dumping order on Italy, on the other hand, has prevented the Italian producer from selling greater quantities of subject merchandise at lower prices.

**II-12.** \*\*\* does not anticipate any change to its imports, shipments of imports, or inventories of granular PTFE resin if the Japanese order is lifted. \*\*\* would import small quantities of Japanese product to fill niche markets and these imports would be at fair value. \*\*\* has no incentive to undercut U.S. price levels or to sell large volumes of granular PTFE resin in the US \*\*\*. On the other hand, if the Italian order were revoked, \*\*\*.

U.S. Producers were asked the following five questions:

**II-4.**--“Has your firm experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of your operations or organization relating to the production of granular PTFE resin since August 1988 (the date on which the antidumping duty order under review became effective)?”

**II-5.**--“Does your firm anticipate any changes in the character of your operations or organization (as noted above) relating to the production of granular PTFE resin in the future?”

**II-6.**--“Would your firm anticipate any changes in the character of your operations or organization (as noted above) relating to the production of granular PTFE resin in the future if the antidumping duty orders on granular PTFE resin from Italy and Japan were to be revoked?”

**II-28.**--“Describe the significance of the existing antidumping duty orders covering imports of granular PTFE resin from Italy and Japan in terms of its effect on your firm’s production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. You may wish to compare your firm’s operations before and after the imposition of the order.”

**II-29.**--“Would your firm anticipate any changes in its production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of granular PTFE resin in the future if the antidumping duty orders on granular PTFE resin from Italy and Japan were to be revoked?”

Their responses are listed below.

\*\*\*

**II-4.** Yes. \*\*\*.

**II-5.** None.

**II-6.** None.

**II-28.** We see little to no effect.

**II-29.** None.

\*\*\*

**II-4.** No. \*\*\*.

**II-5.** No. \*\*\*.

If the order remains in place, \*\*\*.

**II-6.** Yes. \*\*\*.

**II-28.** \*\*\*.

**II-29.** Yes. \*\*\*.

\*\*\*

*II-4.* No.  
*II-5.* No.  
*II-6.* No.  
*II-28.* \*\*\*.  
*II-29.* \*\*\*.

\*\*\*

*II-4.* None.  
*II-5.* None.  
*II-6.* None.  
*II-28.* No. Prices for products increased after implementing the order. Prices decreased again beginning in 2001 as I believe imports resumed, however, avoiding duties by mislabeling to avoid duties.  
*II-29.* Yes. Revenue and sales would decline forcing reduction in production and personnel.

\*\*\*

*II-4.* Yes. \*\*\*.  
*II-5.* No.  
*II-6.* Yes. \*\*\*.  
*II-28.* \*\*\*.  
*II-29.* No.

Producers in Italy and Japan were asked the following five questions pertaining to the existing orders.

- II-3. Would your firm anticipate any changes in the character of your operations or organization (as noted above) relating to the production of granular PTFE resin in the future if the antidumping duty orders on granular PTFE resin from Italy and/or Japan were to be revoked?
- II-5. Describe the production technology used in the production of granular PTFE resin in Italy and/or Japan and identify major production inputs. Also discuss any significant changes in production technology since 1988 (the year the antidumping duty orders under review became effective).
- II-13. Identify export markets (other than the United States) that you have developed or where you have increased your sales of granular PTFE resin as a result of the antidumping duty orders on granular PTFE resin from Italy and/or Japan. Please identify and discuss below.
- II-14. Describe the significance of the existing antidumping duty orders covering imports of granular PTFE resin from Italy and/or Japan in terms of their effect on your firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. You may wish to compare your firm's operations before and after the imposition of the orders.
- II-15. Would your firm anticipate any changes in its production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of granular PTFE resin in the future if the antidumping duty orders on granular PTFE resin from Italy and/or Japan were to be revoked?

\*\*\*

- II-3.** \*\*\*.
- II-5.** \*\*\*.
- II-13.** \*\*\*.
- II-14.** \*\*\*.
- II-15.** \*\*\*.

\*\*\*

- II-3.** \*\*\*.
- II-5.** \*\*\*.
- II-13.** \*\*\*.
- II-14.** \*\*\*.
- II-15.** \*\*\*.

**U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION  
ON (1) THE ACTIVITY OF THE FIRM AND (2) ON THE ENTIRE U.S. MARKET**

\*\*\*- (1) "None." (2) "None"

\*\*\*- Blank

\*\*\*- (1) "Next 5-10 yrs.- don't see much change for us." (2) "In the event that other resins get excluded from the U.S. market, revocation will smooth out world-wide distribution- make more available in the U.S."

\*\*\*- (1) "No impact: domestic, low-volume purchases." (2) "Increased competition over the next decade; except domestic shake-out from lower resulting profit margins."

\*\*\*- (1) and (2) "Will compare manufacturers in Italy and Japan to rest of the producers."

\*\*\*- (1) "Shall evaluate, review and qualify available alternatives" (2) "May benefit from added competitive forces. Effect should be evident 3 to 5 yrs. from revocation of tariff."

\*\*\*- (1) "No change in activities." (2) "Could be some relief to current tight supply of resin in 6-12 months."

\*\*\*- (1) "We expect no changes in our activities." (2) "No change is expected."

\*\*\*- (1) and (2) "Not enough info. or knowledge on these products or market to comment."

\*\*\*- (1) "No effect." (2) "No effect."

\*\*\*- (1) "Unknown." (2) "Unknown."

\*\*\*- (1) "None." (2) "None, Italy and Japan would not compete with Russia and China sources at current levels. They would sell on quality to industries that offer attractive margins."

\*\*\*- (1) and (2) "This will depend upon pricing in the market? (All firms from Japan have U.S. facilities now, so are not materially affected. Ausimont is no longer a major factor in the granular resin market. Russian resin and Chinese should be included in the antidumping duty, as should basic shapes being exported to the U.S. market from Italy, Russia.)"

\*\*\*- (1) "Not known." (2) "Not known."

\*\*\*- (1) "Since Daikin has a factory in Decatur Georgia, antidumping should have no effect." (2) "Unknown."

\*\*\*- (1) "Nothing - no change." (2) "Nothing - no change."



\*\*\*- Blank

\*\*\*- (1) and (2) "Our price would have to be lowered to meet the import prices."

\*\*\*- (1) "Unknown." (2) "Unknown."

\*\*\*- (1) "None." (2) "Unknown."

