

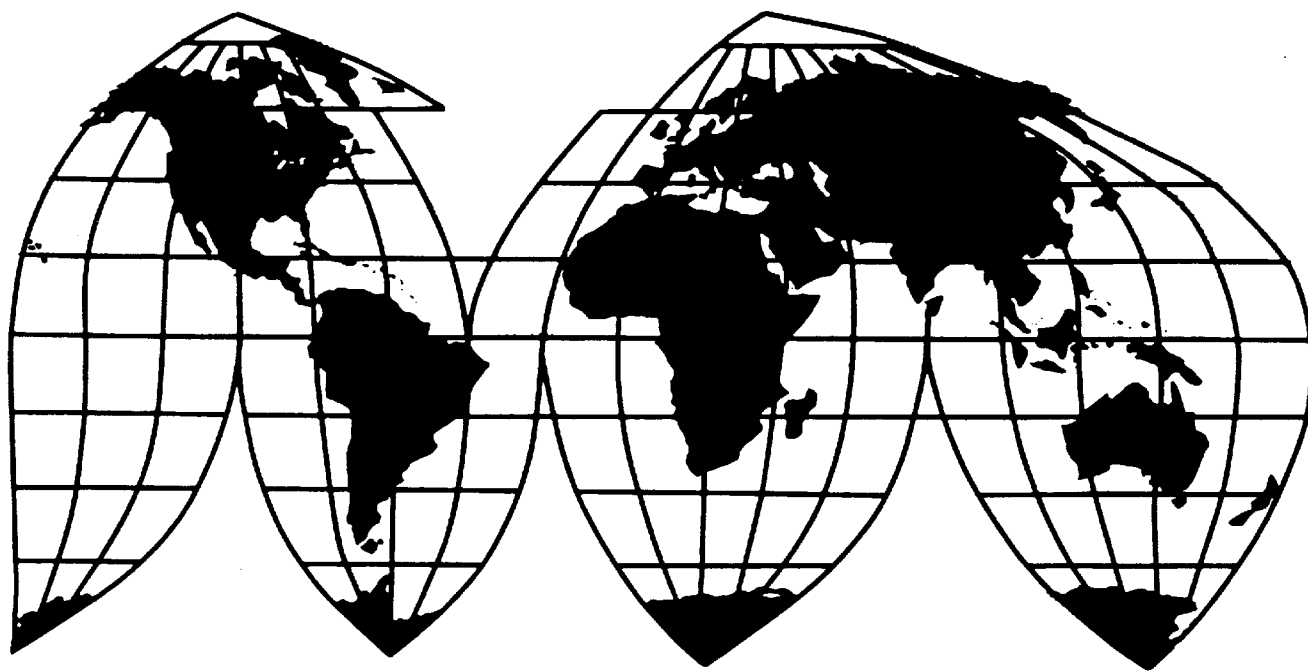
Certain Lined Paper School Supplies From China, India, and Indonesia

Investigation Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)

Publication 3884

September 2006

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)

CERTAIN LINED PAPER SCHOOL SUPPLIES FROM CHINA, INDIA, AND INDONESIA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from India and Indonesia of certain lined paper school supplies that have been found by the Department of Commerce (Commerce) to be subsidized by the Governments of India and Indonesia, and by reason of imports from China, India, and Indonesia of certain lined paper school supplies that have been found by Commerce to be sold in the United States at less than fair value (LTFV).² The Commission finds that critical circumstances do not exist with respect to subject imports from China and Indonesia.

BACKGROUND

The Commission instituted these investigations effective September 9, 2005, following receipt of a petition filed with the Commission and Commerce by MeadWestvaco Corp., Dayton, OH; Norcom, Inc., Norcross, GA; and Top Flight, Inc., Chattanooga, TN (collectively, the Association of American School Paper Suppliers). The final phase of the investigations was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain lined paper school supplies from Indonesia were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 7, 2006 (71 FR 17914). On May 30, 2006, the Commission published notice of a revised schedule and public hearing date (71 FR 30694). The hearing was held in Washington, DC, on July 25, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Chairman Daniel R. Pearson and Commissioners Jennifer A. Hillman and Deanna Tanner Okun dissented, determining that an industry in the United States is threatened with material injury by reason of subject imports from China, but is neither materially injured nor threatened with material injury by reason of subject imports from India and Indonesia.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is materially injured by reason of imports of certain lined paper school supplies (“CLPSS”) from India and Indonesia that have been found by the Department of Commerce (“Commerce”) to be subsidized and further determine that an industry in the United States is materially injured or threatened by material injury by reason of imports of CLPSS from China, India, and Indonesia that have been found by Commerce to be sold in the United States at less than fair value (“LTFV”).^{1 2}

I. BACKGROUND

CLPSS are used primarily for taking notes and typically sold as school supplies. CLPSS encompass three main products: hole-punched filler paper, spiral-bound or wireless notebooks (with or without pockets and/or dividers), and composition books. Typically, the paper is lined with blue and/or red ink, wide ruled or college ruled, and white in color.³ The color of notebook and composition book covers varies from plain to those that display fashion graphics.⁴

The antidumping and countervailing duty petitions in these investigations were filed on September 9, 2005. Petitioner is the Association of American School Paper Suppliers (“Petitioner”), which consists of three entities that convert unlined paper into CLPSS. These entities are MeadWestvaco Corporation (“MeadWestvaco”); Norcom, Inc. (“Norcom”); and Top Flight, Inc. (“Top Flight”). The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”) also is participating in these investigations on behalf of the workers employed by MeadWestvaco and a non-petitioning U.S. producer, Roaring Spring Blank Book Co. (“Roaring Spring”). USW supports the petition, but is not a member of the petitioning association.⁵ Respondents that participated in the hearing and filed briefs include: (1) Staples, Inc. (“Staples”), a U.S. importer and purchaser of subject merchandise; (2) three Indian exporters and producers, which will be referred to collectively as “Indian Respondents”;⁶ (3) CPP International, LLP (“CPP”), a former U.S. producer of CLPSS and an importer of subject merchandise from China and India, and Firstline Canada

¹ Vice Chairman Aranoff and Commissioners Koplan and Lane determine that an industry in the United States is materially injured by reason of CLPSS imported from India and Indonesia that are found to be subsidized and by reason of CLPSS imported from China, India, and Indonesia that are found to be sold in the United States at LTFV. Vice Chairman Aranoff and Commissioners Koplan and Lane further make a negative critical circumstances finding with respect to China and Indonesia.

² Chairman Pearson and Commissioners Hillman and Okun determine that an industry in the United States is threatened with material injury by reason of CLPSS imported from China. Chairman Pearson and Commissioners Hillman and Okun further determine that an industry in the United States is not materially injured or threatened with material injury by reason of CLPSS imported from India and Indonesia that are found to be subsidized and by reason of CLPSS imported from India and Indonesia that are found to be sold in the United States at LTFV. See Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioners Jennifer A. Hillman and Deanna Tanner Okun. They join sections I, II, III, and IV of this opinion.

³ Memorandum INV-DD-117 (Aug. 15, 2006) (“CR”) at I-13, II-1; PR at I-10, II-1.

⁴ CR/PR at II-1.

⁵ Letter from William Klinefelter to Carlos M. Gutierrez and Marilyn R. Abbott of Sept. 16, 2005.

⁶ Indian Respondents include the following foreign producers and exporters of subject merchandise from India: Aero Exports, Kejriwal Paper Limited, and Navneet Publications (India) Ltd.

Inc. (“Firstline”);⁷ (4) Target Corporation (“Target”), an importer *** of subject merchandise; (5) PT. Pabrik Kertas Tjiwi Kimia, Tbk., a producer of subject merchandise from Indonesia, which will be referred to as “Indonesian Respondent”; (6) Walgreen Co. (“Walgreens”), an importer *** of subject merchandise; and (7) NuCarta, LLC (“NuCarta”), an importer of subject merchandise.⁸

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁹ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁰ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”¹¹

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.¹² No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹³ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹⁴ Although the Commission must accept the determination of Commerce as to the scope of the imported

⁷ CPP was a domestic producer for part of the period of investigation under the company’s former name, Carolina Pad & Paper. It ceased production and closed its North Carolina facility in September 2003 and began exclusively importing subject merchandise from China and India. Prelim. Tr. at 173-74 (Presley).

⁸ We note that representatives of Watanabe Paper Products Co., Ltd. (“Watanabe”), a producer of subject merchandise from China, and American Scholar, a domestic producer and importer of subject merchandise, appeared and testified at the Commission’s hearing. Watanabe includes ***. CR at VII-2 n.13, PR at VII-2 n.13.

⁹ 19 U.S.C. § 1677(4)(A) (2000).

¹⁰ 19 U.S.C. § 1677(4)(A).

¹¹ 19 U.S.C. § 1677(10).

¹² See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

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

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

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

B. Product Description

Commerce's final determinations define the imported merchandise within the scope of these investigations as:

certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this petition whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

The scope of the investigations contains a lengthy list of excluded products, such as writing pads which include legal pads (unless the pads have a front cover, or are hole punched or contain drilled filler paper), three-ring binders (provided they do not include subject paper), and stenographic pads as well as a number of products produced by MeadWestvaco bearing a trademark. Commerce stated that merchandise subject to the final phase of these investigations are typically imported under statistical reporting numbers 4810.22.5044, 4811.90.9090,¹⁶ 4820.10.2010, 4820.10.2020, 4820.10.2050, and 4820.10.4000 of the

¹⁵ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹⁶ Prior to July 1, 2005, items imported under this HTSUS statistical reporting number entered the United States under HTSUS statistical reporting number 4811.90.9000. Effective July 1, 2005, statistical breakouts were implemented for certain tissue papers (4811.90.9010) and "other" paper (4811.90.9090). CR at I-10 n.14, PR at I-8 n.13.

Harmonized Tariff Schedule of the United States (“HTSUS”). Commerce indicated that “[t]he tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation[s] is dispositive.”¹⁷

In the preliminary phase of these investigations, Petitioner advocated a domestic like product definition coextensive with the scope. Respondents advocated expanding the domestic like product to include other lined paper products, or in the alternative, all lined paper products. One respondent, Continental Accessory Corporation, an importer of subject merchandise, argued that the Commission should find that fashion notebooks constitute a separate domestic like product.¹⁸ The Commission’s preliminary phase questionnaires requested data for CLPSS as well as “other lined paper products,” defined as “any lined paper or lined paper product with dimensions between 5 [inches] x 7 [inches] and x 15 [inches] x 15 [inches] which are not included in the scope definition.”¹⁹ The Commission found that the physical characteristics, end uses, interchangeability, customer and producer perceptions, and common manufacturing processes, equipment, and employees were factors that weighed in favor of including other lined paper products in the same domestic like product. Moreover, the Commission found that many of the differences between other lined paper products and CLPSS, such as producer perceptions, price and practical interchangeability, also exist among the products contained within CLPSS. For these reasons, the Commission defined the domestic like product as lined paper products (“LPP”), which included CLPSS and other lined paper products with dimensions including and between 5 inches x 7 inches and 15 inches x 15 inches.²⁰ The Commission expressly indicated that it would further examine the extent to which it should define the domestic like product more or less broadly in any final phase of these investigations.²¹

In these final phase investigations, no party argues that the Commission should limit the domestic like product to be coextensive with Commerce’s scope of the investigations. Thus, the domestic like

¹⁷ See, e.g., Notice of Final Determination of Sales at Less than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India, 71 Fed. Reg. 45,012, 45,014-15 (Dep’t Commerce Aug. 8, 2006); Notice of Final Affirmative Countervailing Duty Determination, and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India, 71 Fed. Reg. 45,034, 45,035-36 (Dep’t Commerce Aug. 8, 2006). We note that Commerce has added three HTSUS statistical reporting numbers to its description of the scope of the investigations during the final phase of its proceedings: 4820.10.2010, 4820.10.2020, and 4820.10.4000. Compare id. with e.g., Preliminary Determination of Sales at LTFV, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People’s Republic of China, 71 Fed. Reg. 19,695, 19,698 (Dep’t Commerce Apr. 17, 2006).

¹⁸ Continental Accessory Corporation defined fashion notebooks as “notebooks that are produced using a manual, labor intensive process, and that incorporate certain design elements not found in typical lined paper products, such as custom color-coded metal or plastic wire binding, and higher quality cover material that often includes additional embellishments such as glitter or three dimension [sic] or holographic material.” Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Preliminary), USITC Pub. 3811 (Oct. 2005) at 11 (“Preliminary Determination”).

¹⁹ Preliminary Determination, USITC 3811 at 8 n.24.

²⁰ The Commission also did not find a clear dividing line between fashion notebooks and CLPSS. The Commission first found that MeadWestvaco’s “Brights” line of spiral-bound notebooks were the products most similar to imported fashion notebooks, as it was claimed that no U.S. producer could produce fashion notebooks. It then found that fashion notebooks and LPP were highly interchangeable, were sold primarily to retailers, and were perceived as products for taking notes. The Commission stated that the record did not contain specific information indicating that domestically produced fashion notebooks and other notebooks within LPP were produced on different manufacturing equipment or through different manufacturing processes or were priced differently. Therefore, although the record was limited, the Commission did not find that fashion notebooks were a separate domestic like product from LPP. Preliminary Determination, USITC Pub. 3811 at 11-12.

²¹ Preliminary Determination, USITC Pub. 3811 at 8-11 .

product issue at hand is to what extent the Commission should expand the domestic like product beyond the scope to include any other lined paper products. In the final phase of these investigations, the Commission collected data on CLPSS, other lined paper products, and a third category of product, outsized lined paper products, defined as “any lined paper or lined paper products with the smaller dimension measuring less than 5 inches or larger than 15 inches, or with the larger dimension measuring less than 7 inches or greater than 15 inches.”²²

C. Analysis

Petitioner and Target request that the Commission not depart from the domestic like product definition used in the preliminary phase, which includes notebooks, composition books, and filler paper as well as note pads and legal pads.²³ Indonesian Respondent and Staples advocate that the Commission should expand the domestic like product definition to include all lined paper products regardless of dimension, encompassing LPP and outsized lined paper products, but they also do not oppose the definition found in the preliminary phase of these investigations.²⁴

We define the domestic like product as all lined paper products, which encompasses LPP and outsized lined paper products. This definition of the domestic like product includes all lined paper products of any dimension.²⁵ As we explain below, although there are some differences between LPP and outsized lined paper products, we believe there is no clear dividing line between these products.

Physical Characteristics and Uses. The physical characteristics of LPP and outsized lined paper products are similar in that they contain paper lined with blue and/or red ink and that is bound or loose-leaf and/or hole punched. Of the nine responding domestic producers, *** non-petitioning domestic producers indicated that the physical characteristics of LPP and outsized lined paper products are similar.²⁶ Moreover, Petitioner concedes that LPP and outsized lined paper products are “broadly similar” in that they both contain paper.²⁷ Size was the physical difference most commonly cited by responding firms between LPP and outsized lined paper products.²⁸ By definition, none of the products contained

²² CR at I-19 to I-20, PR at I-13 to I-14.

²³ Petitioner’s Prehearing Brief at 5; Petitioner’s Final Comments at 9 n.19; Target’s Posthearing Brief at Exh. 1-16. We note that Petitioner expressly states that it “does not need to contest the Commission’s domestic like product determination as defined in the preliminary opinion.” Petitioner’s Final Comments at 9.

²⁴ Staples’ Prehearing Brief at 9; Tr. at 256 (Cameron); Staples’ Posthearing Brief at Exh. 1-1; Tr. at 257 (Shor) (stating “we did argue for the inclusion of the outsized lined paper products not because it really matters – the numbers are so small, it doesn’t change any of the trends, but as a matter of principle, we couldn’t see any basis under the factors that the Commission traditionally analyzes for distinguishing those products”).

²⁵ For example, this definition would encompass all notebooks and composition books of any dimension.

²⁶ CR/PR at App. D-3 to D-4.

²⁷ Petitioner’s Answers to Commissioner Questions at 65.

²⁸ CR/PR at App. D-3 to D-8; see Petitioner’s Answers to Commissioner Questions at 64-65; see Target’s Posthearing Brief at Exh. 1-16. Petitioner argues that the Commission “routinely” defines like products in terms of size. Petitioner’s Answers to Commissioner Questions at 64-65. Petitioner cites three steel pipe investigations to support this argument. Id. (citing Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa, Inv. Nos. 731-TA-846 to 850 (Preliminary), USITC Pub. 3221 (Aug. 1999) at 7-8 (basing determination on size of large and small diameter pipe, but acknowledging that the Commission generally has not drawn lines based on size); Certain Circular Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532-537 (Final), USITC Pub. 2564 (Oct. 1992) at 10-15 & n.34, 51 (indicating that size was considered, but other factors such as manufacturing processes and equipment, channels of distribution, use, interchangeability, and producer and

(continued...)

within outsized lined paper products is the same size as products contained within LPP.²⁹ There is, however, a range of product sizes both within LPP and outsized lined paper products.³⁰ For instance, filler paper and notebooks can have similar or the same size dimensions, while composition books and legal pads differ in size dimensions from each other and from notebooks and filler paper.³¹ As Indonesian Respondent, Staples, and Target acknowledge, LPP and outsized lined paper products can include a variety of binding methods, page counts, paper weight, and other features added to the products, such as backs, pockets, tabs, or dividers as well as the absence or presence of a front and rear cover.³² These characteristics, including size dimensions, vary between and among products within LPP and outsized lined paper.³³

Generally speaking, the end use of LPP and outsized lined paper products is functionally the same: for note-taking and for other similar types of writing.³⁴ All four parties, including Petitioner, agree that LPP and outsized lined paper products are used for writing.³⁵ LPP and outsized lined paper products are used for writing purposes in a variety of contexts, including in schools, businesses, and the home.³⁶

²⁸ (...continued)

customer perceptions were the basis of the like product determinations); Certain Line Pipes and Tubes from Canada, Inv. No. 731-TA-375 (Preliminary), USITC Pub. 1965 (Mar. 1987) at 6-7 & n.13 (indicating that the record did not suggest any differences in the characteristics and uses of line pipe when the diameter was greater or lesser than the size to which respondent sought to narrow the scope of the investigation)). While relevant, size alone does not determine a domestic like product. Each domestic like product determination made by the Commission is sui generis. See Committee for Fair Beam Imports v. United States, 27 CIT ___, ___, slip op. 03-73 at 20 (Ct. Int'l Trade June 27, 2003), aff'd without opinion, 95 Fed. Appx. 347 (Fed. Cir. 2004). The Commission "generally has not drawn lines based on size, and has looked for other points of distinction" before defining the domestic like product. Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Japan and South Africa, Inv. Nos. 731-TA-847 and 850 (Final), USITC Pub. 3311, at 7-9 (Aug. 1999) (finding that, unlike the preliminary determination noted above, in addition to a size difference, other important differences between large diameter and small diameter pipe exist, including end use, interchangeability, price, customer and producer perceptions, and manufacturing facilities and equipment). See also Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357, at 7-8 (Feb. 1991) (citing Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-488-450 (Preliminary), USITC Pub. 2334, at 4-5 (Nov. 1989)); Melamine from Japan, Inv. No. AA-1921-162 (Review), USITC Pub. 3209, at 5 (July 1999) (finding that the product most similar to melamine crystal of a particle size of less than 10 microns is all melamine in crystal form); Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (Dec. 1987) (concluding that all color picture tubes are one like product regardless of size).

²⁹ See CR at I-19 to I-20, PR at I-13 to I-14.

³⁰ See CR at I-7 to I-9 (describing products included and excluded from the scope of the investigation), I-19 (detailing the dimensions for CLPSS, other lined paper products, and outsized lined paper products), PR at I-5 to I-8, I-13.

³¹ CR at V-6 to V-7 (listing the pricing products for which data were collected), PR at V-5.

³² See CR at I-13, PR at I-11 (indicating that CLPSS may contain covers, backing materials, dividers, and/or inner liners); see also Target's Posthearing Brief at Exh. 1-17; Staples' Posthearing Brief at Exh. 1-2; Indonesian Respondent's Prehearing Brief at 4.

³³ CR at I-7 to I-9, I-13, I-15 to I-17, I-20 to I-21, PR at I-5 to I-8, I-10 to I-15, CR/PR at App. D-5 to D-6.

³⁴ See CR at I-13, I-21, PR at I-10, I-14.

³⁵ Petitioner's Answers to Commissioner Questions at 66; see Target's Prehearing Brief at App. A-3; see Staples' Posthearing Brief at Exh. 1-2; see Indonesian Respondent's Prehearing Brief at 4.

³⁶ See CR at D-9 to D-14, PR at App. D-8 to D-13; Target's Prehearing Brief at A-2.

Moreover, Petitioner acknowledges that LPP and oversized lined paper products are used in schools and business settings.³⁷

Interchangeability. In general, CLPSS, other lined paper products and oversized lined paper products are interchangeable in the sense that they are all used for the same general application: note-taking. The majority of U.S. producers, importers, and purchasers indicated that LPP and oversized lined paper products are used interchangeably.³⁸ As indicated above, LPP and oversized lined paper products are used in a variety of contexts, including in schools, businesses, and the home.³⁹ Interchangeability is limited somewhat by the various mix of products and product features contained within LPP and oversized lined paper products. Several questionnaire respondents as well as Indonesian Respondent and Petitioner specifically indicated that size limited the absolute interchangeability of LPP and oversized lined paper products.⁴⁰ Size dimensions also limit absolute interchangeability among products contained within LPP and within oversized lined paper products.

Channels of Distribution. LPP and oversized lined paper products are sold through the same channels of distribution, namely to retailers, such as office supply stores, mass retailers, dollar stores, grocery stores, and drug stores, and then generally to consumers.⁴¹ The second-largest channel through which LPP and oversized lined paper products are sold is to distributors.⁴² Three non-petitioning U.S. producers concurred that the channels of distribution for these products were similar, while ***, a petitioning firm, agreed that there was some overlap.⁴³ *** reported in its questionnaire response that LPP and oversized paper products are sold throughout the year by these retailers either in the same aisle or section of their stores.⁴⁴ The record also indicates that 14 of 27 responding purchasers reported that they purchase CLPSS as part of the same bid or contract as other lined paper products and oversized lined paper products.⁴⁵ *** reported that oversized lined paper products may be stocked during the back-to-school (“BTS”) season during which sales of LPP are concentrated.⁴⁶ In sum, the evidence relevant to this factor of the traditional like product criteria suggests that the LPP and oversized lined paper products share common channels of distribution.

Common Manufacturing Facilities, Production Processes and Production Employees. In general, the production processes of LPP and oversized lined paper products are similar. They involve lining or ruling the paper, cutting it into sheets, binding and/or hole-punching the paper if applicable, and packaging the product for sale.⁴⁷ The record further indicates that the majority of U.S. producers, including four non-petitioning firms, reported that LPP and oversized lined paper products are produced in the same manufacturing facilities and on the same equipment and machinery used in the production of

³⁷ See Petitioner’s Answers to Commissioner Questions at 65-66.

³⁸ CR at App. D-9 to D-14, PR at App. D-8 to D-13.

³⁹ See CR at D-9 to D-14, PR at D-8 to D-13; Target’s Prehearing Brief at A-2.

⁴⁰ CR at App. D-9 to D-11, PR at App. D-8 to D-10; see Indonesian Respondent’s Prehearing Brief at 4; Petitioner’s Answers to Commissioner Questions at 66.

⁴¹ See CR/PR at Tables I-6, II-1 to II-2; CR at D-45 to D-49, PR at D-42 to D-46.

⁴² CR/PR at Table I-6. The record indicates that approximately *** percent *** of domestically produced CLPSS and other lined paper products were sold directly to end users in 2005.

⁴³ CR at App. D-15, PR at App. D-14.

⁴⁴ CR at App. D-15, PR at App. D-13.

⁴⁵ CR at V-25, PR at V-11.

⁴⁶ CR at App. D-46, PR at App. D-42.

⁴⁷ See CR at I-14 to I-18, PR at I-11 to I-13.

LPP.⁴⁸ It also reveals that five out of nine U.S. producers reported that they use the same production employees to produce both LPP and oversized lined paper products.⁴⁹ Thus, the evidence relevant to this factor of the traditional like product criteria suggests that the LPP and oversized lined paper products share common production processes, employees, and facilities.⁵⁰

Customer and Producer Perceptions. Approximately one-half of responding purchasers indicated there are no differences in customer perceptions of domestically produced LPP and oversized lined paper products.⁵¹ Producer perceptions also are mixed. Four non-petitioning U.S. producers indicated that there was no difference in perceptions. The petitioning firms, however, indicated that LPP are perceived as school items whereas oversized paper products are perceived as business or office supplies.⁵²

Price. In light of the variety of products contained within LPP and oversized lined paper products, it is difficult to compare the prices of these products in any meaningful way in these final phase investigations. The parties agree. Nonetheless, the record evidence indicates that the average unit values (“AUVs”) of U.S. producers’ commercial U.S. shipments of LPP were higher than those of oversized lined paper products in each calendar year during the period investigated.⁵³ The pricing data also reveal that prices varied among products contained within LPP during the period of investigation.⁵⁴

Conclusion. Because no party argues that the Commission should define the domestic like product coextensive with the scope, and there are no new facts presented in the final phase of these investigations that would warrant limiting the domestic like product more narrowly, we do not define the domestic like product as CLPSS. Rather, we define the domestic like product as all lined paper products because, on balance, there is no clear dividing line among LPP, the domestic like product found in the preliminary phase of these investigations, and oversized lined paper products.

LPP and oversized lined paper products share basic physical characteristics. They all contain lined paper. Although there are variations in physical characteristics between LPP and oversized lined paper products, particularly with regard to size, the same could be said for variations within LPP. They also share a basic use, namely note-taking or other types of writing. Although some oversized lined paper products may have limited interchangeability with some LPP products in certain school applications, Petitioner concedes that LPP and oversized lined paper products are used in these contexts as well as in business applications. LPP and oversized lined paper products share common channels of distribution, as well as common manufacturing facilities and equipment, production processes, and production employees. The record is mixed with respect to customer and producer perceptions, suggesting that customers and producers do not perceive a clear dividing line between LPP and oversized lined paper

⁴⁸ See CR/PR at Tables I-4, I-5; Staff field trip reports ***. More specifically, *** out of nine U.S. producers reported producing other lined paper products on the same machinery as CLPSS, while *** firms reported producing oversized lined paper products on the same machinery as CLPSS and other lined paper products. CR/PR at Table I-4.

⁴⁹ CR/PR at Table I-5.

⁵⁰ We note the record indicates that the five out of nine producers reported that they dedicated the largest share of their production equipment and machinery to producing CLPSS in 2005. The remaining four firms dedicated a majority of their production equipment and machinery to producing other products in 2005. CR/PR at Table I-4.

⁵¹ CR at App. D-20 to D-24, PR at App. D-19 to D-22.

⁵² CR at App. D-19 to D-20, PR at App. D-18 to D-19.

⁵³ CR/PR at Table I-7. We give little weight, however, to AUV data on the record in light of the mix of products contained within LPP and oversized lined paper products. CR/PR at Table VI-1 n.4. See Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002); see also Oil Country Tubular Goods from Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela, Inv. Nos. 701-TA-428 (Preliminary) and 731-TA-992-994 and 996-1005 (Preliminary), USITC Pub. 3511 (May 2002) at 23, n. 137 (declining to place weight on AUV data where there were differences in product mix between different countries and within a given country over time).

⁵⁴ CR/PR at Tables V-1 to V-6.

products. The price data indicate that there are some differences with respect to price among LPP and outsized lined paper products.

We conclude that the physical characteristics, end uses, interchangeability, customer and producer perceptions, and common manufacturing facilities and equipment, production processes, and employees weigh in favor of including outsized lined paper products in the same domestic like product as LPP. The differences between LPP and outsized lined paper products (such as price and practical interchangeability) also exist among the products within LPP and outsized lined paper products, respectively. Moreover, Petitioner, Indonesian Respondent, and Staples generally agree that LPP and outsized lined paper products represent a continuum of products.⁵⁵ For these reasons, we find that there is no clear dividing line between LPP and outsized lined paper products. We therefore define the domestic like product to include all lined paper products regardless of dimension, encompassing LPP as well as outsized lined paper products.

III. DOMESTIC INDUSTRY

The domestic industry is defined as “the producers as a [w]hole of a domestic like product.”⁵⁶ In defining the domestic industry, the Commission’s general practice has been to include in the industry all of the domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.⁵⁷ Based on our like product determination, we find one domestic industry consisting of all producers of all lined paper products, including American Scholar, Ampad, CPP, Fay Paper Products, Kurtz Bros. (“Kurtz”), MeadWestvaco, Norcom, Pacon, Roaring Spring, Top Flight, and TOPS Products (“TOPS”). Furthermore, we find that circumstances are appropriate to exclude two domestic producers, American Scholar and CPP, from the domestic industry under the related parties provision. We now turn our discussion to the issues presented under that statutory provision.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.⁵⁸ Exclusion of such a producer is within the Commission’s discretion based on the facts presented in each investigation.

In the preliminary phase of these investigations, the Commission addressed whether appropriate circumstances existed to exclude *** U.S. producers--CPP, ***--as related parties from the domestic industry. The Commission determined not to exclude any related parties from the domestic industry, with one exception, CPP. Although the Commission did not indicate that it intended to reexamine the status of all related parties in any final phase of these investigations, it expressly stated that it intended to examine more closely the extent to which MeadWestvaco and *** “arranged” for, or “brokered,” purchases of subject merchandise.⁵⁹ The Commission further indicated that it intended to examine more closely the

⁵⁵ Petitioner’s Answers to Commissioner Questions at 67.

⁵⁶ 19 U.S.C. § 1677(4)(A).

⁵⁷ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

⁵⁸ 19 U.S.C. § 1677(4)(B).

⁵⁹ See Preliminary Determination, USITC Pub. 3811 at 12-16 & n. 73, 81. At the hearing, a corporate representative from MeadWestvaco described a “brokered” transaction as one in which the domestic producer takes the order and arranges for production; the goods are transported to an Asian port, at which point title in the goods transfers from the domestic producer to the customer who receives shipment of the goods and is responsible for the rest of the logistics into the United States. See Tr. at 66-67 (McLachlan). A witness for Staples indicated at the

(continued...)

import operations of two firms, Norcom and ***. The Commission indicated that it would examine Norcom's import activities ***. It also indicated an intent to explore further *** import operations, as that firm appeared to derive some financial benefit from its subject imports.

Petitioner maintains that it is inappropriate to exclude any domestic producer from the domestic industry because the primary interest of these producers lies in domestic production rather than importation of subject merchandise and the producers' imports are insubstantial in comparison to each producers' U.S. production. Nevertheless, Petitioner suggests that the Commission could exclude American Scholar and CPP because those two firms have ceased domestic production.⁶⁰ At the hearing, respondents indicated that they were not challenging the inclusion of any domestic producer in the domestic industry.⁶¹

*** of 11 responding U.S. producers⁶²--***--reported that they directly imported subject CLPSS over the period of investigation.⁶³ Thus, they qualify as related parties. Price was the primary reason reported by most firms for their decisions to import subject merchandise.⁶⁴ Four of these domestic producers-- ***--collectively account for approximately *** of domestic production of all lined paper products in 2005.⁶⁵

American Scholar accounted for *** percent of production of all lined paper products in 2005.⁶⁶ It testified at the hearing in opposition to the petition and ***.⁶⁷ American Scholar imported subject merchandise from *** during the period, but did not provide a reason for its importation of subject merchandise.⁶⁸ Its ratio of subject imports from *** to production was *** percent in 2005.⁶⁹ ***.⁷⁰ Nevertheless, American Scholar's interests seem to lie predominately in importation of subject merchandise, rather than production, as it ***, opposes the petition, and imports *** quantities of subject imports. The limited financial data on the record for American Scholar makes it unclear whether its domestic operations benefit from its subject imports. Based on its small size, its opposition to the

⁵⁹ (...continued)

hearing that it negotiated with MeadWestvaco in these transactions and did not know the prices agreed upon between MeadWestvaco and Watanabe, the Chinese supplier. Tr. at 285-86 (Ciulla); see also Tr. at 286-87.

⁶⁰ Tr. at 185 (Price and Brightbill); Petitioner's Answers to Commissioner Questions at 81-82.

⁶¹ Tr. at 348 (Cameron).

⁶² We note that three firms, ***, reported that they produce all lined paper products, but did not provide data in response to the Commission's questionnaires. CR/PR at III-1 n.1. These firms are estimated to account for less than *** percent of U.S. production of all lined paper products in 2005. See CR/PR at III-1.

⁶³ Staff Table III-9. *** also reported that it purchased subject lined paper school supplies from *** over the period of investigation. CR/PR at Table III-9 n.5. Thus, it qualifies as a related party if it controls large volumes of imports. Price was the primary reason reported by *** for its decisions to purchase subject imports of all lined paper products. CR at III-12, PR at III-7. *** reported purchases of subject merchandise from *** in each year of the period of investigation and from *** in 2005. Id. *** identified *** suppliers of the subject imports, but did not indicate which importer supplied which quantities and from which subject country. CR at III-12 n.32, PR at III-7 n.32. Although we are unable to determine what percentage of the individual importers' sales are represented by *** purchases of all lined paper products from the subject countries in 2004, we note that *** is already a related party by virtue of its imports of subject merchandise.

⁶⁴ See CR/PR at Table III-8.

⁶⁵ Staff Table III-1.

⁶⁶ Staff Table III-1.

⁶⁷ CR/PR at Table III-3 n.1; see Tr. at 4.

⁶⁸ Staff Table III-9, CR/PR at Table III-8.

⁶⁹ Staff Table III-9.

⁷⁰ CR at VI-1 n.2, PR at VI-1 n.2.

petition, and its status as a prominent importer of subject imports from ***, we find that appropriate circumstances exist to exclude American Scholar from the domestic industry.

CPP accounted for *** percent of production of LPP in 2003, the last year in which it produced all lined paper products.⁷¹ It is a respondent party opposing the petition.⁷² CPP imported subject merchandise from China and India during the period ***.⁷³ Its ratio of subject imports from China to its domestic production was *** percent in 2003, and its ratio of subject imports from India to production was *** percent in that year.⁷⁴ Its ratio of total subject imports to production of all lined paper products was *** percent in 2003.⁷⁵ Its operating income as a ratio of net sales for its domestic operations was ***.⁷⁶ CPP's interests seem to lie predominately in importation of subject merchandise, rather than production, as it ceased all production activity in 2003, opposes the petition, and imports *** quantities of subject imports from China and India. It is unclear whether CPP's domestic operations derive a significant financial benefit from its subject imports, as the ratio of its operating income to net sales was *** the industry's average of *** percent in 2003.⁷⁷ On balance, based on CPP's small size, its opposition to the petition, and its status as a prominent importer of subject imports from China and India, we find that appropriate circumstances exist to exclude CPP from the domestic industry.

*** accounted for *** percent of production of all lined paper products in 2005.⁷⁸ It ***.⁷⁹ *** imported subject merchandise from China during the period ***.⁸⁰ Its ratio of subject imports from China to production was *** percent in 2005.⁸¹ Its operating income as a ratio of net sales for its domestic operations ***.⁸² Because *** domestic operations do not appear to derive a significant benefit from the subject imports in view of its ***, we find that circumstances are not appropriate to exclude *** from the domestic industry.

MeadWestvaco accounted for *** percent of production of all lined paper products in 2005.⁸³ It is a petitioner and the *** domestic producer of all lined paper products.⁸⁴ MeadWestvaco directly imported subject merchandise from China during the period ***.⁸⁵ Its ratio of direct subject imports from China to production was *** percent in 2005 ***.⁸⁶ Its ratio of total direct subject imports to production

⁷¹ Preliminary Determination, USITC 3811 at Table III-2 n.2. We note that CPP reported shipments and financial data for 2004, but, as indicated above, ceased production in 2003. CR at III-2 n.6, PR at III-1 n.6, Staff Table VI-2. We therefore do not discuss data for 2004.

⁷² See Tr. at 242 (Presley).

⁷³ Tr. at 240-41 (Presley).

⁷⁴ Staff Table III-9.

⁷⁵ Staff Table III-9.

⁷⁶ CPP's Producers' Questionnaire Response.

⁷⁷ Derived from CPP's Producers' and Importers' Questionnaire Response, Staff Table VI-2.

⁷⁸ Staff Table III-1.

⁷⁹ Id.

⁸⁰ CR/PR at Table III-8.

⁸¹ Derived from Staff Table III-9; CR/PR at Table III-9 n.5.

⁸² Staff Table VI-2.

⁸³ Staff Table III-1.

⁸⁴ Id.

⁸⁵ CR/PR at Table III-8.

⁸⁶ Staff Table III-9.

of all lined paper products was *** percent in 2005.⁸⁷ MeadWestvaco also brokered subject imports from China during the period investigated. Its ratio of brokered subject imports from China to production was *** percent in 2005.⁸⁸ Combined, the ratio of total (direct and brokered) subject imports from China to production was *** percent in 2005.⁸⁹ Its operating income as a ratio of net sales ***.⁹⁰ As the *** producer and a petitioning firm, MeadWestvaco's interests appear to lie in domestic production. MeadWestvaco brokered and imported *** subject imports over the period of investigation, and its domestic operations may derive some financial benefit from the subject imports, as the ratio of its operating income to net sales for its domestic operations was consistently *** during the period of investigation. Nonetheless, given that none of the parties advocate excluding MeadWestvaco from the domestic industry, that MeadWestvaco is a large producer, and that it is a petitioning firm, we find that circumstances are not appropriate to exclude MeadWestvaco from the domestic industry.

Norcom accounted for *** percent of production of all lined paper products in 2005.⁹¹ It is a petitioner and the *** domestic producer of all lined paper products.⁹² Norcom maintains that it was forced to import subject merchandise from *** during the period of investigation ***.⁹³ ***.⁹⁴ Its ratio of subject imports from *** to production was *** percent in 2005, while its ratio of subject imports from *** to production was *** percent and its ratio of subject imports from *** to production was *** percent in that year.⁹⁵ Its ratio of total direct subject imports to production of all lined paper products was *** percent in 2005.⁹⁶ Norcom also *** during the period investigated.⁹⁷ Its ratio of *** to production was *** percent in 2005.⁹⁸ Combined, the ratio of total (direct and ***) subject imports from *** to production was *** percent in 2005.⁹⁹ Its ratio of *** to production was *** percent in 2005.¹⁰⁰ Combined, the ratio of total *** to production was *** percent in 2005.¹⁰¹ Its ratio of total *** subject

⁸⁷ Staff Table III-9.

⁸⁸ Derived from CR/PR at Table III-10, Staff Table III-9. We note that the term "importer" is not expressly defined in the statute. The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 858 (1994) ("SAA"), however, notes that the Commission "will apply a sufficiently broad definition to encompass domestic producers who are not formally importers of record." SAA at 858. We consider brokered imports in our related parties' analysis because, although domestic producers do not stand as the importer of record on these transactions, they arrange for the actual purchase of the subject merchandise, which includes negotiating the price of the transaction, choosing the foreign supplier, and arranging transportation to a foreign port. We do not find the fact that they do not receive the imports in the United States or that they are not the importer of record dispositive.

⁸⁹ Derived from CR/PR at Table III-10, Staff Table III-9. We note that MeadWestvaco's financial information for its brokered imports also ***. MeadWestvaco's Supplemental Producers' Questionnaire Response at 5.

⁹⁰ Staff Table VI-2.

⁹¹ Staff Table III-1.

⁹² Petition at 1; CR/PR at Table III-1.

⁹³ CR/PR at Table III-8.

⁹⁴ CR/PR at Table III-8.

⁹⁵ Staff Table III-9.

⁹⁶ Staff Table III-9.

⁹⁷ CR/PR at Table III-10.

⁹⁸ Derived from CR/PR at Table II-10, Staff Table III-9.

⁹⁹ Derived from CR/PR at Table III-10, Staff Table III-9.

¹⁰⁰ Derived from CR/PR at Table III-10, Staff Table III-9.

¹⁰¹ Derived from CR/PR at Table III-10, Staff Table III-9.

imports from both subject sources to production of all lined paper products was *** percent in 2005.¹⁰² Its operating income as a ratio of net sales ***.¹⁰³ As the *** producer and a petitioner, Norcom's interests appear to lie in domestic production. Its domestic operations may derive some financial benefit from the subject imports as the ratio to net sales for both its domestic and total operations ***. Norcom asserts that ***. Moreover, although it imported directly and through brokered transactions a *** volume of subject imports, its operating income as a ratio to net sales for its total operations in 2005 was ***. Because no party argues that the Commission should exclude Norcom from the domestic industry, and because it is a large producer and a petitioning firm, we find that circumstances are not appropriate to exclude Norcom from the domestic industry.

*** accounted for *** percent of domestic production of all lined paper products in 2005.¹⁰⁴ It supports the petition.¹⁰⁵ It reported that it imported subject merchandise from ***.¹⁰⁶ Its ratio of subject imports from *** (or total subject imports) to production was *** percent in 2005.¹⁰⁷ Its operating income as a ratio of net sales ***.¹⁰⁸ *** supports the petition, and its primary interests seem to lie in domestic production, as it did not import a significant volume of imports during the period. Accordingly, we find that circumstances are not appropriate to exclude *** from the domestic industry.

*** accounted for *** percent of domestic production of all lined paper products in 2005.¹⁰⁹ It supports the petition.¹¹⁰ It reported that it imported subject merchandise from ***.¹¹¹ Its ratio of subject imports from *** to production was *** percent in 2004 and was *** percent in 2005, while its ratio of subject imports from *** to production was *** percent in 2005.¹¹² Its ratio of total subject imports to production of all lined paper products was *** percent in 2005.¹¹³ *** did not import from *** in ***.¹¹⁴ Although *** did not import from ***, its volume of subject imports from *** between 2004 and 2005.¹¹⁵ Its operating income as a ratio of net sales was *** percent in fiscal year 2005, an increase from ***.¹¹⁶ It appears that *** primary interests lie in production, as it supports the petition and its U.S. operations do not appear to derive a significant benefit from the subject imports, in view of its ***. Nonetheless, *** may derive some financial benefit from its subject imports, as the ratio of its operating income to net sales for its domestic operations *** during the period of investigation, while it increased its volume of subject imports and decreased its domestic production. ***, however, is also a *** producer, and inclusion of its data in the domestic industry does not appear as if it would skew the data. On balance, we do not find appropriate circumstances exist to exclude *** from the domestic industry.

¹⁰² Derived from CR/PR at Table III-10, Staff Table III-9.

¹⁰³ Staff Table VI-2. Norcom's *** brokered imports from *** also ***. Norcom's Supplemental Producers' Questionnaire Response at 5.

¹⁰⁴ Staff Table III-1.

¹⁰⁵ Id.

¹⁰⁶ CR/PR at Table III-8.

¹⁰⁷ Staff Table III-9.

¹⁰⁸ Staff Table VI-2.

¹⁰⁹ Staff Table III-1.

¹¹⁰ Staff Table III-1.

¹¹¹ CR/PR at Table III-8.

¹¹² Staff Table III-9.

¹¹³ Staff Table III-9.

¹¹⁴ Id.

¹¹⁵ Staff Table III-9.

¹¹⁶ Staff Table VI-2.

Top Flight accounted for *** percent of production of all lined paper products in 2005.¹¹⁷ It is a petitioner and the *** domestic producer of all lined paper products.¹¹⁸ Top Flight reported that it imported subject merchandise from ***.¹¹⁹ Its ratio of subject imports from ***.¹²⁰ Its ratio of total subject imports to production of all lined paper products was *** percent in 2005.¹²¹ Its operating income as a ratio of net sales ***.¹²² As the *** producer and a petitioner, Top Flight's interests appear to lie in domestic production. It does not appear to have benefitted from its import operations, as its ***. Further, the volume of its subject imports is *** in absolute terms and relative to its U.S. production, and no party recommends that the Commission exclude Top Flight from the industry. We find that circumstances are not appropriate to exclude Top Flight from the domestic industry.

In conclusion, we exclude American Scholar and CPP from the domestic industry, but find that circumstances are not appropriate to exclude any other producer. Accordingly, we conclude that the domestic industry consists of all known domestic producers of all lined paper products, with the exception of American Scholar and CPP.

IV. NEGLIGIBLE IMPORTS¹²³

Imports from a subject country of merchandise corresponding to a domestic like product that account for less than three percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.¹²⁴ Imports that are individually negligible may not be negligible if the aggregate volumes of imports from several countries with negligible imports exceeds seven percent of all such merchandise imported into the United States in the statutory period for assessing negligibility referenced above.¹²⁵ In countervailing duty investigations involving developing countries, the statute further provides that the negligibility thresholds are four percent and nine percent, rather than three percent and seven percent, respectively.¹²⁶ The statute defines "developing country" as any country so designated by the U.S. Trade Representative ("USTR").¹²⁷ In these investigations, the subject countries found to be subsidizing imports are India and Indonesia, each of which the USTR has designated as a "developing country."¹²⁸

¹¹⁷ Staff Table III-1.

¹¹⁸ Staff Table III-1.

¹¹⁹ CR/PR at Table III-8.

¹²⁰ Staff Table III-9.

¹²¹ Id.

¹²² Staff Table VI-2.

¹²³ We note that the Commission collected trade, financial, and pricing data on a "per unit" basis. A unit, or "each" in industry parlance, refers to an individual product unit, such as a notebook or a package of filler paper. Petitioner contended in the preliminary phase of these investigations that, to the best of their knowledge, all industry participants track quantities on this basis. CR at III-5 n.15, PR at III-3 n.15.

¹²⁴ 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(I)(I).

¹²⁵ 19 U.S.C. § 1677(24)(A)(i)-(ii).

¹²⁶ 19 U.S.C. § 1677(24)(B).

¹²⁷ 19 U.S.C. § 1677(36)(A).

¹²⁸ 15 C.F.R. § 2013.1 (2005).

By statute, a finding of negligibility terminates the Commission's investigation with respect to such imports.¹²⁹ The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.¹³⁰

In the preliminary phase of these investigations, the Commission discussed whether subject imports from all sources were negligible for purposes of its present material injury analysis. The Commission acknowledged that there were problems with data from the questionnaire responses and with official import statistics, and stated that the parties expressed opposing views on which data was the appropriate source for analyzing this issue. On balance, the Commission determined that the official import statistics were a more comprehensive and accurate measure of import volume for the period September 2004 through August 2005. The Commission found that subject imports from China, India, and Indonesia were not negligible for purposes both of the antidumping and countervailing duty investigations. It expressly indicated that the Commission staff would seek more comprehensive import data from all parties in any final phase investigations.¹³¹

A threshold issue in the final phase of these investigations concerns the data we should use to measure imports. We acknowledge that there are problems both with data from the questionnaire responses and with official import statistics. The questionnaire responses yielded a low percentage of import coverage, as the data submitted by responding importers for 2005 were equivalent to 39 percent of the value of total U.S. imports of CLPSS.¹³² In light of the deficiencies in the questionnaire data, we rely on the official import statistics.

With regard to the official import statistics, the parties dispute under which HTSUS statistical reporting numbers we should measure subject merchandise. Petitioner, Target, Staples, and Indonesian Respondent advocate for the use of the two HTSUS statistical reporting numbers (4820.10.2050 and 4811.90.9000)¹³³ selected by the Commission during the preliminary phase of these investigations. These two HTSUS statistical reporting numbers are "basket" categories that include both subject imports described by the scope of these investigations as well as other products outside the scope.¹³⁴ Indian Respondents argue that the Commission should use all five HTSUS statistical reporting numbers—4820.10.2050, 4811.90.9090, 4810.22.5044,¹³⁵ 4820.10.2010, and 4820.10.2020—or some combination thereof, identified by Commerce in the scope of the investigations, to analyze negligibility in these final phase investigations. In their posthearing brief and final comments, Indian Respondents proposed four additional HTSUS statistical reporting numbers for the Commission's inclusion and

¹²⁹ 19 U.S.C. §§ 1671b(a)(1), 1673b(a)(1).

¹³⁰ 19 U.S.C. § 1677(24)(C); see also SAA at 186.

¹³¹ Preliminary Determination, USITC 3811 at 16-17.

¹³² CR/PR at IV-1 (indicating that no fewer than 1,000 different firms imported subject CLPSS during the period of investigation and that data submitted by responding importers were equivalent to 39 percent of the value of total U.S. imports of CLPSS based on official Commerce statistics).

¹³³ Effective July 1, 2005, statistical reporting number 4811.90.9000 was divided into two numbers. The appropriate statistical reporting number for filler paper after that date is 4811.90.9090. CR at I-10 n.14, PR at I-8 n.13.

¹³⁴ See CR/PR at Table I-3.

¹³⁵ In the preliminary phase of these investigations, we excluded imports corresponding to statistical reporting number 4810.22.5044 because that number applies to imports of paper coated with clay or other inorganic materials. Record evidence in the preliminary investigations indicated that little to no subject imports, as defined by Commerce's scope of these investigations, were imported under statistical reporting number 4810.22.5044. Preliminary Determination, USITC Pub. 3811 at 16-17 n.104. Although three importers reported entering subject merchandise under this number, the vast majority of importers did not use this statistical reporting number. CR at I-10, PR at I-8. We again decline to use this statistical reporting number in these final phase investigations.

consideration of subject import volume: 4802.62.6040,¹³⁶ 4820.30.0020, 4820.30.0040, and 4820.10.4000.¹³⁷

The record indicates that all but four of the 32 responding firms reported importing CLPSS under statistical reporting number 4820.10.2050 during the period of investigation. Seven firms reported importing CLPSS under number 4811.90.9090, while six firms reported importing CLPSS under reporting number 4820.10.2020.¹³⁸ Because statistical reporting number 4820.10.2020, covering “memorandum pads, letter pads and similar articles,” contains predominately non-subject note pads and letter pads and the majority of responding U.S. importers identified statistical reporting numbers 4811.90.9000 and 4820.10.2050 more frequently, we find on balance that the official import statistics provided under those two statistical reporting numbers (4820.10.2050 and 4811.90.9000) are a more comprehensive and accurate measure of import volume.¹³⁹

Indian Respondents further argue that we should reduce statistical reporting number 4820.10.2050 by *** percent and 4811.90.9000 by *** percent to remove the volume of non-subject merchandise from the total volume reported.¹⁴⁰ The Commission did not receive the proposal for

¹³⁶ Because statistical reporting number 4802.62.6040 covers products containing paper that is unlined, a prerequisite expressly provided in the scope of these investigations, and because the majority of responding importers do not use this statistical reporting number when importing subject CLPSS, we decline to use this number in our evaluation of the volume of subject imports from China, India, and Indonesia. See ***; see CR at I-10 & n.16, PR at I-8 & n.15.

¹³⁷ Indian Respondents’ Posthearing Brief at 10-11 & n.8; Indian Respondents’ Final Comments at 3-4. We note that Commerce recently has modified the scope of these investigations to include statistical reporting number 4820.10.4000 in that definition. ***.

¹³⁸ One U.S. importer reported importing subject CLPSS under HTSUS number 4810.2010. We also acknowledge that five or fewer firms responding to our importers’ questionnaire indicated that they import subject CLPSS under HTSUS statistical reporting numbers other than the those identified by Commerce’s scope. CR at I-10 n.16, PR at I-8 n.15. As the majority of responding importers do not use statistical reporting number 4810.2010 as well as other statistical reporting numbers not identified in Commerce’s scope language, we conclude that they contain mostly non-subject merchandise and do not provide an accurate means of assessing subject import volume.

¹³⁹ CR at I-11, PR at I-10. We note that quantity data for statistical reporting number 4811.90.9000 was converted from kilograms using a conversion factor suggested by Petitioner, reflecting the per-unit weight of what it identifies as the most common filler paper package (150-count at 0.491262 kg). CR at IV-2 n.6, PR at IV-1 n.6; Petition at 9. Importers’ responses to the Commission’s questionnaire confirm that the most common filler paper package contains 150 sheets of paper. CR at IV-2 n.6, PR at IV-1 n.6.

¹⁴⁰ Indian Respondents’ Final Comments at 5-6 (citing *** of Aug. 25, 2006). Indian Respondents maintain that it is the Commission’s normal practice to “take the scope of the investigations as described by Commerce, including all applicable tariff numbers.” Indian Respondents’ Posthearing Brief at 8. It nonetheless argues that it is arbitrary and capricious for the Commission to pick and choose between and among the various tariff numbers or to adjust them based on the “self-serving” assertions of Petitioner, given that each statistical reporting number contains substantial volumes of subject and non-subject merchandise. The only neutral way for the Commission to address negligibility properly, according to Indian Respondents, is to take Commerce’s description as it is and include each tariff number fully in its analysis. Indian Respondents’ Posthearing Brief at 10.

The Commission certainly begins each domestic like product analysis with Commerce’s description of the scope of the investigation. As in the preliminary Views of these investigations, the Commission does not, as a matter of practice, apply each tariff number included in that description to measure subject import volume. E.g., Preliminary Determination, USITC Pub. 3811 at 16-17 n. 104; Wooden Bedroom Furniture from China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3743 at 18-20, IV-1 n.4, Table IV-8 (Dec. 2004) (excluding two HTSUS statistical reporting numbers identified in the scope of the investigation because they were “basket” categories). Rather, the Commission makes “reasonable estimates on the basis of available statistics” of pertinent import levels for purposes of deciding negligibility. 19 U.S.C. § 1677(24)(C). Moreover, by Commerce’s admission, the six

(continued...)

reductions until the day the record closed, at which point Commission staff was unable to verify the accuracy of the proposed reductions. The proposed reductions also were submitted without explanation or description of the methodology employed. Although parties had two days in which to consider the proposed reductions, the Commission's rules prohibited them from submitting new factual information to support any opposition to the proposed reductions.¹⁴¹ Even though we have on occasion reduced the volume of official import statistics where appropriate, we decline to adjust the official import statistics in these investigations. Given the timing of Indian Respondents' proposal, as well as the possible prejudice to other parties and our own investigation, we decline to reduce the HTSUS statistical reporting numbers.¹⁴²

To evaluate whether subject imports from China, India, and Indonesia are negligible, we considered official import statistics for the period September 2004 through August 2005.¹⁴³ During that prescribed period, subject imports from China were 61.8 percent of total imports of CLPSS by quantity; subject imports from India were 5.9 percent of total imports of CLPSS by quantity; and subject imports from Indonesia were 6.9 percent of total imports of CLPSS by quantity.¹⁴⁴ Subject imports from China, India, and Indonesia are therefore not negligible under 19 U.S.C. § 1677(24)(A)(i) for purposes of the antidumping and countervailing duty investigations, because subject imports from those three countries each accounted for more than three percent or four percent, respectively, of the volume of CLPSS imported into the United States in the most recent 12-month period for which data are available preceding

¹⁴⁰ (...continued)

HTSUS statistical reporting numbers are merely reflective of the typical headings under which subject merchandise is imported and are not dispositive. See, e.g., Notice of Final Determination of Sales at LTFV, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India, 71 Fed. Reg. at 45,014-15 ("The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation[s] is dispositive.").

¹⁴¹ See 19 C.F.R. § 207.30.

¹⁴² We note that subject imports from India and Indonesia still are not negligible when the HTSUS statistical reporting numbers are reduced by the highest, middle, and lowest proposed percentages. Derived from *** of Aug. 25, 2006 & CR/PR at Table IV-6.

¹⁴³ CR/PR at Table IV-6.

¹⁴⁴ CR/PR at Table IV-6. Consistent with our customary practice, we have relied on quantity-based measures of volume in this investigation. We typically rely on quantity-based measures of volume because value-based measures can be skewed by changes of product mix and the fact that, for subject imports, the unit values are of merchandise sold at LTFV. Indian and Indonesian Respondents argued in these investigations that we should rely principally on value-based measurements of volume in light of the differences in page count or weight and value-added features among subject imports of CLPSS. Although the Commission has relied principally on value-based measurements in rare instances, those investigations involved variations in value among articles within the scope and/or domestic like product that were much larger than those present here. In those instances, measuring volume by units was particularly problematic, because value variations for different articles could differ by factors of as much as 100. See Ball Bearings from China, Inv. No. 731-TA-989 (Final), USITC Pub. 3593 at 11 (Apr. 2003); see Outboard Engines from Japan, Inv. No. 731-TA-1069 (Final), USITC Pub. 3752 at 24-27 & n.175 (Feb. 2005); Pneumatic Directional Control Valves from Japan, Inv. No. 731-TA-988 (Preliminary), USITC Pub. 3491 at 12 n.87 and I-4 (Mar. 2002); but see Color Televisions from China, Inv. No. 731-TA-1034 (Final), USITC Pub. 3695 at 7 n.36 (May 2004). Moreover, while Indian and Indonesian Respondents provided examples of some of the differences in weight or page count among CLPSS imports, they did not substantiate their argument with evidence demonstrating how much volume variation among imports exists. See Indian Respondents' Prehearing Brief at Exh 1 ¶9; Indonesian Respondent's Prehearing Brief at 7-8. We do not find their argument reason enough to depart from our customary practice.

the filing of the petition.¹⁴⁵ We therefore find that subject imports from China, India, and Indonesia are not negligible for purposes of our present material injury analysis.¹⁴⁶

V. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.¹⁴⁷ In assessing whether subject imports compete with each other and with the domestic like product,¹⁴⁸ the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.¹⁴⁹

¹⁴⁵ CR/PR at Table IV-6.

¹⁴⁶ Indian Respondents point out that Commerce found the subsidy margin for Kejriwal, an Indian producer, de minimis in its final determination, and that the Commission should subtract this producer's volume of CLPSS to the United States from the official import statistics for purposes of measuring subject import volume from India under the countervailing duty threshold. Indian Respondents' Posthearing Brief at 7. The record does not contain quantity data for Kejriwal's exports during the negligibility period (September 2004 through August 2005). Its questionnaire response, however, contains annual export data for the years 2004 and 2005. During this period, Kejriwal exported *** units to the United States. Even assuming all of these units were exported during the negligibility period, India's share of the quantity of imports during that period would have surpassed the four percent threshold. Although we acknowledge that the share of subject imports from India are still overstated, we are unable to adjust accurately the share of subject imports held by this Indian producer over the negligibility period. Thus, the best "reasonable estimates" of volume remain the official import statistics. 19 U.S.C. § 1677(24)(C).

¹⁴⁷ 19 U.S.C. § 1677(7)(G)(i).

¹⁴⁸ The Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA, H.R. Rep. 316, 103d Cong., 2d Sess. at 848 (1994) (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

¹⁴⁹ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.¹⁵⁰ Only a “reasonable overlap” of competition is required.¹⁵¹

In the preliminary determination, the Commission determined to cumulate all subject imports. It found that there was a reasonable overlap of competition between subject imports from China, India, and Indonesia and the domestic like product sufficient to warrant cumulation. Although subject imports from Indonesia may possess some physical and quality differences from domestic LPP and/or subject imports from China and India, the Commission observed that an overwhelming majority of responding market participants did not substantiate Staples’ and Indonesian Respondent’s contention that the degree of brightness or any other characteristic constitutes a difference that significantly reduces interchangeability. The Commission therefore found that a high degree of fungibility exists between domestic LPP and subject imports from China, India, and Indonesia, and among those subject imports. It further found that LPP and subject imports were sold nationwide through common channels of distribution comprising of direct sales by foreign or domestic producers to retailers. Finally, the Commission found that U.S. shipments of the domestic like product and subject imports from each of the subject countries had been present in the U.S. market throughout the period of investigation.¹⁵²

Only Petitioner has presented arguments on the application of the four competition criteria generally analyzed by the Commission.¹⁵³ Petitioner argues that based on the four factors customarily considered by the Commission, subject imports compete with one another and with the domestic like product, and therefore, the Commission should cumulate subject imports.¹⁵⁴

B. Analysis

The threshold requirement for cumulation is satisfied because Petitioner filed a petition with respect to each of the three subject countries on the same day. None of the statutory exceptions to cumulation is applicable.¹⁵⁵ We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

¹⁵⁰ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

¹⁵¹ See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

¹⁵² Preliminary Determination, USITC Pub. 3811 at 18-21.

¹⁵³ Respondents have effectively conceded the issue; in general, their briefs collectively discuss subject imports as a whole, rather than by source. See, e.g., Target’s Prehearing Brief at 10-11; Staples’ Prehearing Brief at 26; Indonesian Respondent’s Prehearing Brief at 24-25; CPP’s & Firstline’s Prehearing Brief at 17; Walgreens’ Posthearing Brief at 2; see NuCarta’s Posthearing Brief at 1 (adopting analysis of present material injury set forth by Staples, Target, and Indonesian Respondent). Several respondents discussed subject imports by source, but those arguments were made in the alternative. See, e.g., Staples’ Prehearing Brief at 44-54; Indonesian Respondent’s Prehearing Brief at 32-42; Indian Respondents’ Posthearing Brief at 2-3.

¹⁵⁴ See Petitioner’s Prehearing Brief at 20-25.

¹⁵⁵ See 19 U.S.C. § 1677(7)(G) (ii).

1. Fungibility

Based on available data, all lined paper products and subject imports from China, India, and Indonesia appear fungible.¹⁵⁶ Subject imports are generally used for the same purpose as all lined paper products, i.e., to take notes and for other forms of writing.¹⁵⁷ Both subject imports and all lined paper products are sold through common channels of distribution, namely retailers that purchase subject imports either directly from foreign or domestic producers or through distributors for resale.¹⁵⁸ Although the record reveals that some variation exists in the paper composition and weight, quality, and brightness between and among subject imports and all lined paper products, the majority of responding U.S. producers, importers, and purchasers reported that subject imports from each subject country were generally always or frequently comparable to each other and the domestic like product.¹⁵⁹

Purchasers were asked to compare various product characteristics of all lined paper products and subject imports. Purchasers indicated that the domestic like product was mostly comparable to subject imports from each subject country, with one notable exception. Nearly all responding purchasers indicated that the domestic like product was inferior in terms of price, i.e., was higher in price, to subject imports from each subject country.¹⁶⁰

2. Same Geographical Markets

Domestic producers of all lined paper products are located across the country.¹⁶¹ Seven of nine responding U.S. producers of all lined paper products reported that they sell all lined paper products nationwide.¹⁶² Another remaining two producers reported that they sell all lined paper products specifically in the Mid-Atlantic, Southeast, Midwest, Northeast, and Northwest regions.¹⁶³ The majority of responding importers of all lined paper products from China, India, and Indonesia indicated that they sold nationally.¹⁶⁴ Three additional importers reported that they sell to specific geographic regions including the Mid-Atlantic, the Midwest, the Southeast, the Northeast, the Northwest, and the West

¹⁵⁶ We note that the questionnaires asked about fungibility with respect to LPP, a subset of all lined paper products, but not the entire universe encompassed by the domestic like product.

¹⁵⁷ CR at I-21, II-1, PR at I-14, II-1.

¹⁵⁸ CR/PR at Tables I-6, IV-8. We note that U.S. producers account for the majority of reported subject imports for distribution throughout the period of investigation. CR at I-18. We further note that direct imports by retailers accounted for a growing share of total U.S. imports of CLPSS over the period of investigation, increasing from 31 percent of total reported subject imports in 2003 to 49 percent in 2005. CR at I-18, PR at I-13.

¹⁵⁹ CR/PR at Tables II-4, II-5, CR at II-15 to II-19, PR at II-9 to II-10. For example, one importer reported that the domestic like product and subject imports from China and India were never interchangeable with subject imports from Indonesia because CLPSS imports from Indonesia are brighter and possess a higher quality texture than all lined paper products and subject imports from China and India. CR at II-16 n.18, PR at II-9 n.18. Another factor limiting interchangeability is the flexibility of domestic producers to create value-added features for fashion notebooks. Three importers reported that Chinese suppliers offer fashion notebooks more “affordably” than U.S. producers. *Id.* at II-17, PR at II-10.

¹⁶⁰ CR at II-18, PR at II-11 to II-12, CR/PR at Table II-5. We note that two purchasers also reported that CLPSS from China and India are lower in quality than other sources, with one indicating that the quantity of Indian imports of CLPSS is lower than Chinese imports of CLPSS. CR at II-16, PR at II-9.

¹⁶¹ *See* Petition at Exh. I-1, I-2; CR/PR at Table III-1.

¹⁶² CR at II-2, PR at II-2.

¹⁶³ CR at II-2 to II-3, PR at II-2.

¹⁶⁴ CR at II-3, PR at II-2.

Coast.¹⁶⁵ Although Indonesian Respondent claims that subject imports from Indonesia are sold primarily to *** questionnaire responses indicate that those firms resell subject imports from Indonesia ***,¹⁶⁶ Moreover, the official import statistics indicate that subject imports from China, India, and Indonesia each entered the United States in the same 20 ports (out of 37 ports reported) during the period of investigation. These ports were spread across the East Coast and West Coast, and the southern and midwestern United States.¹⁶⁷ Thus, there is a reasonable overlap in sales in the same geographic markets.

3. Simultaneous Presence

Subject imports of CLPSS from each of the subject countries have been present in the U.S. market throughout the period of investigation.¹⁶⁸ Indeed, CLPSS from China, India, and Indonesia entered the United States in every calendar quarter from January 2003 through December 2005.¹⁶⁹

4. Channels of Distribution

All lined paper products and subject imports of CLPSS are sold through common channels of distribution. These products are primarily sold directly by foreign or domestic producers to retailers, which include general merchandise superstores, drug stores, grocers, and office supply stores.¹⁷⁰ *** U.S. producers also purchase or source subject imports for retailers, but do not serve as the importer of record.¹⁷¹

5. Conclusion

In sum, we find that there is a reasonable overlap of competition among subject imports of CLPSS from China, India, and Indonesia, and between the subject imports and the domestic like product. Consequently, we cumulate subject imports of CLPSS from China, India, and Indonesia for purposes of these final determinations.¹⁷²

VI. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. General Legal Standards

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under

¹⁶⁵ CR at II-3, PR at II-2.

¹⁶⁶ Indonesian Respondent's Posthearing Brief at 15.

¹⁶⁷ CR at IV-15, PR at IV-6, CR/PR at Table IV-7.

¹⁶⁸ CR/PR at Table IV-9; see also CR/PR Table IV-7.

¹⁶⁹ CR/PR at Table IV-9.

¹⁷⁰ CR/PR at Tables I-6, IV-8, CR at I-23, II-1, PR at I-16, II-1. The record indicates that direct imports by retailers accounted for a growing share of total U.S. imports of CLPSS over the period of investigation, increasing from 31 percent of total reported imports in 2003 to 49 percent in 2005. CR at I-18, PR at I-13.

¹⁷¹ CR/PR at Table III-10.

¹⁷² Chairman Pearson and Commissioners Hillman and Okun do not join the remainder of this opinion. See Separate and Dissenting Views of Chairman Daniel A. Pearson and Commissioners Jennifer A. Hillman and Deanna Tanner Okun.

investigation.¹⁷³ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹⁷⁴ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹⁷⁵ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹⁷⁶ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁷⁷

For the reasons stated below, we determine that the domestic industry producing CLPSS is materially injured by reason of subject imports of CLPSS from China, India, and Indonesia.

B. Conditions of Competition

The following conditions of competition are pertinent to our analysis of the impact of CLPSS imports from China, India, and Indonesia on the domestic industry.

1. Demand Conditions

From 2003 to 2005, apparent U.S. consumption of all lined paper products increased *** percent by quantity.¹⁷⁸ Apparent U.S. consumption of all lined paper products increased *** from *** units in 2003 to *** units in 2004, and was stable at *** units in 2005.¹⁷⁹

The parties generally agree that demand for CLPSS increased over the period of investigation.¹⁸⁰ They further agree that demand is seasonal and peaks during a 4-to-10-week BTS period beginning in July and ending no later than September.¹⁸¹ The record reveals that a majority of responding U.S. producers and importers indicated that demand increased or was unchanged during the period of investigation. Petitioner claims that demand is driven by the growth of the economy and the number of

¹⁷³ 19 U.S.C. §§ 1671b(a), 1673b(a). Staples erroneously maintains that we must determine whether subject imports are a “substantial cause” of injury during the period of investigation. Staples’ Posthearing Brief at Exh. 1-32, 40, 41 (citing 19 U.S.C. § 1677(7)(C)), which does not contain the phrase “substantial cause”. Instead, that standard is applicable to safeguard investigations under 19 U.S.C. § 2251(a), “substantial cause of serious injury.” As indicated above, the statute requires that we determine whether an industry in the United States is materially injured “by reason of” the imports under investigation. 19 U.S.C. §§ 1671b(a), 1673b(a). We accordingly apply the material injury standard mandated by the statute and as interpreted by the Federal Circuit in Gerald Metals, Inc. v. United States, 132 F.3d 716 (Fed. Cir. 1997).

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

¹⁷⁵ 19 U.S.C. § 1677(7)(A).

¹⁷⁶ 19 U.S.C. § 1677(7)(C)(iii).

¹⁷⁷ 19 U.S.C. § 1677(7)(C)(iii).

¹⁷⁸ Staff Table C-2. Apparent U.S. consumption of all lined paper products also increased by *** percent when measured by value. Id. By value, apparent U.S. consumption of all lined paper products increased from \$*** in 2003 to \$*** in 2004, and rose to \$*** in 2005. Id.

¹⁷⁹ Staff Table C-2.

¹⁸⁰ Petitioner’s Prehearing Brief at 13; Staples’ Prehearing Brief at 18; Indonesian Respondent’s Prehearing Brief at 9; Target’s Prehearing Brief at 9. No other respondent discussed this point.

¹⁸¹ Petitioner’s Prehearing Brief at 11; Target’s Prehearing Brief at 8. No other respondent commented in their briefs on this point.

school-age children.¹⁸² Target agrees that demand is increasing because of economic and population growth but adds that promotional retail marketing strategies have increased demand as well.¹⁸³

2. Supply Conditions

The Commission received partial or complete substantive questionnaire responses from 11 U.S. producers of all lined paper, three of which are Petitioner--MeadWestvaco, Norcom, and Top Flight--and collectively account for approximately *** percent of reported U.S. production of all lined paper products in 2005.¹⁸⁴ *** U.S. producer of all lined paper products, accounting for *** percent of reported U.S. production in 2005.¹⁸⁵ *** U.S. producer of all lined paper products, accounting for *** percent of reported U.S. production in 2005.¹⁸⁶ *** U.S. producer of all lined paper products, accounting for *** percent of reported production in 2005.¹⁸⁷ MeadWestvaco was the only U.S. producer that reported the ***.¹⁸⁸

To supply market demand, the record indicates the bulk of production of all lined paper products precedes the retail BTS season, which, as indicated above, runs from mid-July through September.¹⁸⁹ Generally speaking, retailers place orders in the fall of the preceding year.¹⁹⁰ Production peaks in late winter and spring. The peak shipment period follows, generally occurring between April and June of the following year, as product is moved to stores for BTS sales.¹⁹¹

From 2003 to 2005, the principal suppliers of all lined paper products to the U.S. market were the domestic producers.¹⁹² The next largest suppliers were importers of subject merchandise. The remaining portion of the market was supplied by imports of CLPSS from non-subject countries and imports of lined

¹⁸² CR at II-7; Petitioner's Prehearing Brief at 13. One non-petitioning U.S. producer and seven importers agreed in their questionnaire responses with Petitioner's reasons for increasing demand. CR at II-7. Staples concurs with Petitioner's description of the factors driving demand for all lined paper products. See Staples' Prehearing Brief at 18 & Exh. 9.

¹⁸³ Target's Prehearing Brief at 9.

¹⁸⁴ CR at III-2 & n.6-7, PR at III-1 n.6-7; Staff Table III-1.

¹⁸⁵ Staff Table III-1.

¹⁸⁶ Staff Table III-1.

¹⁸⁷ Staff Table III-1.

¹⁸⁸ CR at III-4, PR at III-3.

¹⁸⁹ CR/PR at II-1; Tr. at 108-109 (Robinson); Petitioner's Posthearing Brief at Exh. 14-16.

¹⁹⁰ CR at V-25, PR at V-11.

¹⁹¹ Target's Prehearing Brief at 8-9; see Petitioner's Prehearing Brief at 11, 48; Indonesian Respondent's Prehearing Brief at 10 n.7.

¹⁹² We note that several respondents have argued that the domestic industry lacks capacity to supply U.S. demand and that the industry's reported capacity is overstated because production of the domestic like product is concentrated in the first half of each year. E.g., Indonesian Respondent's Prehearing Brief at 10 n.7; CPP's and Firstline's Prehearing Brief at 13-15. The Commission has noted that "there is no short supply provision in the statute" and "the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports." Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Article 1904 NAFTA Remand) at 108, n.310 (Dec. 2003); see also Certain Activated Carbon from China, Inv. No. 731-TA-1103 (Preliminary), USITC Pub. 3852 at 19 n.143 (May 2006); Preliminary Determination, USITC Pub. 3811 at 23 n. 155; Metal Calendar Slides from Japan, Inv. No. 731-TA-1094 (Preliminary), USITC Pub. 3792 at 9 n.45 (Aug. 2005) ("To the extent that Respondents claim that the Commission is legally unable to make an affirmative finding of material injury by reason of subject imports because the domestic industry is incapable of supplying domestic demand, they are incorrect.").

paper products other than CLPSS from all importing sources.¹⁹³ The parties have indicated that Brazil, Canada, and Mexico are important sources of non-subject supply.¹⁹⁴

The share of the quantity of apparent U.S. consumption represented by U.S. producers' U.S. shipments declined from *** percent in 2003 to *** percent in 2004 and then fell to *** percent in 2005.¹⁹⁵ The share of the quantity of U.S. apparent consumption held by cumulated subject imports increased during the period of investigation, rising from *** percent in 2003 to *** percent in 2004, and to *** percent in 2005.¹⁹⁶ As a share of total CLPSS imports, by quantity, cumulated subject imports fluctuated but were stable over the period of investigation, declining from 74.6 percent in 2003 to 63.8 percent in 2004, almost returning to the 2003 level in 2005, at 74.3 percent.¹⁹⁷

As a share of apparent U.S. consumption, total non-subject imports (from all non-subject sources) increased from *** percent in 2003 to *** percent in 2004, before falling to *** percent in 2005, by quantity.¹⁹⁸ Total non-subject imports as a share of total imports increased from 25.4 percent in 2003 to 36.2 percent in 2004, before falling to 25.7 percent in 2005 by quantity.¹⁹⁹

As discussed previously, the parties agree that domestically produced all lined paper products and subject imports are primarily sold through common channels of distribution, namely retailers.²⁰⁰ Subject imports are purchased by retailers either directly from foreign producers or from a distributor.²⁰¹ The record indicates that non-subject imports are also purchased by retailers in the same manner, as six of the 10 largest U.S. importers in 2005 of subject imports and non-subject imports are retailers ***.²⁰² The record further indicates that retailers increasingly shifted their purchasing of total imports of CLPSS from purchasing from distributors to directly importing the products themselves.²⁰³ Retailers accounted for a

¹⁹³ Staff Table C-2. Imports of all lined paper products other than CLPSS from all importing sources include products that are smaller or larger than the dimensions specified in Commerce's scope of the investigations from any foreign source.

¹⁹⁴ CR at VII-10 to VII-12, PR at VII-6 to VII-7. Based on official Commerce data, Canada and Brazil were the two largest sources for non-subject imports over the period of investigation. By quantity, imports from Brazil, Canada, China, India, and Indonesia accounted for approximately 88 to 90 percent of total U.S. imports of CLPSS during the period of investigation. Derived from official Commerce import statistics.

We note that U.S. importers were asked to report in their questionnaire responses the volume of non-subject imports of CLPSS from Brazil for which they were responsible. The data reported by *** the volume reported in the official Commerce statistics. At the hearing, the Commission asked Petitioner to explain the discrepancy in the data sets. Tr. at 193 (Chairman Pearson). Petitioner contended that the petitioning firms' imports from Brazil were reported correctly, but did not provide an explanation resolving the discrepancy. Petitioner's Answers to Commissioner Questions at 104. No other party proffered an explanation for the discrepancy. As noted above, we find that the official Commerce statistics are a more reliable and accurate source of import volume. To examine import volume consistently, we rely on these statistics for purposes of our determinations.

¹⁹⁵ Staff Table C-2.

¹⁹⁶ Staff Table C-2.

¹⁹⁷ CR/PR at Table IV-2.

¹⁹⁸ Staff Table C-2.

¹⁹⁹ CR/PR at Table IV-2.

²⁰⁰ CR/PR at II-1 to II-2.

²⁰¹ CR at I-18, PR at I-13.

²⁰² CR/PR at Table IV-1.

²⁰³ CR at I-18, PR at I-13. In particular, the six retailers identified above increased the volume of their direct subject imports dramatically from 2003 to 2005. Their imports of subject merchandise increased from 44.7 million units in 2003 to 46.5 million units in 2004, and then more than doubled to 126.8 million units in 2005. *** Importers' Questionnaires. These retailers' total imports exhibited the same trend, increasing from 63.0 million units (continued...)

growing share of reported total U.S. imports of CLPSS over the period of investigation, increasing from 31 percent of total reported imports in 2003 to 49 percent in 2005.²⁰⁴ Domestic producers, as discussed above, also directly import and purchase subject imports and non-subject imports.²⁰⁵ *** domestic producers broker purchases of subject and non-subject imports between retailers and foreign producers as well.²⁰⁶

A limited number of large retailers, comprised of general merchandise superstores, office supply stores, and grocery chains and pharmacies, purchase substantial quantities of all lined paper products.²⁰⁷ All lined paper products are purchased by retailers in a variety of contexts, including direct contract negotiations, trade shows, or an auction or standard bid process.²⁰⁸

Another supply condition relevant to the domestic industry is increasing costs of paper, the principal input in the production of all lined paper products.²⁰⁹ The record indicates that the absolute value of paper costs declined from 2003 to 2005, but that paper costs increased as a percentage of all lined paper sales.²¹⁰

3. Substitutability

Subject imports from China, India, and Indonesia, the domestic like product, and non-subject imports from Brazil are generally substitutable. Indeed, Petitioner maintains that the subject merchandise and the domestic like product are commodity products.²¹¹ No respondent party refutes this characterization.²¹² Although there were several market participants that indicated quality differences in the products, the majority of responding producers, importers, and purchasers reported that the domestic like product and CLPSS imports from the three subject countries as well as Brazil were always or

²⁰³ (...continued)

in 2003 to 66.2 million units in 2004, and then more than doubling to 139.9 million units in 2005. Id. We note that these volumes do not include those of two large retailers, ***, that did not respond to the Commission's questionnaire. CR/PR at IV-1 n.4.

²⁰⁴ CR at I-18, PR at I-13.

²⁰⁵ Staff Table III-9.

²⁰⁶ CR/PR at Table III-10. We have previously defined a brokered import transaction above. Supra n.59.

²⁰⁷ See, e.g., CR at V-28 to V-58, PR at V-12; CR/PR at II-1. See also Tr. at 204 (Tucci) (indicating that Target is one of the largest retailers in the United States, with more than 1,500 stores nationwide and almost 300,000 employees), 212 (Ciulla) (indicating that Staples is the "number one office supply retailer in the United States, with over 1,200 retail stores throughout the country" and more than 40,000 employees), 222 (VanGuyse) (indicating that Walgreens is "the nation's largest retail pharmacy chain in terms of sales" and has more than 5,300 stores in 46 states and Puerto Rico).

²⁰⁸ See CR at V-25 to V-26, PR at V-10 to V-11.

²⁰⁹ CR/PR at V-1; Staples' Prehearing Brief at 16-17.

²¹⁰ CR at VI-7, PR at VI-2. We note that paper costs also increased on a per-unit basis, but give little weight to unit values in these investigations in light of the mix of products contained within all lined paper products. See Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002); see also Oil Country Tubular Goods from Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela, Inv. Nos. 701-TA-428 (Preliminary) and 731-TA-992-994 and 996-1005 (Preliminary), USITC Pub. 3511 (May 2002) at 23, n. 137 (declining to place weight on AUV data where there were differences in product mix between different countries and within a given country over time).

²¹¹ See Petitioner's Prehearing Brief at 13.

²¹² See Indonesian Respondent's Responses to Questions from Commissioners at E-20; CPP's and Firstline's Posthearing Brief at 8; Tr. at 266 (Cameron), 267 (Trossevin).

frequently interchangeable.²¹³ In addition, purchasers that compared the domestic like product to subject imports from each subject country and to non-subject imports from Brazil overwhelmingly indicated that the quality of the products was comparable.²¹⁴

Price is an important factor in purchasing decisions. Price was identified by 14 of 24 purchasers as the number one factor considered in deciding from whom to purchase all lined paper products.²¹⁵ In addition, 29 of 32 purchasers reported that price was a very important factor in their purchasing decisions.²¹⁶ With regard to price, nearly all responding purchasers indicated that the domestic like product was inferior—higher in price—to subject imports from China, India, and Indonesia, and non-subject imports from Brazil.²¹⁷ The bid data collected in our questionnaires further support this proposition, as bids were awarded to the lowest or second-lowest bid price 71 percent of the time and to the lowest-priced bid 59 percent of the time.²¹⁸

Despite the importance of price, the record does indicate that non-price factors can affect purchasing decisions. Other factors listed by the majority of purchasers as very important in their purchasing decisions include availability, delivery time, product consistency, quality, and reliability of supply.²¹⁹ For example, purchasers indicated that, because the BTS selling season is so critical to their bottom line, reliability of supply is very important. Thus, they may occasionally turn down low bids from suppliers who have been unreliable in the past or with whom they have no experience.²²⁰ This may explain why the lowest-priced bidders were not awarded any volume in some of the reported bid comparisons.²²¹ In addition, some purchasers showed a tendency to diversify sources of supply. This may result in some volume being awarded to a higher bidder, even though the largest order goes to a lower bidder.²²² Nevertheless, the bid data make clear that there are more than enough reliable, quality suppliers in this market representing domestic, subject, and non-subject sources to assure that the great majority of sales are ultimately made on price.²²³

²¹³ CR at II-14, PR at II-9.

²¹⁴ CR/PR at Table II-5. In particular, we note that two purchasers reported that CLPSS from China and India are of lower quality than product from other sources, with one of these indicating that Indian quality is lower than the Chinese quality. Two U.S. producers reported that Chinese quality is inferior. One importer reported that CLPSS from China and India is inferior to CLPSS imports from Indonesia and Brazil. CR at II-14 to II-16, PR at II-9 to II-10.

²¹⁵ CR/PR at Table II-1.

²¹⁶ CR/PR at Table II-2.

²¹⁷ CR/PR at Table II-5.

²¹⁸ Derived from CR/PR at Table V-9.

²¹⁹ CR/PR at Table II-2. These requests are not surprising, given that purchasers of all lined paper products largely compete against each other on price when selling to consumers at the retail level. Petitioner's Posthearing Brief at Exh. 21 (containing three sales ads from large retailers selling all lined paper products at sale prices).

²²⁰ E.g., Tr. at 206, 294 (Tucci), 295 (VanGuyse).

²²¹ See generally CR/PR at Table V-9.

²²² CR/PR at Table V-9.

²²³ See generally id.

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”²²⁴

The volume of cumulated subject imports increased significantly over the period of investigation, both in absolute terms and relative to consumption and production in the United States.²²⁵ The absolute volume of subject imports increased from 262.5 million units in 2003 to 291.7 million units in 2004 and further to 416.5 million units in 2005.²²⁶ The share of the quantity of U.S. apparent consumption held by cumulated subject imports also increased throughout the period of investigation, rising from *** percent in 2003 to *** percent in 2004, and to *** percent in 2005.²²⁷ As the market share held by the subject imports rose throughout most of the period of investigation, the share held by the domestic industry fell. As discussed above, the share of the quantity of apparent U.S. consumption represented by U.S. producers’ U.S. shipments declined from *** percent in 2003 to *** percent in 2004 and then fell to *** percent in 2005.²²⁸ The domestic industry lost market share even as apparent U.S. consumption increased by *** percent by quantity between 2003 and 2005.²²⁹ Moreover, the ratio of subject imports to domestic production of all lined paper products *** from 2003 to 2005.²³⁰

Given these rapid and consistent increases in subject imports during the period investigated, we find that the volume of the subject imports is significant, both in absolute terms and relative to production and consumption in the United States. As we discuss below, the increases in subject import volumes and market share came primarily at the expense of the market share of the domestic industry throughout the period investigated. This was especially true between 2004 and 2005, when the volume of subject imports increased dramatically and reduced the industry’s production, shipment, and sales levels significantly.

We have considered respondents’ argument that the domestic industry is itself responsible for the large and consistent increases in subject import volumes during the period of investigation.²³¹ According to these respondents, the increases in subject import volumes are the result of a decision by the domestic

²²⁴ 19 U.S.C. § 1677(7)(C)(i).

²²⁵ The Commission collected annual data for the period January 2003 through December 2005. It also collected interim data for the periods January 2005 through June 2005 (“interim 2005”) and January 2006 through June 2006 (“interim 2006”). We have focused our analysis on the annual data. As indicated above, the petition in these investigations was filed on September 9, 2005. The interim 2006 data indicate that the domestic industry’s condition substantially improved, while the volume of subject imports declined rapidly. See Memorandum INV-DD-128 at Table C-2A. We find that these improvements are related to the pendency of these investigations. Under the post-petition effects provision, we therefore do not rely on the interim data for purposes of our material injury analysis. 19 U.S.C. § 1677(7)(I); SAA at 854.

²²⁶ CR/PR at Table IV-2.

²²⁷ Staff Table C-2.

²²⁸ Staff Table C-2.

²²⁹ Staff Table C-2. We note that imports of all lined paper products other than CLPSS from all importing sources were also present in the market. The share of the quantity of apparent U.S. consumption represented by these imports was stable, fluctuating only nominally from *** percent in 2003 to *** percent in 2004, and then to *** percent in 2005. Staff Table C-2.

²³⁰ The ratio of subject imports to domestic production of all lined paper products increased from *** percent in 2003, to *** percent in 2004, and further to *** percent in 2005. Derived from Staff Table C-2.

²³¹ Target’s Prehearing Brief at 10-11; Indonesian Respondent’s Prehearing Brief at 24-26; Staples’ Prehearing Brief at 25; see NuCarta’s Posthearing Brief at 1; Walgreens’ Posthearing Brief at 2-4; see CPP’s and Firstline’s Prehearing Brief at 6-7.

industry to use an “outsourcing” strategy to control the U.S. market, and they could eliminate any perceived injury if they “simply stop importing” subject merchandise.²³²

The statute mandates that we consider the “volume of imports of merchandise.”²³³ It does not differentiate imports of subject merchandise by the identity of the importer, because subject imports by one domestic producer may be injurious to other domestic producers and to the domestic industry as a whole, which includes domestic workers.²³⁴ Moreover, when domestic producers import subject merchandise to remain competitive and avoid losing customers, this action may itself be evidence of the material injury the industry is sustaining.²³⁵ Thus, as in previous investigations, we have assessed the significance of total subject imports as statutorily mandated.²³⁶

²³² See *id.*; see also Staples’ Posthearing at 1-22; Tr. at 226-27 (VanGuyse), 240 (Eidinger), 255 (Shor), 351 (Shor), and 395 (Trossevin). Record evidence indicates that the domestic industry increased its subject import volume in absolute terms during each calendar year throughout the period of investigation. The volume of total subject CLPSS imported by domestic producers increased from *** units in 2003 to *** units in 2004. In 2005, the domestic industry’s imports of subject CLPSS reached *** units. Derived from CR/PR at Tables III-9, III-10. We have included the volume of brokered subject imports by the domestic industry in these data, because, as discussed above, the SAA notes that, in defining an importer for purposes of the related parties provision, while the term is not expressly defined in the statute, the Commission “will apply a sufficiently broad definition to encompass domestic producers who are not formally importers of record.” SAA at 858.

²³³ 19 U.S.C. § 1677(7)(C)(i).

²³⁴ Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 at 27 (Aug. 2004). See generally Timken U.S. Corp. v. United States, 310 F. Supp. 2d 1327, 1338 (Ct. Int’l Trade 2004) (remanding the Commission’s sunset determination for failure to examine the likely competitive behavior of foreign producers toward the domestic industry as a whole, especially those domestic producers unrelated to subject importers, in its volume and price effects analysis).

²³⁵ S. Rep. No. 100-171, 100th Cong., 1st Sess. 117 (1988) (emphasis added); see also H. Rep. 100-40, 100th Cong., 1st Sess. 128-29 (1988).

²³⁶ See, e.g., Wooden Bedroom Furniture from China, Inv. No. 731-TA-1058 (Final), USITC Pub. No. 3743 at 18-19, 23-27 (Dec. 2004) ; Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 at 24-27 (Aug. 2004). See also Hynix Semiconductor, Inc. v. United States, 431 F. Supp. 2d 1302, 1308 n.5 (Ct. Int’l Trade 2006) (acknowledging that subject imports by a domestic producer from its corporate parent due to a temporary reduction in production from a U.S. production facility did not bar a finding of significant import volume, because that statute directs the Commission to examine the effect of imports of subject merchandise on the domestic industry as a whole).

Staples argues that in Outboard Engines from Japan, Inv. No. 731-TA-1069 (Final), USITC Pub. 3752 at 27, 31 (Feb. 2005), the Commission found the fact that the domestic industry was responsible for a large portion of subject imports mitigated the significance of the total volume of subject imports. Staples’ Prehearing Brief at 28. We disagree that the facts in these investigations are similar to those in Outboard Engines because the Commission’s finding there was premised on the fact that the domestic industry was importing substantial volumes of particular products which it did not produce. That same fact is not presented in these investigations. Tr. at 215 (Ciulla) (indicating that one U.S. firm has the ability to produce composition books); Prelim. Tr. at 87-88 (Stump, McLachlan, Robinson, and Rahn) (indicating that the petitioning firms produce filler paper and notebooks).

We also observe that the statutory scheme supports our decision to examine subject import volume as a whole. For example, where the terms of the captive production provision of the statute are satisfied, in discussing the treatment of subject imports that are sold in the merchant market, Congress has stated that

[i]mports which are sold in the merchant market shall be included in the import penetration ratio for the merchant market. . . . If such imports do not compete with sales of the domestic upstream article like product in the merchant market, the Commission shall include such imports in the total import share of the industry’s total production, but not in the penetration ratio for the merchant market or in any other calculation in which captive domestic production is excluded.

SAA at 853.

Target, Indonesian Respondent, Staples, and NuCarta also argue that the volume of cumulated subject imports is not significant because total non-subject imports and, in particular, non-subject imports from Brazil, increased more rapidly over the period of investigation than cumulated subject imports.²³⁷

As respondents note, both the volume of total non-subject imports and the volume of non-subject imports from Brazil alone, as well as their respective market penetration, did increase over the period examined, but not in a continuous upward trend. In absolute terms, total non-subject imports generally increased over the period, from 89.2 million units in 2003 to 165.8 million units in 2004, but then fell to 143.8 million units in 2005.²³⁸ Total non-subject imports held an increasing share of the U.S. market over the period, with the largest gains occurring early in the period of investigation. As a share of apparent U.S. consumption, total non-subject imports increased from *** percent in 2003 to *** percent in 2004, before falling to *** percent in 2005, by quantity.²³⁹

In absolute terms, the volume of non-subject imports from Brazil increased sharply from 37.2 million units in 2003 to 91.9 million units in 2004, then fell to 66.0 million units in 2005. Non-subject imports from Brazil held an increasing share of the U.S. market over the period, with the largest gains occurring early in the period. Relative to consumption, non-subject imports from Brazil increased from *** percent in 2003 to *** percent in 2004, before falling to *** percent in 2005, by quantity.²⁴⁰

While total non-subject imports and non-subject imports from Brazil alone increased absolutely and as a share of the quantity of apparent U.S. consumption, these increases do not diminish the significance of the increase of subject imports both absolutely and relative to consumption. By focusing on the rate of increase of non-subject imports, respondents ignore the fact that such increases were from a smaller base. In absolute terms, the volume of subject imports was at least 175 percent of the volume of total non-subject imports over the period. Moreover, the increases in subject import volumes and market share came primarily at the expense of the domestic industry, especially between 2004 and 2005, when the volume of subject imports increased most. Accordingly, we find that the volume of cumulated subject imports is significant, both in absolute terms and relative to consumption and production in the United States.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

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

²³⁷ Target's Prehearing Brief at 11; see Indonesian Respondent's Prehearing Brief at 24-26; see Staples' Prehearing Brief at 25-26; see NuCarta's Posthearing Brief at 1. Staples also maintains that the domestic industry accounts *** of these increases in non-subject imports from Brazil. Staples' Prehearing Brief at 42. As discussed above, the volume of CLPSS from Brazil reported by *** was *** the volume reported in the official Commerce statistics. Considering the wide discrepancy between reported imports from Brazil and the official import statistics, we continue, for the reasons stated above, to rely on official Commerce statistics, which do not provide the requisite detail required to conclusively determine the percentage of non-subject imports from Brazil for which the domestic industry was responsible.

²³⁸ CR/PR at Table IV-2.

²³⁹ Staff Table C-2.

²⁴⁰ CR/PR at Table IV-2; Staff Table C-2.

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.²⁴¹

The record indicates that subject imports of CLPSS from China, India, and Indonesia were generally substitutable for the domestic like product. Information from U.S. producers, importers and purchasers indicates that domestic all lined paper products and CLPSS imported from China, India, and Indonesia are generally interchangeable.²⁴² As discussed above, we find that, while quality, reliability, availability, delivery time, and product consistency are important to purchasers and sometimes disqualify suppliers, most sales are won or lost on price.²⁴³

In these investigations, U.S. producers and importers provided quarterly pricing data for five types of CLPSS and one product that is not part of the scope of the investigations, but is included in the broader domestic like product.²⁴⁴ Six U.S. producers and eight importers provided usable pricing data, although not all firms reported pricing for all products in all quarters.²⁴⁵ The pricing data reported by these firms accounted for approximately *** percent of U.S. producers' shipments of all lined paper products, *** percent of U.S. shipments of subject imports from China, *** percent of U.S. shipments of subject imports from India, and *** percent of U.S. shipments of subject imports from Indonesia between January 2003 and December 2005.²⁴⁶

The Commission also collected pricing data from U.S. purchasers of all lined paper products that conducted auctions or standard bid processes during the period of investigation.²⁴⁷ Bid data were

²⁴¹ 19 U.S.C. § 1677(7)(C)(ii).

²⁴² CR/PR at Table II-2.

²⁴³ Most purchasers reported that price, followed by quality were their primary purchasing factors. CR/PR at Table II-1.

²⁴⁴ The Commission collected pricing data on six products, five of which are included in the scope of these investigations: (1) 70-sheet count 10.5 inches x 8.0 inches wirebound notebook with paperboard cover and backing, no pockets/folders or fashion graphics ("Product 1"); (2) 150-sheet count 10.5 inches x 8.0 inches package of filler paper—college ruled or wide ruled ("Product 2"); (3) 180-sheet count 10.5 inches x 8.0 inches 5-subject wirebound notebook with paperboard cover and backing and no fashion graphics ("Product 3"); (4) 100-sheet count 9.75 inches x 7.5 inches composition book with a marbled cover and no fashion graphics ("Product 4"); (5) a 50-sheet count 11.75 inches x 8.5 inches letter pad bound at the top with cardboard backing and no cover ("Product 5"); and (6) 80-sheet count 10.5 inches x 8.5 inches wire bound or plastic coil bound fashion notebook with polyolefin or paperboard cover ("Product 6"). Product 5 was excluded from the scope of these investigations, but is a product within all lined paper products. CR at V-6 to V-7, PR at V-5.

We give no weight to the data for product 5, as this product contains merchandise not subject to the scope of these investigations. We have therefore excluded data for this product from our analysis. With respect to Product 6, Petitioner claims that fashion notebooks derive a significant portion of their value from the artwork included on the cover, but the definition of this product does not account for specific cost differences in the value-added features. Accordingly, Petitioner maintains that the probative value of these data is limited. Petitioner's Answers to Commissioner Questions at 37. Respondents also refrain from analyzing the pricing data for this product in their arguments. *E.g.*, Staples' Posthearing Brief at 6-7, Exh. 1-8-12; Target's Prehearing Brief at 12-14. In evaluating the pricing data, we give greater weight to products 1, 2, 3, and 4. We also give more weight to products 1 and 2, as these products represent an overwhelming percentage of reported volumes of these two pricing products by domestic producers and importers over the period.

²⁴⁵ CR at V-7, PR at V-5.

²⁴⁶ *** of Sept. 11, 2006.

²⁴⁷ CR at V-25 to V-27; PR at V-10 to V-11. As mentioned above, auctions are typically held in the fourth quarter for the following year's BTS season, and suppliers usually are bound by the contract price for the remainder
(continued...)

requested for the three largest purchases each year since January 2003. Ten purchasers provided useable bid data for sales of the requested products.²⁴⁸ A total of 136 bid contracts for all lined paper products were reported for the period of investigation.²⁴⁹ These bid data present direct comparisons of prices offered for the same product to the same purchaser. Approximately *** percent of the contracts for which suppliers were known were awarded to suppliers in subject countries.²⁵⁰

The quarterly price comparison data for Products 1 through 4 show substantial and consistent underselling by subject imports during the period of investigation. Overall, the subject imports undersold the domestic product in 78 of 126 possible quarterly comparisons, covering 78 percent of the quantity of imports for which pricing data were reported.²⁵¹ The margins of underselling ranged from 0.5 percent to 55.5 percent.²⁵² Based on the foregoing, we find that there has been significant underselling by subject imports from China, India and Indonesia.

The price comparison data indicate that prices for the domestic like product were generally lower at the end of 2005 than they were in the beginning of 2003, although they did not decline consistently during that period.²⁵³ Petitioner argues that prices for the domestic like product declined from 2003 to 2004 as domestic producers lowered their prices to compete with imports and maintain sales volume. Between 2004 and 2005, Petitioner contends that domestic producers tried instead to hold the line on price while sacrificing sales volume, thus explaining the partial recovery in prices in 2005.²⁵⁴ Respondents argue that the partial recovery in prices in 2005, the year in which subject imports showed the greatest growth, demonstrates the lack of a causal link between subject import prices and any injury to the domestic industry.²⁵⁵

We conclude that subject imports depressed domestic prices to a significant degree overall, but especially in 2004. For Products 1 through 4, domestic prices generally fluctuated throughout 2003, but

²⁴⁷ (...continued)

of the year, although spot purchases are possible. Id.

²⁴⁸ CR at V-26, PR at V-11.

²⁴⁹ We note that all of the bid data involved sales of subject imports of CLPSS and domestically produced all lined paper products.

²⁵⁰ CR at V-26, PR at V-11 to V-12. Domestic producers frequently were awarded business based on bids to supply product produced in a subject country. We note that *** percent of the value of the contracts awarded to foreign suppliers (both subject and non-subject countries) were actually arranged through U.S. producers. CR at V-26, PR at V-12.

We observe that the percentage estimated above may be understated, as *** percent of the contracts reported were awarded to suppliers from unknown origins. CR at V-26, PR at V-12.

²⁵¹ Staff Table V-8. Several respondents object to using data presented in Appendices E and F for purposes of our price analysis. Appendix E compares prices for products purchased from domestic producers and importers to prices of purchasers' direct subject and non-subject imports. Target opposes reliance on these data because they compare prices at different levels of trade and because they exclude a number of large purchasers' prices because the purchaser was unable to distinguish the import's country of origin. Target's Posthearing Brief at Exh. 1-15. Petitioner concurs, on the principle that "one would assume that retail pricing would be higher than wholesale pricing." Petitioner's Answers to Commissioner Questions at 110. With respect to Appendix F, Staples opposes use of this appendix, which shows prices for subject merchandise imported by U.S. producers only and prices for subject merchandise imported by non-producer importers only, as these data may contain domestic producers' brokered imports. Staples' Posthearing Brief at Exh. 1-5. We have considered their arguments and do not rely on the pricing data in these appendices for purposes of our price analysis.

²⁵² Staff Table V-8.

²⁵³ We note that only Product 4 was not lower at the end of 2005. Staff Table V-4.

²⁵⁴ See Petitioner's Final Comments at 1-2.

²⁵⁵ E.g., Staples' Posthearing Brief at 3, 6-7, 1-9, 1-14; Target's Posthearing Brief at 8-9.

declined *** overall in 2004 until approximately the first quarter of 2005, when prices increased but remained below the prices in the first quarter of 2003.²⁵⁶ As noted above, we give the greatest weight to data for Products 1 and 2, which represent the greatest volume of trade. Between 2003 and 2005, U.S. prices declined for both domestic Products 1 and 2 and cumulated subject imports of those products, with subject imports underselling the domestic like product in most instances.²⁵⁷ Subject import prices for Products 3 and 4 fluctuated nominally over the period of investigation, while domestic prices generally declined, although Product 4 slightly increased in 2005.²⁵⁸ In addition, purchasers confirmed several instances when they bought subject imports rather than domestic product based on price or used lower bids by subject producers to force domestic producers to lower their prices. These instances of lost sales and lost revenues involved large sales volumes, totaling \$*** in lost sales and \$*** in lost revenues.²⁵⁹

As respondents maintain, the record indicates that the domestic industry alone cannot fully supply the U.S. market and demand increased overall during the period. In a market where subject imports and the domestic like product are substitutable and price is a very important factor in purchasing decisions, a

²⁵⁶ Staff Tables V-1 to V-4. More specifically, the price of domestic Product 1 fell from \$*** per unit in the first quarter of 2003, to its lowest level at \$*** per unit in the third quarter of 2004, before rising to \$*** per unit in the first quarter of 2005. Staff Table V-1. The price of Product 1 was lower at \$*** in the fourth quarter of 2005 than in the first quarter of 2003. *Id.* The price of domestic Product 2 fell from \$*** per unit in the first quarter of 2003, to its lowest level at \$*** per unit in the fourth quarter of 2004, before rising to \$*** per unit in the first quarter of 2005. Staff Table V-2. Domestic prices for Product 2 remained stable throughout 2005, but were lower in the fourth quarter of 2005 than in the first quarter of 2003. Staff Table V-2. The price of domestic Product 3 fell from \$*** per unit in the first quarter of 2003, to its lowest level at \$*** per unit in the second quarter of 2004, before rising to \$*** per unit in the first quarter of 2005. Staff Table V-3. Domestic prices for Product 3 generally increased throughout 2005, but were lower in the fourth quarter of 2005 than in the first quarter of 2003. *Id.* The price of domestic Product 4 fell from \$*** per unit in the first quarter of 2003, to its lowest level at \$*** per unit in the second quarter of 2004, before rising to \$*** per unit in the first quarter of 2005. Staff Table V-4. Domestic prices for Product 4 generally increased throughout 2005. *Id.*

²⁵⁷ Several respondents again argue that because U.S. producers imported a *** majority of subject imports, the pricing data are based on a comparison of U.S. producers' prices for domestic and imported products. As such, they argue that non-producer subject imports have had minimal price effects and the industry's price effect claim is based entirely on the extent to which it undersells itself. *See, e.g.,* Target's Prehearing Brief at 12-13; Staples' Posthearing Brief at Exh. 1-9, 13-14; Indonesian Respondent's Prehearing Brief at 27. We note, however, that the reason so many of the pricing comparisons were provided by domestic producers is not because purchasers' own direct imports were small, but because they are sold at a different level of trade. In any event, respondents' argument is tantamount to suggesting that the Commission ignore the domestic producers' prices for subject imports. The Commission generally does not treat domestic producers' reported import prices in this manner. In accordance with the statute, we routinely consider the price effects of imports reported by domestic producers as part of total reported subject import prices unless the Commission determines that circumstances are appropriate for excluding the domestic producer from the industry under the related parties' provision, 19 U.S.C. § 1677(4)(B). *See, e.g.,* Diamond Sawblades and Parts Thereof from China and Korea, Inv. No. 731-TA-1092-1093 (Final), USITC Pub. 3862 at 12-18, V-13 to V-18 (July 2006); Wooden Bedroom Furniture from China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3743 at 11-13, 20-23, 30-32, Tables V-5 to V-20 (Dec. 2004). Regardless, import prices of sales by producers excluded from the domestic industry under the related parties' provision would be included in our analysis of import prices. Consistent with our practice, we include the domestic producers' import prices in our analysis of the effects of subject imports on prices in the United States for the domestic like product.

²⁵⁸ *See* CR/PR at Figures V-4 and V-5.

²⁵⁹ CR/PR at Tables V-10, V-11. *** U.S. producers reported that during the period of investigation they had to reduce prices or roll back announced price increases, and provided 23 lost sales allegations and 18 lost revenue allegations. CR at V-59, PR at V-12. As indicated above, Commission staff confirmed some lost sales and lost revenues allegations. In addition, there were some lost sales allegations that, although unconfirmed, nonetheless involved situations where purchasers chose to buy lower-priced subject imports. *See* CR at V-62 to V-65, PR at V-13 to V-15.

short supply normally would result in rising, not declining, prices. Much of the pricing data for Products 1 through 4, however, indicate declining prices from 2003 to 2004, and despite some improvements in 2005, those improvements did not offset the declines experienced earlier in the period. We find that observed declines in domestic prices were caused by the significant underselling by cumulated subject imports, typically by double-digit margins, over the period. Based on the foregoing we find that cumulated imports of CLPSS from China, India, and Indonesia have significantly undersold the domestic like product and depressed domestic prices to a significant degree.²⁶⁰

E. Impact of the Subject Imports

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”²⁶¹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²⁶²

Consistent with our findings that the volume of cumulated subject imports and the increases in that volume are significant and that there was significant underselling and price depression, we find that cumulated subject imports are having a significant adverse impact on the domestic all lined paper products industry. Nearly all of the domestic industry’s trade and financial indicators displayed

²⁶⁰ We note that several respondents have argued that prices for non-subject imports from Brazil were lower in price than subject imports. E.g., CPP’s and Firstline’s Prehearing Brief at 11; Staples’ Posthearing Brief at Exh. 1-48. The statute does not require that we find a price leader and we decline to do so here. Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Final), USITC Pub. 3734 at 27, n.234 (Nov. 2004); compare Nucor Corp. v. United States, 318 F. Supp. 2d 1207, 1257 (Ct. Int’l Trade 2004) (finding that the Commission is “not required to evaluate if price leadership was the reason why underselling may have decreased or increased in its consideration of underselling.”). Nevertheless, we further discuss the price of non-subject imports from Brazil in the Impact section below.

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

²⁶² The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final determinations, Commerce found a range of dumping margins from 76.7 percent to 258.21 percent for subject CLPSS from China. Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 Fed. Reg. 53,079, 53,084-85 (Dep’t Commerce Sept. 8, 2006). In its final affirmative determination for subject lined paper school supplies from India, Commerce calculated a weighted-average dumping margin of 23.17 percent for two Indian exporters, Aero Exports and respondent Navneet Publications, and 3.91 percent for Kejriwal Paper and all others. Notice of Final Determination of Sales at LTFV, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India, 71 Fed. Reg. at 45,014. It calculated a weighted-average dumping margin of 118.63 percent for Indonesian Respondent based on adverse facts available and 97.85 percent for all others. Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper School Supplies from Indonesia, 71 Fed. Reg. 47,174, 47,177 (Dep’t Commerce Aug. 16, 2006).

unfavorable trends that worsened during the period of investigation as subject imports increased, until interim 2006, after the petition in these investigations was filed.²⁶³

Domestic production and shipments declined *** overall throughout the period of investigation.²⁶⁴ Not only did the domestic industry's production capacity fall over the period of investigation, but its capacity utilization rate fell as well, indicating that declines in production and shipments exceeded declines in capacity.²⁶⁵ As detailed above, the domestic industry's market share fell sharply, particularly in the last year of the period of investigation, at the same time that subject imports gained an almost equal amount of market share. Employment in the all lined paper products industry also declined overall,²⁶⁶ although productivity increased from 2003 to 2005.²⁶⁷

Many of the domestic industry's financial indicators also declined over the period of investigation.²⁶⁸ Operating income, operating margins, capital expenditures, and research and

²⁶³ As mentioned above, the Commission collected annual data for the period of January 2003 through December of 2005. It also collected interim data for the period January 2005 through June 2005 and for the corresponding months in 2006. For the reasons discussed supra note 225, we have focused our analysis on the annual data and give little weight to the data for the interim period under the post-petition effects provision. 19 U.S.C. § 1677(7)(I); SAA at 854.

²⁶⁴ Production decreased from *** million units in 2003 to *** million units in 2004 and then fell to *** million units in 2005. Staff Table C-2. The industry's U.S. commercial shipments declined from *** million units in 2003 to *** million units in 2004, and then decreased further to *** million units in 2005. Staff Table C-2.

We note that Petitioner claims MeadWestvaco closed two production facilities over the period because of subject imports. Petitioner's Prehearing Brief at 26. Respondents argue that the facilities were closed for other business reasons. The record in the final phase of these investigations is mixed. E.g., Petitioner's Answers to Commissioner Questions at 93-96 (citing Prelim. Tr. at 31 (McLachlan), 36 (Perry)); Staples' Prehearing Brief at 15-16 & Exh. 7 (arguing that MeadWestvaco closed the two plants to source production from Brazil); Target's Prehearing Brief at 15-16 & Exh. 5-B (arguing that MeadWestvaco closed the facilities because they were not strategically located, and the closures were part of streamlining operations). We note that the reason for MeadWestvaco's closure of the two production facilities is not dispositive to our determination.

²⁶⁵ Domestic production capacity fell from *** billion units in 2003 to *** billion units in 2003, and further to *** million units in 2005. Staff Table C-2. Much of this reduction is accounted for by the closure of two production facilities by MeadWestvaco in 2004. CR at III-4, PR at III-3; Staff Table C-2. The domestic industry's capacity utilization declined from *** percent in 2003, to *** percent in 2004, and then fell further to *** percent in 2005. Staff Table C-2.

²⁶⁶ The number of production and related workers declined from *** in 2003, to *** in 2004, and further to *** in 2005. Staff Table C-2. Hours worked declined from *** in 2003, to *** in 2004, and further to *** in 2005. Id. Wages paid declined from \$*** in 2003, to \$*** in 2004, and fell further to \$*** in 2005. Id.

²⁶⁷ Productivity increased from *** units per hour in 2003 to *** units per hour in 2004, and increased further to *** units per hour in 2005. Staff Table C-2.

We also note that end-of-period inventories fluctuated, but were generally stable between 2003 and 2005. End-of-period inventories increased from *** million units in 2003 to *** million units in 2004, then decreased to *** million units in 2005. Staff Table C-2.

²⁶⁸ We decline to remove the financial data of *** from the domestic industry, as advocated by Staples. Staples' Prehearing Brief at 34-35. The Court of International Trade "has repeatedly affirmed . . . that 'Congress intended the [Commission] determine whether or not the domestic industry (as a whole) has experienced material injury due to the imports. This language defies the suggestion that the [Commission] must make a disaggregated analysis of material injury.'" Calabrian Corp. v. United States, 794 F. Supp. 377, 385-86 (Ct. Int'l Trade 1992) (quoting Copperweld Corp. v. United States, 682 F. Supp. 552, 569 (Ct. Int'l Trade 1988) (other citations omitted)); see also Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Final), USITC Pub. 3734 (Nov. 2004) at 21, n. 179 (declining to rely "on isolated data from a given producer"); Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 (July 2004) at 18 ("[T]he operating income ratio is only one (continued...)

development expenditures all followed these downward trends. Cost of goods sold (“COGS”) as a ratio to sales increased during the period of investigation, reflecting, in part, lower production volume. COGS was *** percent of sales in 2003, increasing to *** percent of sales in 2004, before declining *** to *** percent in 2005.²⁶⁹

In a market where demand is increasing overall, we would normally expect to see domestic prices and the industry’s profitability increasing. Instead, operating income fell by *** percent from 2003 to 2005.²⁷⁰ The domestic industry’s ratio of operating income to sales fell by *** percentage points from 2003 to 2005, from *** percent to *** percent.²⁷¹

Although capital expenditures fluctuated over the period investigated, overall from 2003 to 2005, this financial indicator declined. Research and development expenditures also decreased during those years.²⁷²

Overall declines in U.S. industry performance indicators occurred as subject imports entered the U.S. market in increased and significant volumes and gained market share almost exclusively at the expense of the domestic industry. At the same time, subject imports undersold domestic product, typically by double-digit margins, and depressed domestic prices to a significant degree, causing declines in the domestic industry’s overall financial performance. Operating income, operating margins, and capital expenditures declined overall as the domestic industry decreased production, capacity, and capacity utilization. The industry’s financial performance declined most dramatically between 2003 and 2004. In that year, subject imports increased notably in absolute terms and domestic shipments declined marginally, but domestic prices fell substantially as U.S. producers tried to maintain sales volume.

Petitioner argues that the domestic industry stabilized its overall financial condition at the end of the period of investigation only by reducing domestic shipment quantities and thereby maintaining price

²⁶⁸ (...continued)

of many factors the Commission examines in makes its finding as to the impact of subject imports on the domestic industry.”). We have, however, excluded *** financial data from the consolidated industry’s data, because this firm did not supply complete financial data for the entire period and its inclusion in the consolidated financial data would therefore distort the overall industry’s trends. CR/PR at VI-1 n.2. Alternatively, even if *** financial data were included for 2004 and 2005, the trends for nearly all financial indicators declined between 2004 and 2005. Staff Table VI-1c. Inclusion of its financial data in our analysis of the impact of subject imports on the domestic industry for those two years would not change our conclusions.

²⁶⁹ Staff Table C-2. We have considered Staples’ argument that the declines in profitability were attributable to *** raw material costs between 2003 and 2004, a trend that is consistent with the paper industry as a whole. Staples’ Prehearing Brief at 35. Although the record contains some evidence indicating that the price of paper, the principal input in the production of all lined paper products, increased, the industry’s financials do not support this argument. The industry’s raw material costs and overall COGS declined inconsistently over the period, with *** declines occurring between 2003 and 2004 and *** declines occurring between 2004 and 2005. COGS declined from \$*** million in 2003 to \$*** million in 2004, before dropping to \$*** million in 2005. Staff Table C-2. While total raw material costs declined from \$*** million in 2003 to \$*** million in 2004, before dropping to \$*** million in 2005, raw materials as a ratio to net sales increased from *** percent in 2003 to *** percent in 2004, and reached their highest level in 2005 at *** percent largely because net sales dropped more steeply than raw material costs. Staff Table VI-1b.

²⁷⁰ Staff Table C-2. Operating income decreased from \$*** million in 2003 to \$*** million in 2004, then fell to \$*** million in 2005.

²⁷¹ Staff Table C-2.

²⁷² Staff Table C-2; Memorandum INV-DD-129 at Table VI-3. Capital expenditures for the domestic industry increased from \$*** in 2003 to \$*** in 2004, before decreasing to \$*** in 2005. Staff Table C-2. We note that the record contains information on research and development expenses only as they pertain to LPP, a subset of all lined paper products. Research and development expenses decreased from \$*** in 2003 to \$*** in 2004 before decreasing to \$*** in 2005. Staff Table VI-1b.

levels in 2005.²⁷³ The record supports Petitioner’s position. The increases in absolute volumes and market share of cumulated subject imports were particularly significant in 2005, when cumulated subject imports increased by 42.8 percent in absolute terms and gained an additional *** percent of the U.S. market.²⁷⁴ Concomitant with subject imports’ rapid increase in 2005, the domestic industry’s U.S. shipments and net sales values on those domestic sales declined ***.²⁷⁵ We therefore find that subject imports have had a negative impact on the condition of the domestic industry during the period of investigation.

As part of our analysis, we have considered the argument of several respondents that the domestic industry was profitable over the period and, therefore, could not be suffering material injury by reason of subject imports.²⁷⁶ While the industry’s returns were at profitable levels over the periods examined, the statute directs the Commission to consider, among other factors, the industry’s “actual and potential decline[s] in . . . profits.”²⁷⁷ The fact that the industry earned a small profit over the period does not mitigate the overall *** percentage-point decline in the domestic industry’s operating income to net sales ratio.²⁷⁸ Moreover, financial results are only some of the statutory factors we are required to consider. In these investigations, the substantial declines in trade indicators, as well as employment, provide ample evidence of adverse impact over and above declines in profitability.

We also have considered respondents’ argument that the domestic industry is responsible for the increasing volume of subject imports during the period because it has adopted an outsourcing strategy, such that, as a result of its importing operations, the domestic industry is injuring itself.²⁷⁹

Respondents’ argument is legally and factually flawed. First, as a legal matter, the statute directs us to assess the “impact of imports on domestic producers of domestic like products, but only in the context of domestic production operations within the United States.”²⁸⁰ Congress has specifically stated that the:

foreign operations or import operations of domestic producers are not to be considered in measuring the impact of imports on the domestic industry. For example, profits earned by a domestic producer due to products which it imports to meet competition should not be the basis of a negative determination of injury. The domestic industry may be materially injured by reason of unfair imports even if some producers themselves import in order to stay in business.²⁸¹

The statute therefore requires the Commission to focus on whether the subject imports are having an adverse impact on the domestic production operations of the industry, not whether the domestic industry is involved in importing subject merchandise. Congress has expressly made the latter matter only relevant to the Commission’s determination of whether to exclude particular domestic producers from the

²⁷³ Petitioner’s Final Comments at 2.

²⁷⁴ Staff Table C-2.

²⁷⁵ Net sales values declined by *** percent over the period. Net sales values decreased from \$*** million in 2003 to \$*** million in 2004, and further to \$*** million in 2005. Staff Table C-2.

²⁷⁶ E.g., Target’s Prehearing Brief at 14; Indonesian Respondent’s Prehearing Brief at 29; Staples’ Posthearing Brief at 7.

²⁷⁷ 19 U.S.C. § 1677(7)(C)(iii)(I).

²⁷⁸ Staff Table C-2; 19 U.S.C. § 1677(7)(C)(iii)(I).

²⁷⁹ E.g., Staples’ Posthearing Brief at 5; Indonesian Respondent’s Posthearing Brief at 10-11. See also Tr. at 226-27 (VanGuysse), 240 (Eidinger), 255 (Shor), 351 (Shor), and 395 (Trossevin).

²⁸⁰ 19 U.S.C. §1677(7)(B)(III)(emphasis added).

²⁸¹ S. Rep. No. 100-171, 100th Cong., 1st Sess. 117 (1988) (emphasis added); see also H. Rep. 100-40, 100th Cong., 1st Sess. 128-29 (1988).

definition of the domestic industry. Indeed, the legislative history cited makes clear that when domestic producers import subject product to “stay in business,” such imports can be evidence of statutorily cognizable injury.

Second, respondents’ argument is factually flawed. In arguing that domestic producers could alleviate material injury if they simply stopped importing subject merchandise, respondents ignore the fact that subject imports also were increasingly imported by importers that are not domestic producers.²⁸² The adverse impact of these imports cannot be attributed to any outsourcing strategy by the domestic producers during the period of investigation,²⁸³ even if we were to find no adverse effects due to subject imports imported by domestic producers. Moreover, as we have previously stated, “[w]hile any given domestic producer’s imports would presumably not harm that producer, the same cannot be said for other domestic producers who must compete with those imports.”²⁸⁴

As respondents maintain, the record indicates that the domestic industry alone cannot fully supply the U.S. market and demand increased overall during the period. As indicated above, this normally would result in rising, not declining, prices.²⁸⁵ We find that observed declines in domestic prices were caused by the significant underselling by cumulated subject imports, typically by double-digit margins, over the period. These depressed prices caused declines in the domestic industry’s overall financial performance, as subject imports entered the U.S. market in significantly increasing volumes and gained market share almost exclusively at the expense of the domestic industry. The industry’s operating income, operating margins, capital expenditures, and research and development expenditures declined overall as the domestic industry decreased production, capacity, capacity utilization, employment, and wages. In sum, the record shows that subject imports have had a negative impact on the condition of the domestic industry during the period of investigation.

The Federal Circuit in Bratsk Aluminum Smelter v. United States requires that we undertake an additional analysis of non-subject imports in certain circumstances.²⁸⁶ This analysis is triggered only “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”²⁸⁷ In these situations, we are required to address “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”^{288 289}

²⁸² See CR/PR at Table IV-5 (indicating that the volume of cumulated subject imports by firms other than U.S. producers increased absolutely in each calendar year from 2003 to 2005).

²⁸³ Moreover, the rationale behind a voluntary global outsourcing strategy would be that sales of imports are more profitable than sales of domestic production. In fact, the evidence of record indicates that the industry’s importing operations produced similar financial results to their domestic operations overall. Cf. Staff Table C-2 with Memorandum INV-DD-129 at Tables G-1, G-3.

²⁸⁴ Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 at 27 (Aug. 2004). See generally Timken U.S. Corp. v. United States, 310 F. Supp. 2d 1327, 1338 (Ct. Int’l Trade 2004) (remanding the Commission’s sunset determination for failure to examine the likely competitive behavior of foreign producers toward the domestic industry as a whole, especially those domestic producers unrelated to subject importers, in its volume and price effects analysis).

²⁸⁵ See, e.g., Staff Tables V-1 to V-4.

²⁸⁶ 444 F.3d 1369 (Fed. Cir. 2006). We note that the Commission is continuing to consider and pursue its options regarding future appeals of the Bratsk decision.

²⁸⁷ Id. at 1375.

²⁸⁸ Id. We note that the Federal Circuit did not elaborate on the parameters of several components of the additional analysis that we undertake here, including the definition of a “commodity product,” beyond the Commission’s standard analysis regarding general interchangeability; the range of elements that might contribute to an analysis of non-subject imports being a “significant factor” in the market; the definition and application of when

(continued...)

Although Petitioner contends that CLPSS imports and the domestic like product are commodity products, it argues that the additional analysis is not warranted in these investigations because non-subject imports are not a significant factor in the U.S. market. It further maintains that even if the analysis were triggered, non-subject imports could not eliminate the benefit that the domestic industry would derive were an order imposed because non-subject producers do not have the capacity to fully replace the subject imports at the volumes and price levels at which subject imports are currently sold in the U.S. market.²⁹⁰ Indonesian Respondent, Staples, Walgreens, CPP and Firstline, Target, and NuCarta disagree and urge the Commission to apply this analysis in these investigations.²⁹¹ Respondents argue that non-subject imports and, in particular, non-subject imports from Brazil, would have replaced subject imports over the period for the following reasons: non-subject imports are interchangeable products that meet purchasers' quality specifications and the volume of non-subject imports increased significantly in interim 2006.²⁹²

The record supports Petitioner's view that the domestic like product, subject imports, and non-subject imports of CLPSS are generally commodity products. Although there were several market participants that indicated quality differences in the products, the majority of responding producers, importers, and purchasers reported that the domestic like product and CLPSS imports from China, India, Indonesia, and Brazil were always or frequently interchangeable.²⁹³ Furthermore, the one U.S. producer and the majority of responding purchasers comparing the domestic like product and subject imports from China, India, and Indonesia to non-subject sources (other than Brazil) reported that the products were always interchangeable, while all responding U.S. importers reported that these products were at least sometimes interchangeable.²⁹⁴ In addition, purchasers that compared the domestic like product to subject imports from each subject country and to non-subject imports from Brazil overwhelmingly indicated that

²⁸⁸ (...continued)

"replacement" has occurred, and the indicators by which "any beneficial effect" may be measured.

As the finders of fact, we have interpreted these aspects of the additional analysis that we undertake here in conjunction with the Commission's traditional indicators of material injury. This traditional analysis, in accordance with Congressional intent, includes our long-standing and continuing examination of non-subject imports and their effect on the U.S. market, which we explore more expansively in accordance with the Federal Circuit's decision in Bratsk, 444 F.3d at 1375-76. See S. Rep. No. 249, at 74-75 (1979) ("Current law does not . . . contemplate that the effects from less-than-fair-value . . . imports be weighed against the effects associated with other factors (e.g., the volume and prices of imports sold at fair value . . . [i.e., non-subject imports]), 56-57 (concerning subsidized imports)).

²⁸⁹ In these investigations, it is not necessary in our analysis under Bratsk for the Commission to make a finding as to whether benefits accrued to the domestic industry due solely to price effects. We note that, even under circumstances in which non-subject import volumes fully replace subject imports, the Commission could find a benefit to the domestic industry if non-subject volumes were fairly traded and priced at levels higher than subject imports prior to imposition of the order.

²⁹⁰ Tr. at 182 (Brightbill); see also Petitioner's Prehearing Brief at 50 n.114; Petitioner's Answers to Commissioner Questions at 23-24, 32, 35.

²⁹¹ See Indonesian Respondent's Prehearing Brief at 33; Staples' Prehearing Brief at 44; Walgreens' Posthearing Brief at 8; CPP and Firstline's Posthearing Brief at 8; Target's Posthearing Brief at Exh. 1-20; see NuCarta's Posthearing Brief at 1.

²⁹² See, e.g., Indonesian Respondent's Prehearing Brief at 24-26; Staples' Prehearing Brief at 43-44.

²⁹³ CR at II-14, PR at II-9.

²⁹⁴ CR/PR at Table II-3, CR at II-20, PR at II-12 to II-13. One purchaser specifically reported that CLPSS from Taiwan were always interchangeable with CLPSS from all other countries and the domestic like product, while another purchaser reported that CLPSS from Vietnam and Taiwan were frequently interchangeable with the domestic like product and subject imports from China and Indonesia and non-subject imports from Brazil. CR at II-20, PR at II-12 to II-13.

the quality of the products was comparable.²⁹⁵ Moreover, no respondent party contests characterizing the domestic like product, subject imports, and non-subject imports as commodity products. Based on the foregoing, we find that the first triggering factor identified in Bratsk is present in these investigations.

The second triggering factor is whether price competitive non-subject imports are a significant factor in the U.S. market. Although the record is mixed, we find that, on balance, non-subject imports are not a significant factor.

As indicated above, respondents maintain that non-subject imports, and in particular non-subject imports from Brazil, held a “dominant presence” in the U.S. market during the period of investigation.²⁹⁶ Total non-subject imports include non-subject CLPSS from approximately 48 different countries.²⁹⁷ Producers from these sources exported non-subject CLPSS merchandise to the United States in noticeably different volumes and values over the period investigated. The volume of U.S. shipments of imports from some non-subject suppliers declined over the period, while the volume of non-subject imports from other sources increased rapidly.²⁹⁸ For example, the volume of non-subject imports from France declined over the period from 2.7 million units in 2003 to 2.4 million units in 2004, before declining substantially to 438,000 units in 2005.²⁹⁹ At the same time, the volume of non-subject imports from Argentina declined rapidly from 209,000 units in 2003 to 9,000 units in 2004, but increased to 1.5 million units in 2005.³⁰⁰ The volume of imports from other non-subject sources increased overall, but exhibited differing quantity and value trends. More specifically, the volume of non-subject imports from Canada increased from 9.8 million units in 2003 to 23.0 million units in 2004, and were stable in 2005 at 23.5 million units.³⁰¹ While non-subject imports from Canada were less than those of non-subject imports from Brazil by quantity, by value, non-subject imports from Canada were the largest source of non-subject merchandise.³⁰² By quantity, non-subject imports from Japan were the twelfth-largest source of total imports of CLPSS in 2005, but, by value, the sixth-largest source of total imports.³⁰³ These facts suggest that total non-subject imports were present in the U.S. market to varying degrees during the period investigated, and a multitude of non-subject supply sources exported a mix of products, some of which were value-added products commanding higher prices.

With regard to respondents’ focus on non-subject imports from Brazil, our record indicates that non-subject imports from Brazil comprise notebooks, composition books, and filler paper, the three main products expressly included in the scope of these investigations, and appear widely available in the

²⁹⁵ CR/PR at Table II-5.

²⁹⁶ E.g., Staples’ Prehearing Brief at 41; see also Indonesian Respondent’s Prehearing Brief at 24-26; Target’s Prehearing Brief at 7; see Walgreens’ Posthearing Brief at 8; see NuCarta’s Posthearing Brief at 1.

²⁹⁷ We note that Bratsk instructs us to focus on total non-subject imports, rather than one particular source. 444 F.3d at 1375-76. Because respondents have focused their arguments on non-subject imports from Brazil, we discuss both non-subject imports from Brazil and total non-subject imports, which includes non-subject imports from Brazil.

²⁹⁸ See, e.g., official Commerce import statistics.

²⁹⁹ Official Commerce import statistics.

³⁰⁰ Official Commerce import statistics.

³⁰¹ Official Commerce import statistics.

³⁰² Official Commerce import statistics.

³⁰³ Official Commerce import statistics.

market.³⁰⁴ Moreover, the pricing data suggest that, although non-subject imports from Brazil were comprised of a *** included within CLPSS, the volume of those imports were ***.³⁰⁵

As a whole, the volume of total non-subject imports reached their highest level in 2004, before falling in 2005, increasing from 89.2 million units in 2003 to 165.8 million units in 2004, and then falling to 143.8 million units in 2005.³⁰⁶ The volume of total non-subject imports from Brazil followed the same trend in absolute terms, increasing from 37.2 million units in 2003 to its highest level at 91.9 million units in 2004, and then falling to 66.0 million units in 2005.³⁰⁷ In isolation, these volume increases in total non-subject imports, as well as non-subject imports from Brazil alone, are not an unimportant factor to consider. Nevertheless, these increases occurred when subject import levels were increasing at approximately twice the rate as non-subject imports and in much larger absolute volumes. The volume of subject imports also increased in each year of the period of investigation, while the volume of total non-subject imports, as well as non-subject imports from Brazil alone, increased to their highest levels in 2004 and then declined substantially in 2005. As a share of total CLPSS imports, total non-subject imports comprised only a fluctuating minority of total imports (between 25.4 and 36.2 percent) during the period of investigation, and were considerably lower when considered as a share of apparent U.S. consumption rather than of total imports.³⁰⁸ These percentages are even smaller for non-subject imports from Brazil, the country on which respondents focus their arguments.³⁰⁹ Subject imports, moreover, comprised an overwhelming majority of total imports, ranging from 63.8 percent to 74.6 percent, and held the second-largest share of the U.S. market after domestic producers over the period by quantity (ranging from *** percent to *** percent).³¹⁰

With respect to price comparability, the record contains pricing-product data with respect to non-subject imports from Brazil only. Those data indicate that non-subject imports from Brazil undersold the

³⁰⁴ See Staff Tables V-1 to V-4 (including pricing data for non-subject imports from Brazil for Products 1 through 4); CR/PR at Table V-9 (providing bids offering to supply CLPSS from Brazil in 51 instances).

³⁰⁵ See Staff Tables V-1 to V-4 (including pricing data for non-subject imports from Brazil for Products 1 through 4). Several respondents also contend that the domestic industry is responsible for an *** of the imports from Brazil. Staples' Prehearing Brief at 42; see also Indonesian Respondent's Prehearing Brief at 17. As discussed above, the volume of CLPSS from Brazil reported by *** was *** the volume reported in the official Commerce statistics ***. Considering the wide discrepancy between reported imports from Brazil and the official import statistics, we continue, for the reasons stated above, to rely on official Commerce statistics, which do not provide the requisite detail required to conclusively determine the percentage of non-subject imports from Brazil for which the domestic industry was responsible. The record does state that *** U.S. producers imported non-subject imports from Brazil over the period. Staff Table III-9.

³⁰⁶ CR/PR at Table IV-2.

³⁰⁷ CR/PR at Table IV-2.

³⁰⁸ We note that the Court did not devise a specific numerical test for determining when non-subject imports are a significant factor in the market. In *Bratsk* the Court stated that non-subject imports were a significant factor in the U.S. silicon market because non-subject imports accounted for approximately 73.0 to 82.6 percent of total imports. 444 F.3d at 1375.

As discussed above, total non-subject imports of CLPSS as a share of total CLPSS imports increased from 25.4 percent in 2003 to 36.2 percent in 2004, before falling to 25.7 percent in 2005 by quantity. Staff Table IV-2. Relative to consumption, total non-subject imports increased from *** percent in 2003 to *** percent in 2004, before falling somewhat to *** percent in 2005, by quantity. Staff Table C-2.

³⁰⁹ Non-subject imports from Brazil as a share of total imports increased from 10.6 percent in 2003 to 20.1 percent in 2004, before falling to 11.8 percent in 2005 by quantity. CR/PR at Table IV-2. Relative to consumption, non-subject imports from Brazil *** from *** percent in 2003 to *** percent in 2004, before falling to *** percent in 2005, by quantity. Staff Table C-2.

³¹⁰ CR/PR at Tables IV-2; Staff Table C-2.

domestic like product as well as the cumulated subject imports.³¹¹ We would expect that non-subject imports from Brazil would aggressively market in the United States, given their consistent underselling of subject imports and the domestic like product, their substitutable nature, and their general availability in the market, but they did not. Although the volume of non-subject imports from Brazil increased somewhat in absolute terms, these imports did not penetrate the market rapidly, gaining only *** percentage points of apparent U.S. consumption between 2003 and 2005. Furthermore, despite their lower price, non-subject imports from Brazil actually declined in volume and market share in 2005, the year in which subject imports increased the most in volume and market share. Similar to non-subject imports from Brazil, total non-subject imports exhibited the same behavior, gaining only *** percentage points of apparent U.S. consumption between 2003 and 2005, and there was no uniform volume trend among sources of non-subject supply.³¹² On balance, weighing the facts of record in these investigations, we find that non-subject imports were price competitive, but these imports were not a significant factor in the U.S. all lined paper products market over the period of investigation.³¹³ Accordingly, we do not find the second triggering factor identified in Bratsk to be present and therefore are not required to address “whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers.”³¹⁴

Nevertheless, even if both of the triggering factors were present, we would not find that non-subject imports “would have replaced subject imports without any beneficial effect on domestic producers.”³¹⁵ The record in these investigations demonstrates that non-subject producers of CLPSS did not have sufficient capacity to completely replace subject imports during the period of investigation.³¹⁶

Weighing the evidence, we first conclude that the record does not support respondents’ chief assertion: that non-subject imports from Brazil could have replaced subject imports without benefit to the domestic industry.³¹⁷ It is estimated that Brazilian producers have production capacity of 205,000 metric

³¹¹ Non-subject imports from Brazil undersold the domestic like product in 30 out of 39 price comparisons. CR/PR at Table V-8. The margins of underselling ranged from 1.0 percent to 52.1 percent. Id. In comparison to subject import prices, non-subject imports from Brazil generally undersold subject imports over the period. CR/PR at Figures V-2 to V-6. We note that Brazilian prices were generally lower than cumulated subject import prices. See Staff Tables V-1 to V-4. We further note that when a Brazilian producer submitted offers in the same bid process as domestic producers, the bid data reveal that the price quote from Brazil was lower in a great majority of the time. When Brazilian producers submitted offers in the same bids as subject producers from China and Indonesia, however, the offer for imports from Brazil was generally higher. When Brazilian producers submitted offers in the same bids as subject producers from India, the offer for imports from Brazil was priced either higher or lower than subject imports from India. See CR at V-28 to V-58.

³¹² Total non-subject imports reached their highest level in 2004 and fell in 2005, and did not penetrate the market rapidly. Staff Table C-2. As indicated above, non-subject imports from Brazil gained a majority of the increase (*** percent) over the period of investigation.

Although we give little weight to AUV data on the record, in light of the product mix concerns in these investigations, we observe that the AUVs of non-subject imports from Brazil were lower than cumulated subject imports over the period and the domestic like product. The AUVs of all non-subject imports, however, were higher than those of cumulated subject imports over the period. CR/PR at Table IV-2, Staff Table C-2.

³¹³ See generally Nippon Steel Corp. v. United States, ___ F.3d ___, slip op. No. 05-1404 (Fed. Cir. Aug. 10, 2006).

³¹⁴ 444 F.3d at 1375.

³¹⁵ 444 F.3d at 1375.

³¹⁶ CR at VII-10 to VII-11, PR at VII-6 to VII-7.

³¹⁷ Indonesian Respondent’s Prehearing Brief at 24-26; Staples’ Prehearing Brief at 43-44.

tons, of which 65,000 metric tons are available for export.³¹⁸ Petitioner estimates that this equates to approximately 417 million units of CLPSS, of which 120.0 million units are exported.³¹⁹ Target estimates that four Brazilian firms have capacity to produce 42,000 metric tons, or 303.4 million units, but indicates that these data are understated because they do not include ***, the largest known producer of CLPSS in Brazil.³²⁰ CPP and Firstline also indicate that demand in the Brazilian market ends in March of each year, which allows Brazilian producers to allocate resources to the U.S. market late in the production season, but only for about three months prior to the peak BTS season in the United States.³²¹ This fact indicates that Brazilian producers had limited production capacity available to supply U.S. demand.

On balance, based on either of these estimates and the fact that Brazilian producers had limited capacity available to supply the U.S. market, we find that it would not be possible for Brazilian producers to completely replace subject imports of between 262.5 million units and 416.5 million units during the period of investigation even if Brazilian producers had dedicated complete production and production capacity to the U.S. market, an unlikely scenario.³²² As discussed above, we would have expected that non-subject imports from Brazil would have aggressively penetrated the U.S. market if they had the capabilities and incentive to do so, given their consistent underselling of all competitors, their substitutable nature, and their wide availability in the U.S. market. This did not happen during the period investigated, further supporting our conclusion that Brazilian capacity available to serve the U.S. market is far more limited than that of subject producers.³²³

The available data on the collective capacity of all non-subject producers support the conclusion that such capacity is limited.³²⁴ Moreover, the interim data collected confirm our conclusion that total non-subject imports could not have replaced subject imports and negated the beneficial effect on domestic producers that would result from an order.³²⁵ Although the volume of total non-subject imports as well as non-subject imports from Brazil alone were higher in absolute terms and relative to consumption in interim 2006 as compared to interim 2005, they did not fully replace subject imports, which were lower in

³¹⁸ CR at VII-11, PR at VII-6.

³¹⁹ Petitioner's Answers to Commissioner Questions at 26.

³²⁰ Target's Posthearing Brief at Exh. 1-23-24.

³²¹ CPP's and Firstline's Prehearing Brief at 13.

³²² Staff Table C-2; see generally *Nippon Steel Corp. v. United States*, ___ F.3d ___, slip op. No. 05-1404 (Fed. Cir. Aug. 10, 2006).

³²³ See CR at VII-11 n.41, PR at VII-6 n.41; Staff Table C-2 (indicating that cumulated subject imports increased from 262.5 million units in 2003 to 291.7 million units in 2004, and then to 416.5 million units in 2005).

³²⁴ Petitioner claims that the CLPSS industry in Mexico is dominated by a single firm and that the export capacity of this producer is *** metric tons. Petitioner's Answers to Commissioner Questions at 32. Even though Petitioner did not convert these data into units, this available capacity would be *** than that reported for Brazilian producers. Moreover, the record indicates that non-subject imports from Mexico followed the same volume trend as non-subject imports from Brazil, increasing the most between 2003 and 2004, but declining in 2005. Non-subject imports from Mexico increased from 4.1 million units in 2003 to 6.0 million units, and then fell to 5.0 million units in 2005. Official Commerce import statistics.

While no capacity data were submitted for the Canadian industry, this industry is dominated by a single firm that is owned by a domestic producer. *Id.* at 32; CR at VII-11, PR at VII-7.

We further note that ***. Petitioner's Posthearing Brief at Exh. 6.

³²⁵ For the reasons discussed *supra* notes 225, 262, under the post-petition effects provision, we do not rely on the interim data for purposes of our material injury analysis. 19 U.S.C. § 1677(7)(I); SAA at 854. For the purpose of our analysis of the replacement and benefit factors under *Bratsk*, however, we consider interim data to be supplementary evidence and rely on it accordingly. See 444 F.3d at 1375-76 (indicating that the Commission did not explain how much spot prices for silicon metal increased, the significance of that increase, or the significance of price increases in 11 domestic contracts following Commerce's preliminary determination).

interim 2006 while these investigations were pending. Rather, when subject imports were lower in interim 2006 as compared to interim 2005, a large portion of the market share held by subject imports was taken by domestic producers as well as total non-subject imports, particularly non-subject imports from Brazil.³²⁶ Indeed, one retailer respondent testified that it “scrambled” to secure non-subject sources of supply after the filing of the petition in these investigations.³²⁷

The domestic industry also experienced an improvement in its domestic production, capacity, capacity utilization, U.S. shipments, inventories, and employment, in interim 2006 as compared to interim 2005.³²⁸ In particular, domestic production was 32.1 percent higher in interim 2006 as compared to interim 2005; and capacity utilization was 13.0 percentage points higher in interim 2006 as compared to interim 2005.³²⁹ The domestic industry’s U.S. shipments were higher in interim 2006 at 185.6 million units as compared to interim 2005 at 129.1 million units, a period change of 43.8 percent.³³⁰ Domestic price levels improved in interim 2006 as compared to the same period in interim 2005, notwithstanding the increase in non-subject imports in interim 2006.³³¹ Moreover, many of the domestic industry’s financial indicators improved, including operating income, net sales as a ratio to operating income, and net sales values. Operating income was \$11.7 million in interim 2006 as compared to \$7.6 million in interim 2005, and the industry’s operating income as a ratio to net sales was also higher in interim 2006 (9.6 percent) as compared to interim 2005 (7.9 percent).³³² Net sales values also were 27.5 percent higher

³²⁶ Memorandum INV-DD-128 at Table C-2A. As a share of apparent consumption, the domestic industry held a higher share of the U.S. market in interim 2006 (28.6 percent) than interim 2005 (20.8 percent). Id. As a share of apparent consumption, total non-subject imports held a higher share of the U.S. market in interim 2006 (27.0 percent) than interim 2005 (13.4 percent). Id. Non-subject import from Brazil followed the same trend, holding a higher share in interim 2006 (15.8 percent) than interim 2005 (6.7 percent). Id.

³²⁷ Tr. at 221 (Ciulla).

³²⁸ Memorandum INV-DD-128 at Table C-2A. Capacity was higher in interim 2006 at 331.3 million units as compared to interim 2005 at 318.8 million units. Memorandum INV-DD-128 at Table C-2A. Inventories were lower in interim 2006 at 114.8 million units as compared to interim 2005 at 122.8 million units. Memorandum INV-DD-128 at Table C-2A.

³²⁹ Memorandum INV-DD-128 at Table C-2A. Production was higher in interim 2006 at 201.5 million units as compared to interim 2005 at 152.6 million units. Memorandum INV-DD-128 at Table C-2A. Capacity utilization was higher in interim 2006 at 60.8 percent as compared to interim 2005 at 47.9 percent. Memorandum INV-DD-128 at Table C-2A. The number of production workers was higher in interim 2006 at 765 as compared to interim 2005 at 753. Id. The number of hours worked was higher in interim 2006 at 769,000 hours as compared to interim 2005 at 725,000 hours. Id.

³³⁰ Memorandum INV-DD-128 at Table C-2A.

³³¹ More specifically, the price of domestic Product 1 was higher at \$*** per unit in the first quarter of interim 2006 than \$*** per unit in the first quarter of interim 2005. Memorandum INV-DD-128 at Table V-1A; Staff Table V-1. The price of Product 1 also was higher at \$*** in the second quarter of 2006 than in the second quarter of 2005 (** per unit). Id. The price of domestic Product 2 was stable at \$*** per unit in the first quarter of interim 2006 and in the interim 2005. Memorandum INV-DD-128 at Table V-2A; Staff Table V-2. The price of Product 2 was higher at \$*** in the second quarter of interim 2006 than in the second quarter of interim 2005 (** per unit). Id. The price of domestic Product 3 was higher at \$*** per unit in the first quarter of interim 2006 than in the interim 2005 at \$*** per unit. Memorandum INV-DD-128 at Table V-3A; Staff Table V-3. The price of Product 3 was higher at \$*** in the second quarter of interim 2006 than in the second quarter of interim 2005 at *** per unit. Id. The price of domestic Product 4 was higher at \$*** per unit in the first quarter of interim 2006 than in the interim 2005 at \$*** per unit. Memorandum INV-DD-128 at Table V-4A; Staff Table V-4. The price of Product 4 was lower at \$*** in the second quarter of interim 2006 than in the second quarter of interim 2005 at *** per unit. Id.

³³² Memorandum INV-DD-128 at Table C-2A.

in interim 2006 (\$121.9 million) as compared to interim 2005 (\$95.6 million).³³³ These data make it clear that the domestic industry benefitted from the reduction of subject imports over the interim period and would continue to benefit if the orders were imposed.

For all these reasons, if orders had been imposed on the subject imports, we conclude that total non-subject imports would not have replaced subject imports without any beneficial effect on domestic producers during the period. Thus, this analysis does not mandate a negative material injury determination.

VII. CRITICAL CIRCUMSTANCES

In its final antidumping duty determination concerning CLPSS from China, Commerce found that critical circumstances exist for eight producers in China as well as the “China-wide entity.”³³⁴ Because we have determined that the domestic all lined paper products industry is materially injured by reason of subject imports from China, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued.”³³⁵ The SAA indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”³³⁶

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant –

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and

³³³ Memorandum INV-DD-128 at Table C-2A.

³³⁴ Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 Fed. Reg. at 53,082. We observe that Commerce also made a final critical circumstances determination with respect to Indonesian Respondent. Petitioner did not urge the Commission to make an affirmative critical circumstances determination with respect to Indonesia. Tr. at 371 (Price) (“[W]e are not making critical circumstances arguments with regard to Indonesia.”). We nonetheless are statutorily required to determine whether Indonesian Respondent’s imports are likely to undermine seriously the remedial effect of the antidumping order to be issued. 19 U.S.C. § 1673d(b)(4)(A)(i). We have compared the subject import volume data available on the record for the periods requested by Petitioner and NuCarta with respect to the China determination. See *infra* at 66-68. As we do not have data from Indonesian Respondent for December 2004, we have used facts available for the three-month period prior to the filing of the petition (January 2005 through March 2005) to the volume of those subject imports for the comparable period following the filing of the petition (January 2006 through March 2006). We also have compared the subject import volume data for the six-month period prior to the filing of the petition (March 2005 to August 2005) to the volume of those subject imports for the six-month period following the filing of the petition (September 2005 to February 2006). In either comparison, the volume of subject imports from Indonesian Respondent declined ***. Its exports decreased *** from *** metric tons to *** for the period advocated by Petitioner. Its exports also declined *** from *** metric tons to *** metric tons for the period advocated by NuCarta. We therefore make a negative finding with respect to critical circumstances for Indonesian Respondent.

³³⁵ 19 U.S.C. § 1673d(b)(4)(A)(i).

³³⁶ SAA at 877.

(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.³³⁷

Consistent with Commission practice,³³⁸ in considering the timing and volume of subject imports, we consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.

The petition in this case was filed on September 9, 2005. On April 17, 2006, Commerce made its affirmative preliminary determination that critical circumstances exist for seven Chinese firms and for the China-wide entity.³³⁹ Commission staff requested data relating to these seven firms' exports of subject merchandise to the United States. On August 30, 2006, Commerce made its affirmative final determination that critical circumstances exist for five of the seven firms found in the preliminary phase of its proceedings, three new firms, and for the China-wide entity.³⁴⁰ Data on monthly exports from these eight Chinese firms are limited, as three new firms were added to Commerce's critical circumstances determination in the final phase of its proceedings, and only two firms, *** and ***, provided export data to Commerce that could be used in making its critical circumstances determination. None of the five firms found in both phases of Commerce's proceedings responded to the Commission's request for monthly export data. Moreover, Commerce's official import statistics for the China-wide entity include subject imports from Chinese producers not covered by Commerce's critical circumstances determination. We therefore base our critical circumstances determination on the facts available, which include data for the China-wide entity based on Commerce's official import statistics and ***.

Petitioner contends that subject import volume from China increased each year over the period in April and peaked in June, one month before the BTS season begins, and then declined in the months after that season. It therefore argues that the Commission should base its critical circumstances determination on the period December 2004 through March 2005 compared to December 2005 through March 2006.³⁴¹ NuCarta claims that the Commission should compare the volume of subject imports from China between September 2005 and February 2006 to the volume of those imports between March 2005 and August 2005.³⁴²

We have compared the subject import volume data for the periods requested by the parties. To examine the volume of subject imports for the three-month periods (December 2004 through March 2005 and December 2005 through March 2006) advocated by Petitioner, we have looked to data it supplied to support its contention. These data are based on official import statistics and indicate that exports from China increased from *** million units to *** million units.³⁴³ This increase, we note, is overstated to some extent, as the data contain export shipment volumes for Chinese firms not subject to Commerce's

³³⁷ 19 U.S.C. § 1673d(b)(4)(A)(ii).

³³⁸ See, e.g., Carbazole Violet Pigment 23 From China and India, Inv. Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final), USITC Pub. 3744 at 26 (Dec. 2004); Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003).

³³⁹ Preliminary Determination of Sales at LTFV, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China, 71 Fed. Reg. 19,695, 19,702-03 (Apr. 17, 2006).

³⁴⁰ Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 Fed. Reg. at 53,082.

³⁴¹ Petitioner's Prehearing Brief at 89-90. We note that our data cover monthly exports from China to the United States from January 2005 to April 2006. In considering Petitioner's argument, we have examined both the export data available on the record as well as data supplied by Petitioner. Petitioner's Prehearing Brief at Exh. 11.

³⁴² NuCarta's Prehearing Brief at 8.

³⁴³ Derived from Petitioner's Prehearing Brief at Exh. 11.

critical circumstances finding. We view the increases over the latter three-month period to be consistent with the overall absolute increases in export shipments from China in the period prior to the filing of the petition.³⁴⁴ We also find the increases are consistent with the seasonal nature of the all lined paper products industry, and overall increasing demand in the U.S. market.³⁴⁵ We therefore do not consider the increase in subject imports from China during the three-month period as likely to undermine seriously the remedial effect of the antidumping duty order.

We also have compared the subject import volume data for the six-month period prior to the filing of the petition (March 2005 to August 2005) to the volume of those subject imports for the six-month period following the filing of the petition (September 2005 to February 2006). The China-wide entity's exports declined substantially from *** million units to *** million units.³⁴⁶ ***, declining from *** units before the petition to *** units after the petition.³⁴⁷ *** export data from ***, the larger of the two firms, however, show a *** from *** million units in the six months before the petition was filed to *** million units in the six months after the petition was filed.³⁴⁸ We do not consider *** by one firm in the six-month period as likely to undermine seriously the remedial effect of the antidumping duty order, especially in view of the overall decline in the industry's export shipments.

We determine that critical circumstances do not exist with respect to the subject imports of certain Chinese producers and the China-wide entity covered by Commerce's affirmative critical circumstances determination, when considered in the three-month periods advocated by Petitioner, because the absolute level of subject imports of CLPSS covered by Commerce's critical circumstances determination is not sufficiently large that it is likely to undermine seriously the remedial effect of the antidumping order. Rather, we find these increases consistent with the overall absolute increases in export shipments, increasing demand, and the seasonal nature of the all lined paper products market. We determine that critical circumstances do not exist with respect to the subject imports of certain Chinese producers and the China-wide entity covered by Commerce's affirmative critical circumstances determination, when considered in the six-month period advocated by NuCarta, because the declines in subject imports from China during this period are not likely to seriously undermine the remedial effect of the antidumping order. Based on the record in these investigations, we find that the imports of CLPSS from China subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued. We therefore make a negative finding with respect to critical circumstances.

³⁴⁴ Petitioner's Prehearing Brief at Exh. 5 (showing that export shipments increased overall in each calendar year during the months January through March), 11 (showing an overall absolute increase in export shipments from December 2004 to February 2005 and December 2005 to February 2006).

³⁴⁵ We note that during the three-month periods (December 2004 through March 2005 and December 2005 through March 2006) advocated by Petitioner, subject imports from China increased approximately 175 percent. Derived from Petitioner's Prehearing Brief at Exh. 11. For the reasons indicated above, we do not find that this increase as likely to undermine seriously the remedial effect of the antidumping duty order.

³⁴⁶ Table IV-12A.

³⁴⁷ Table IV-12A.

³⁴⁸ Table IV-12A.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of subject imports of CLPSS from India and Indonesia that are found to be subsidized, and by reason of subject imports of CLPSS from China, India, and Indonesia that are found to be sold in the United States at LTFV.

SEPARATE AND DISSENTING VIEWS OF CHAIRMAN DANIEL R. PEARSON AND COMMISSIONERS JENNIFER A. HILLMAN AND DEANNA TANNER OKUN

Based on the record in these investigations, we determine that an industry in the United States is threatened with material injury by reason of certain lined paper school supplies (“CLPSS”) imported from China that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”). We further determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of CLPSS from India and Indonesia that have been found by Commerce to be subsidized and by reason of imports of CLPSS from India and Indonesia that have found by Commerce to be sold in the United States at LTFV.

We join our colleagues’ discussion regarding background, domestic like product, domestic industry, negligible imports, and cumulation for the purposes of evaluating whether the domestic industry is presently materially injured by reason of subject imports from all three countries. We write separately to discuss the legal standard, the conditions of competition, cumulation for threat, the affirmative threat of material injury finding concerning subject imports from China, the negative threat of material injury finding concerning subject imports from India and Indonesia, and the negative present material injury finding on cumulated subject imports from China, India and Indonesia.

I. SUMMARY

Because we base our affirmative determination on China on a threat of material injury from that source, we have evaluated this issue first. In making our determination on threat of injury, we do not exercise our discretion to cumulate imports from China with those from India and Indonesia, but we do exercise our discretion to cumulate imports from India and Indonesia. We decline to exercise our discretion to cumulate subject imports from China primarily because such imports exhibited starkly different volume trends from other subject imports during the period examined, and because the Chinese industry is differently export-oriented than the industries in India and Indonesia.

With regard to threat of material injury with respect to China, we find that the Chinese industry exhibited *** increases in capacity and growing excess capacity during the period of investigation. Chinese firms also are substantially dependent on the U.S. market. Based on these reasons and the increase in subject import volume and market share from China toward the end of the period of investigation, we find likely further increases in subject imports from China in the imminent future. U.S. importers hold significant inventories of lined paper products imported from China. With regard to price effects, subject imports from China are not likely to depress or suppress domestic prices in the imminent future. Nevertheless, the weakened state of the U.S. industry makes it vulnerable to the effects of future subject imports from China, given the large and growing available production capacity in China and the absence of any substantial barriers in the U.S. market to further inroads by those imports. On balance, we find that the domestic industry is threatened with material injury by reason of subject imports from China.

In contrast, we do not find that substantially increased imports from India and Indonesia are likely in the imminent future given that, during the period examined, imports from these countries declined, both in terms of quantity and market share. Data on capacity in those countries do not indicate the likelihood of increased imports. In neither country did capacity increase particularly substantially during the period examined. Any existing unused capacity is unlikely to be targeted at the U.S. market, given export patterns during the period. Further, imports from these sources will not likely have depressing or suppressing effects on U.S. prices. Imports from India were primarily oversold during the period examined. Neither country was particularly successful in winning business via the auction process. Finally, although we find the U.S. industry to be vulnerable, there are no demonstrable adverse trends in the industry that are attributable to imports from either India or Indonesia. Hence, we conclude

that the domestic LPP industry is not threatened with material injury by reason of imports from India and Indonesia.

With regard to present material injury, we join the analysis and conclusion set out in the majority's views that the statutory requirements are satisfied for cumulating subject imports from all three countries. However, we do not find that the domestic industry is currently materially injured by those imports. During the period examined, the increases in volume and market share of cumulated subject imports from all three countries were significant. However, these imports did not have significant price effects, either in terms of underselling the domestic like product or in influencing U.S. price levels. In particular, the decline in U.S. prices from 2003 to 2004 was not caused by subject imports, which did not increase substantially until 2005 and did not consistently undersell prices of domestic LPP. Indeed, as subject imports increased significantly in 2005, U.S. prices either stabilized or increased.

With regard to the condition of the U.S. industry, we find that the domestic LPP industry is in a weakened condition such that it is vulnerable to the effects of further subject imports from China, but we do not find the requisite causal link between the presence of subject imports and any current harm being suffered by the domestic industry. Noteworthy was the fact that the record did not support the claims of one large domestic producer that its plant shutdowns in 2004, which resulted in *** increases in subject imports by that producer in 2005 (either ***), were the result of the effects of imports from the subject countries. ***, as the domestic industry as a whole was responsible for *** majority of the increase in the volume of subject imports that occurred during the years 2003 to 2005.

Finally, we have complied with the Federal Circuit's mandate in its recent case of Bratsk Aluminum Smelter v. United States.¹ In that case the Court indicated that, in cases involving commodity products in which imports from non-subject countries are price-competitive and are a significant factor in the U.S. market, in order to establish a causal link between subject imports and material injury the Commission must evaluate whether the non-subject imports would replace subject imports and thereby eliminate the benefit to the domestic industry of an antidumping or countervailing duty order. Although the information available to us on the lined paper industries in non-subject countries is limited, we find that non-subject imports would not replace subject imports from China and thereby eliminate the benefit to the domestic industry of an antidumping duty order on imports from China.

II. LEGAL STANDARD

A. General Legal Standards

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.² In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.³ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁴ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant

¹ 444 F.3d 1369 (Fed. Cir. 2006).

² 19 U.S.C. §§ 1671b(a) and 1673b(a).

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

⁴ 19 U.S.C. § 1677(7)(A).

economic factors that bear on the state of the industry in the United States.⁵ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁶

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”⁷ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.⁸ In making our determinations, we consider all statutory threat factors that are relevant to these investigations.⁹

B. Legal Issues Concerning Bratsk Aluminum Smelter v. United States

In the recent case of Bratsk Aluminum Smelter et al. v. United States, 444 F.3d 1369 (Fed. Cir. 2006) (“Bratsk”), the Court of Appeals for the Federal Circuit reaffirmed that the requisite causal link to subject imports is not demonstrated if such imports contributed only “minimally or tangentially to the material harm.”^{10 11} Applying that standard to an investigation involving a commodity product, *i.e.*, silicon metal, and the significant presence of non-subject imports, the Court held that the Commission had not sufficiently explained whether non-subject imports simply would have replaced subject imports during the period of investigation had an antidumping order been in place and continued to cause injury to the domestic industry.¹²

As a threshold matter, it is not immediately clear to us how the Commission should interpret the Bratsk opinion in terms of its effect on our analysis of causation in Title VII investigations.¹³ At a

⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁷ 19 U.S.C. § 1677(7)(F)(ii).

⁸ 19 U.S.C. § 1677(7)(F)(ii).

⁹ 19 U.S.C. § 1677(7)(F)(i). These factors include: any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country; a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports; whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on the domestic prices and are likely to increase demand for further imports; inventories of the subject merchandise; the potential for product-shifting; and the actual and potential negative effects on the existing development and production effects of the domestic industry. 19 U.S.C. § 1677(7)(F)(i).

¹⁰ No. 05-1213 (Fed. Cir. Apr. 10, 2006), Slip Op. at 6, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997). The Commission filed a petition for rehearing *en banc*, which the Court denied on July 24, 2006. The Court’s mandate was issued on August 7, 2006 and Bratsk became binding precedent of the Federal Circuit on July 24, 2006, when the petition for rehearing *en banc* was denied. See *e.g.*, AINS Inc. v. United States, 365 F.3d 1333, 1341 (Fed. Cir. 2004) (“Prior decisions of a panel [of the Federal Circuit] are binding precedent on subsequent panels unless and until overturned *en banc*.”).

¹¹ Commissioner Okun did not participate in the underlying investigation nor the subsequent litigation.

¹² Slip Op. at 2, 9-11.

¹³ Commissioner Hillman does not join section 2 below (entitled “Gerald Metals Causation Analysis”). In her view the Court in Bratsk made clear that the Commission should apply the Replacement/Benefit test discussed in section 1 just below. As stated by the Court, this test is as follows: “Where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market, the Commission must explain why the

(continued...)

minimum, we can discern at least two possible interpretations which differ substantially: (1) that Bratsk mandates application of an additional test apparently not contemplated by the statute (the so-called “replacement/benefit test”), and (2) that Bratsk is a further development of the causation approach prescribed by Gerald Metals.

1. Separate Causation Analysis – Replacement/Benefit Test

The statute sets forth specific factors for the Commission to consider in analyzing the volume, price effects and impact of subject imports. 19 U.S.C. § 1677(7). The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) explains further that in analyzing causation the Commission must examine factors other than subject imports to ensure that it is not attributing injury from these sources to the subject imports, but is not required to isolate the injury caused by other factors from injury caused by unfair imports.¹⁴ Beyond this, the statute does not provide any further limitations on how the Commission’s causation analysis shall be conducted.

The Court’s decision, however, states that the Commission must perform an additional “specific” causation analysis in the form of a replacement/benefit test. Using somewhat varying phrasing, the Court stated that the Commission must determine “whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers,” must “explain why the elimination of subject imports would benefit the domestic industry instead of resulting in the non-subject imports’ replacement of the subject imports’ market share without any beneficial impact on domestic producers,” and must explain “why the non-subject imports would not replace the subject imports and continue to cause injury to the domestic industry.”¹⁵

Such a “replacement/benefit” test is not among the statutory factors Congress has required the Commission to consider. The statutory scheme contemplates that subject imports may remain in the U.S. market after an order is imposed and even that the industry afterward may continue to suffer material injury.¹⁶ Thus, the decision in Bratsk misconstrues the purpose of the antidumping and countervailing duty laws, which is not to bar subject imports from the U.S. market or award subject import market share to U.S. producers, but instead to “level[] competitive conditions” by imposing a duty on subject imports at a level to offset the amount of dumping or subsidization and thus enabling the industry to compete

¹³ (...continued)

elimination of subject imports would benefit the domestic industry instead of resulting in the non-subject imports’ replacement of the subject imports’ market share without any beneficial impact on domestic producers.” Bratsk, Slip Op. at 7. She finds that this test goes beyond the non-attribution analysis required by the statute as interpreted by prior precedent of the Commission’s reviewing courts.

¹⁴ H.R. Doc. No. 103-316, Vol. I (1994) at 851-52 (“SAA”); Taiwan Semiconductor Industry Ass’n v. United States, 266 F.3d at 1339, 1345 (Fed. Cir. 2001).

¹⁵ Slip op. at 9, 12.

¹⁶ SAA at 851-52, 885, 889-90. The Commission has indicated that the possibility that an order might not be effective does not preclude a finding of present material injury. The Commission also has concluded that the statute does not provide for the Commission to perform an additional injury test to predict the future effectiveness of import relief:

{W}e note that nothing in the statute or case law requires (or allows) us to consider the likely effectiveness of a dumping order in making our injury determination. The possibility that non-subject imports will increase in the future after an antidumping order is imposed is . . . not relevant to our analysis of whether subject imports are currently materially injuring the industry.

against fairly traded imports.¹⁷ It is not uncommon for subject imports to remain in the U.S. market in significant quantities even after the issuance of an antidumping or countervailing duty order, as shown by the hundreds of millions of dollars in antidumping and countervailing duties collected every year.

Bratsk, therefore, appears to require that the Commission apply an extra-statutory causation test with respect to non-subject imports and to determine that the domestic industry will benefit from the antidumping duty or countervailing duty order. We respectfully disagree with the Court that such a causation analysis is legally required.¹⁸ However, given that the Federal Circuit’s mandate has now been issued and the decision has become binding precedent, we discuss infra our interpretation of the Bratsk standard and perform the analysis following our affirmative threat determination.¹⁹

2. Gerald Metals Causation Analysis

Alternatively, we also find support for interpreting the Bratsk decision to be reminding the Commission of its obligation under Gerald Metals that the Commission may not satisfy the “by reason of” causation requirement by showing that subject imports contributed only “minimally or tangentially to the material harm.”²⁰

This may be a reasonable interpretation of the Bratsk decision as the Court noted that the “sole point of contention in this appeal is whether the Commission established that the injury to the domestic industry was ‘by reason of’ the subject imports.”²¹ In explaining its conclusion, the Court emphasized that the Commission had “dismissed” Gerald Metals as being factually distinguishable,²² extensively explained its holdings in Gerald Metals and Taiwan Semiconductor,²³ and noted that the underlying investigation in Bratsk “revealed the same conditions that triggered the additional causation inquiry in Gerald Metals and Taiwan Semiconductor.”²⁴ Further, the Court noted that:

Gerald Metals thus requires the Commission to explain why – notwithstanding the presence and significance of the non-subject imports – it concluded that the subject imports caused material injury to the domestic industry. While there may be support for the Commission’s ultimate determination of material injury in the record here, we find that the Commission did not sufficiently explain its decision in this regard.²⁵

Therefore, the Court may not have been creating a new extra-statutory causation test, but rather was simply reminding the Commission of its existing obligation under Federal Circuit precedent. In other words, the Bratsk Court’s relatively short discussion of the underlying determination may not have

¹⁷ Huaiyin Foreign Trade Corp. v. United States, 322 F.3d 1369, 1380 (Fed. Cir. 2003).

¹⁸ The Commission set out in detail its objections to the Court’s decision in its petition for rehearing to the Federal Circuit. See Petition for Rehearing en Banc (May 25, 2006), Bratsk Aluminum Smelter et al. v. United States, 444 F.3d 1369 (Fed. Cir. 2006)(No. 05-1213) (petition denied July 24, 2006).

¹⁹ It is unclear whether the Court intended its approach to apply to analyses of threat of material injury, or only to analyses of present material injury. Given that one of the Court’s formulations of the standard is framed in terms of likely future events, we have interpreted the Court’s decision as applying both to the context of present injury and threat of injury.

²⁰ Gerald Metals, 132 F.3d at 722.

²¹ Slip op. at 5.

²² Slip op. at 5.

²³ Slip op. at 6-9.

²⁴ Slip op. at 9.

²⁵ Slip op. at 10.

established a new and rigid replacement/benefit test. Rather, the Court may have discussed the triggering factors (*i.e.*, commodity product and price-competitive non-subject imports) and the replacement/benefit factors (*i.e.*, whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers)²⁶ as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.

The statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” the unfairly traded imports.²⁷ Thus, we must evaluate the effects of the unfairly traded imports on the domestic industry in order to determine if those imports are causing material injury. In most investigations, there are other economic factors that also may be causing injury to the domestic industry. The statute’s legislative history states that the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”²⁸ While the statute is clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury,²⁹ the Commission cannot assign the cause of material injury to factors other than subject imports. Under this interpretation, the reference in Bratsk to “whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers” could be asking the Commission to interpret “benefit” to mean that if the subject imports are indeed causing harm, then the removal of the unfairly traded imports should “benefit” the domestic industry, but if the removal of the unfairly traded imports would not benefit the domestic industry, the injury must be attributable to other factors. Thus, the Commission must analyze the effects of the unfairly traded imports in a way that enables the Commission to conclude that it has not attributed the effects of other factors to the subject imports.

If this interpretation of Bratsk is correct, then we concur with the Federal Circuit that we are required to identify and assess the competitive effects of subject imports to ensure that they contribute more than “minimally or tangentially to the material harm” of the domestic industry.

III. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

The following conditions of competition are pertinent to our analysis of the impact of CLPSS imports from China, India, and Indonesia on the domestic industry.

A. Demand Conditions

Apparent U.S. consumption of all lined paper products increased *** percent by quantity during the period of investigation.³⁰ Apparent U.S. consumption of all lined paper products increased from *** units in 2003 to *** units in 2004, and was stable at *** units in 2005.³¹

The parties generally agree that demand for CLPSS increased over the period of investigation.³² They further agree that demand is seasonal and peaks during a 4-to-10 week back-to-school (“BTS”)

²⁶ Slip op. at 9.

²⁷ 19 U.S.C. § 1673d(b).

²⁸ S. Rep. No. 249, 96th Cong., 1st Sess. 46-47 (1979).

²⁹ S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47.

³⁰ Staff Table C-2. We note that apparent U.S. consumption of all lined paper products also increased by *** percent when measured by value. Id. By value, apparent U.S. consumption of all lined paper products increased from \$*** in 2003 to \$*** in 2004, and rose to \$*** in 2005. Id.

³¹ Staff Table C-2.

³² Petitioner’s Prehearing Brief at 18; Staples’ Prehearing Brief at 18; Indonesian Respondent’s Prehearing Brief at 9; Target’s Prehearing Brief at 9. No other respondent discussed this point.

period beginning in July and ending in September.³³ The record reveals that a majority of responding U.S. producers and importers indicated that demand increased or was unchanged during the period of investigation. Petitioner states that demand is driven by the growth of the economy and the number of school-age children.³⁴ Target agrees that demand is increasing because of economic and population growth but adds that promotional retail marketing strategies have increased demand as well.³⁵

B. Supply Conditions

The Commission received partial or complete substantive questionnaire responses from 11 U.S. producers of all lined paper, three of which are members of the Petitioner trade association – MeadWestvaco, Norcom, and Top Flight – and collectively account for approximately *** percent of reported U.S. production of all lined paper products in 2005.³⁶ Large producers of all lined paper products include the following in alphabetical order: MeadWestvaco is the *** U.S. producer of all lined paper products, accounting for *** percent of reported production in 2005.³⁷ Norcom is the *** U.S. producer of all lined paper products, accounting for *** percent of reported U.S. production in 2005.³⁸ TOPS Products, ***, is the *** U.S. producer of all lined paper products, accounting for *** percent of reported U.S. production in 2005.³⁹

MeadWestvaco was the only U.S. producer that closed production facilities during the period of investigation.⁴⁰ In August 2004, MeadWestvaco announced its intention to close two facilities by the end of the year because the facilities “were not strategically located.”⁴¹ These closures reduced MeadWestvaco’s production capacity by *** million units.⁴²

To supply market demand, the record indicates that the bulk of production of all lined paper products precedes the retail BTS season, which, as indicated above, runs from mid-July through

³³ Petitioner’s Prehearing Brief at 11; Target’s Prehearing Brief at 8; Staples’ Postconference Brief at 31. No other respondent commented in their briefs on this point.

³⁴ CR at II-7, PR at II-5; Petitioner’s Prehearing Brief at 13. One non-petitioning U.S. producer and seven importers agreed with Petitioner’s reasons for increasing demand in their questionnaire responses. CR at II-7, PR at II-5. Staples concurs with Petitioner’s description of the factors driving demand for all lined paper products. See Staples’ Prehearing Brief at 18 & Exh. 9.

³⁵ Target’s Prehearing Brief at 9.

³⁶ CR at III-3 & n.6-7, PR at III-1 n.6-7; Staff Table III-1.

³⁷ Staff Table III-1.

³⁸ Staff Table III-1.

³⁹ Staff Table III-1. We note, however, that TOPS is a ***. Its share of production of CLPSS on its equipment and machinery of CLPSS is *** percent. TOPS ***. CR/PR at Table I-4. We also note that TOPS ***. Staff Table III-1. Moreover, TOPS reported *** negative effects or anticipated negative effects on its return on investment, growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of CLPSS from China, India, and Indonesia. CR/PR at Appendix I. Finally, TOPS also reported that ***. TOPS Producer Questionnaire Response (emphasis added).

⁴⁰ Tr. at 33 (Price).

⁴¹ Target’s Prehearing Brief at Exh. 5-B; Staples’ Prehearing Brief at Exh. 7 (MeadWestvaco, “MeadWestvaco Will Consolidate Consumer & Office Products Operations; Move Will Better Align Production and Distribution in U.S. Market” (August 5, 2004)); Tr. at 50 (McLachlan).

⁴² CR at III-4, PR at III-3.

September.⁴³ Generally speaking, retailers place orders in the fall of the preceding year.⁴⁴ Production peaks in late winter and spring.⁴⁵ The peak shipment period follows, generally occurring between April and June of the following year, as product is moved to stores for BTS sales.⁴⁶

From 2003 to 2005, the principal suppliers of all lined paper products to the U.S. market were the domestic producers.⁴⁷ The next largest suppliers were importers of subject merchandise. The remaining portion of the market was supplied by imports of CLPSS from non-subject countries and imports of lined paper products other than CLPSS from all importing sources.⁴⁸ The parties have indicated that Brazil, Canada, and Mexico are important sources of non-subject supply.⁴⁹

The domestic industry played a significant role in the importation of subject and non-subject merchandise throughout the period of investigation.⁵⁰ A significant portion of the domestic industry not

⁴³ CR/PR at II-1; Tr. at 108-109 (Robinson); Petitioner's Posthearing Brief at Exh. 14-16.

⁴⁴ CR at V-25, PR at V-11.

⁴⁵ We note that even during this peak season, capacity utilization reported by domestic producers never exceeded *** percent during the period of investigation. Hence, there was scope for expansion of domestic production during this period. CR/PR at Table III-4.

⁴⁶ See Target's Prehearing Brief at 8-9; Petitioner's Prehearing Brief at 11, 48; Staples' Prehearing Brief at 40 n. 132; CPP's and Firstline's Prehearing Brief at 10; Indonesian Respondent's Prehearing Brief at 19.

⁴⁷ We note that several respondents have argued that the domestic industry lacks capacity to supply U.S. demand. Indonesian Respondent's Prehearing Brief at 10; CPP's and Firstline's Prehearing Brief at 13-15. The Commission has noted that "there is no short supply provision in the statute" and "the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports." Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Article 1904 NAFTA Remand) at 108, n. 310 (Dec. 2003); see also Certain Activated Carbon from China, Inv. No. 731-TA-1103 (Preliminary), USITC Pub. 3852 at 19 n.143 (May 2006); Preliminary Determination, USITC Pub. 3811 at 23 n. 155; Metal Calendar Slides from Japan, Inv. No. 731-TA-1094 (Preliminary), USITC Pub. 3792 at 9 n.45 (Aug. 2005) ("To the extent that Respondents claim that the Commission is legally unable to make an affirmative finding of material injury by reason of subject imports because the domestic industry is incapable of supplying domestic demand, they are incorrect.").

⁴⁸ Staff Table C-2. Imports of all lined paper products other than CLPSS from all importing sources include products that are smaller or larger than the dimensions specified in Commerce's scope of the investigations from any foreign source.

⁴⁹ CR at VII-10 to VII-12, PR at VII-6 to VII-7. Based on official Commerce data, Canada and Brazil were the two largest sources for non-subject imports over the period of investigation. By quantity, imports from Brazil, Canada, China, India, and Indonesia accounted for approximately 88 percent to 90 percent of total U.S. imports of CLPSS during the period of investigation. Derived from official Commerce import statistics.

We note that U.S. importers were asked to report in their questionnaire responses the volume of non-subject imports of CLPSS from Brazil for which they were responsible. The data reported by *** the volume reported in the official Commerce statistics in ***. CR at IV-7 n.11, PR at IV-5 n.11; CR/PR at Table IV-3. At the hearing, the Commission asked Petitioner to explain the discrepancy in the data sets. Tr. at 193 (Chairman Pearson). Petitioner contended that the petitioning firms' imports from Brazil were reported correctly, but did not provide an explanation resolving the discrepancy. Petitioner's Posthearing Brief, Responses to Questions at 104. No other party proffered an explanation for the discrepancy. As noted in the Commission's view on negligibility, we find that the official Commerce statistics are a more reliable and accurate source of data on import volume. To consistently examine import volume, we rely on these statistics for purposes of our determinations.

⁵⁰ Staff Table III-9. In particular, domestic producers imported significant quantities of non-subject product from Brazil during the period of investigation, ranging from *** million units in 2003, to *** million units in 2004, and to *** million units in 2005. Staff Table IV-10C.

Respondents asserted that domestic producers' increased imports from Brazil were part of a general global outsourcing strategy on their part, and that this explained the omission of imports from Brazil from the domestic

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only imported subject product directly and acted as a distributor to retailers, but several domestic producers also brokered transactions between subject producers and U.S. retailers.⁵¹ U.S. producers' direct imports of subject product increased from *** million units in 2003 to *** million units in 2005. U.S. producers' brokered imports of subject product increased from *** million units in 2003 to *** million units in 2005. Combined, U.S. producers' controlled imports (both direct and brokered) of subject product increased from *** million units in 2003 to *** million units in 2005, or by *** percent.⁵² In contrast, subject imports that were not controlled by domestic producers increased much more moderately over the period of investigation, increasing from *** million units in 2003 to *** million units in 2005, or by *** percent.⁵³ In 2005, domestic producers were responsible for *** percent of total subject imports.

Members of the domestic industry also were responsible for *** majority of the increase in subject imports. Over the period of investigation, subject imports increased from *** million units to *** million units, an increase of *** million units or *** percent. Of that increase, the domestic industry was responsible for *** million units, or *** percent of the increase over the period of investigation.⁵⁴ Moreover, the domestic industry was responsible for *** percent of the increase of subject imports from 2004 to 2005, when subject imports reached their peak levels.⁵⁵

Petitioner argues that domestic producers have increased the quantity of subject imports that they source in response to pressure from large retailers to supply lower-priced products.⁵⁶ Several representatives of domestic producers testified to this at the Commission's hearing.⁵⁷ Several respondents argue that U.S. producers' procurement of subject imports was part of a global sourcing strategy to increase company profits that began prior to the time in which subject imports were a significant factor in the market.⁵⁸

⁵⁰ (...continued)

industry's countervailing duty and antidumping petitions. See, e.g., Staples Prehearing Brief at 23-25; Walgreens Posthearing Brief at 8-10; Tr. at 27 (Cameron). In this regard, they also pointed to the complicated and allegedly confusing scope of the investigations as indicating a desire on the part of the industry to protect its sources of imports from the effects of any orders that might be issued as a result of the investigations. Tr. at 226-27 (VanGuyse), 236 (Rao), 258 (Ciulla); Walgreens Posthearing Brief at 8-10.

⁵¹ Staff Table III-9; CR/PR at Table III-10. At the hearing, a corporate representative from MeadWestvaco described a "brokered" transaction as one in which the domestic producer takes the order and arranges for production whereupon the goods are transported to the foreign port, at which point title to the goods transfers from the domestic producer to the customer who receives shipment of the goods and is responsible for the rest of the movement of the goods into the United States. Tr. at 66-67 (McLachlan). A witness for Staples indicated at the hearing that it only negotiated with MeadWestvaco in these transactions and did not know the prices agreed upon between MeadWestvaco and Watanabe, the Chinese supplier. Tr. at 285-86 (Ciulla); see also Tr. at 286-87.

⁵² Staff Table IV-10C.

⁵³ Staff Table IV-10C.

⁵⁴ The majority of that increase was in *** imports.

⁵⁵ Derived from Staff Table IV-10C.

⁵⁶ Petitioner's Prehearing Brief at 50-55.

⁵⁷ Tr. at 44 (Mr. Rahn); 69 (Mr. McLachlan).

⁵⁸ Tr. at 228-229 (Mr. Graham); Target Posthearing Brief, Exhibit 1 at 10. In analyzing this issue, we are mindful of the intent of Congress that we focus our analysis on domestic production operations within the United States. We recognize that there may be instances in which domestic producers import in order to stay in business, or in order to meet competition, and that such instances should not be the foundation for a negative determination of present injury. S. Rep. No. 100-171, 100th Cong., 1st Sess. 117 (1988); see also H. Rep. 100-40, 100th Cong., 1st Sess. 128-29 (1988). In these investigations, however, there is limited evidence to support a conclusion that the domestic

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Finally, domestic producer MeadWestvaco operates two foreign subsidiaries involved in the production of LPP, MeadWestvaco Canada LP and Brazil's Tilibra Produtos de Papelaria Ltda.⁵⁹ MeadWestvaco purchased Tilibra in 2004.⁶⁰

The share of the quantity of apparent U.S. consumption represented by U.S. producers' U.S. shipments declined from *** percent in 2003 to *** percent in 2004 and then fell to *** percent in 2005.⁶¹ The share of the quantity of U.S. apparent consumption held by cumulated subject imports increased during the period of investigation, rising from *** percent in 2003 to *** percent in 2004, and to *** percent in 2005.⁶² As a share of total CLPSS imports, by quantity, cumulated subject imports fluctuated but were stable over the period of investigation, declining from 74.6 percent in 2003 to 63.8 percent in 2004, and returning to the 2003 level of 74.3 percent in 2005.⁶³

As a share of apparent U.S. consumption, total non-subject imports increased from *** percent in 2003 to *** percent in 2004, before falling somewhat to *** percent in 2005, by quantity.⁶⁴ Total non-subject imports as a share of total imports increased from 25.4 percent in 2003 to 36.2 percent in 2004, before falling to 25.7 percent in 2005 by quantity.⁶⁵

Non-subject producers of CLPSS from Brazil were an important supply source. Relative to consumption, the volume of non-subject imports from Brazil rose from *** percent in 2003 to *** percent in 2004 before falling to *** percent in 2005.⁶⁶ As a share of total imports, the volume of non-subject imports from Brazil increased from 10.6 percent in 2003 to 20.1 percent in 2004, before falling to 11.8 percent in 2005.⁶⁷

⁵⁸ (...continued)

LPP industry was importing in order to meet competition, to stay in business, or was "forced" to import from subject sources. Indeed, petitioner supplied only modest evidentiary support for its assertions of the need to import to respond to low-priced subject import offerings. See Petitioner's Posthearing Brief, Responses to Questions at 15-17 (description of producers' commencement of imports containing little evidence tying this action to low-price subject imports). Several producers indicated that, rather than lose a particular purchaser's business altogether, they chose to supply subject imports to maintain relationships with purchasers and thereby be able to supply follow-on business such as short-turnaround supplemental purchases. CR/PR at Table III-8. The record does not appear to support this justification. Out of 136 bids for which the Commission obtained data, there *** in which the same U.S. producer supplied both a domestic and imported product of the same type to the same purchaser during the same period. CR/PR at Table V-9 (***).

⁵⁹ Tr. at 235 (Mr. Rao); 152 (Mr. McLachlan); CR at III-3, PR at III-2.

⁶⁰ Tr. at 235 (Mr. Rao); 152 (Mr. McLachlan).

⁶¹ Staff Table C-2.

⁶² Staff Table C-2.

⁶³ CR/PR at Table IV-2.

⁶⁴ Staff Table C-2.

⁶⁵ CR/PR at Table IV-2.

⁶⁶ Staff Table C-2.

⁶⁷ CR/PR at Table IV-2. While we consider all non-subject imports in our analysis, we also specifically analyze non-subject imports from Brazil in more detail. In the preliminary phase of these investigations, an issue was raised concerning the extent to which the members of the petitioning association had been *** importers of non-subject merchandise from Brazil. The Commission noted that non-subject import volumes had increased during that period of investigation and that it intended to examine these issues in the final phase of these investigations. USITC Pub. 3811 at 24-25. In light of the significance of these issues, the Staff Report analyzes trade data and pricing data for Brazil separately.

As noted previously, the parties agree that domestically produced all lined paper products and subject imports are primarily sold through common channels of distribution, namely retailers.⁶⁸ Subject imports are purchased by retailers either directly from foreign producers or from a distributor.⁶⁹ The record indicates that non-subject imports also are purchased by retailers in the same manner, as six of the 10 largest U.S. importers in 2005 of subject imports and non-subject imports were retailers ***.⁷⁰

Retailers increasingly shifted their purchasing of total imports of CLPSS from purchasing from distributors to directly importing the products themselves.⁷¹ The six retailers identified above increased the volume of their direct subject imports from 2003 to 2005. Their imports of subject merchandise increased from 44.7 million units in 2003 to 46.5 million units in 2004, and then more than doubled to 126.8 million units in 2005.⁷² A significant portion of this increase is due to these retailers purchasing an increasing quantity of imports brokered by domestic producers.⁷³ Three of the major U.S. retailers (***) reported that they purchased imports that were brokered by another firm. These firms identified *** as brokers for their imports.⁷⁴

A limited number of large retailers, comprised of general merchandise superstores, office supply stores, and grocery chains and pharmacies, purchase substantial quantities of all lined paper products.⁷⁵ All lined paper products are purchased by retailers in a variety of contexts, including direct contract negotiations, trade shows, or through an auction or standard bid process.⁷⁶ Of those purchasers using an auction or bid process, eleven of 32 purchasers reported that they provide specifications to manufacturers and request bids.⁷⁷

Another supply condition relevant to the domestic industry is increasing costs of paper, the principal input in the production of all lined paper products.⁷⁸ The record indicates that the absolute value

⁶⁸ CR at II-1 to II-2, PR at II-1.

⁶⁹ CR at I-18, PR at I-13.

⁷⁰ CR/PR at Table IV-1.

⁷¹ CR at I-18, PR at I-13.

⁷² *** Importers' Questionnaires. These retailers' total imports exhibited the same trend, increasing from 63.0 million units in 2003 to 66.2 million units in 2004, and then more than doubled to 139.9 million units in 2005. *Id.* We note that these volumes do not include those of two large retailers, ***, that did not respond to the Commission's questionnaire. CR/PR at IV-1 n.4.

⁷³ Imports brokered by domestic producers irregularly increased from *** million units in 2003 to *** million units in 2005, an increase of *** percent. In contrast, imports not controlled by domestic producers increased from *** million units in 2003 to *** million units in 2005, an increase of *** percent. Staff Table IV-10C.

⁷⁴ While retailer *** did not report that it purchased brokered imports, it identified ***. Retailer *** also did not report purchasing brokered imports, but in the portion of the questionnaire where it was asked to identify the foreign producer of its subject imports from China, the company noted: ***. *** Importers' Questionnaires. *** was the only large retailer not to identify a U.S. producer as a foreign producer/broker of its subject imports, but this company did not identify any of its suppliers. *** Importers' Questionnaire.

⁷⁵ *See, e.g.*, CR at V-28 to V-58, PR at V-12; CR/PR at II-1. *See also* Tr. at 204 (Tucci) (indicating that Target is one of the largest retailers in the United States, with more than 1,500 stores nationwide and almost 300,000 employees), 212 (Ciulla) (indicating that Staples is the "number one office supply retailer in the United States, with over 1,200 retail stores throughout the country" and more than 40,000 employees), 222 (VanGuyse) (indicating that Walgreens is "the nation's largest retail pharmacy chain in terms of sales" and has more than 5,300 stores in 46 states and Puerto Rico).

⁷⁶ *See* CR at V-25 to V-26, PR at V-10 to V-11.

⁷⁷ CR at V-25, PR at V-10.

⁷⁸ CR/PR at V-1; Staples' Posthearing Brief at Exh. 1-45-47.

of paper costs declined from 2003 to 2005, but that paper costs increased as a percentage of all lined paper sales.⁷⁹

C. Substitutability

Subject imports from China, India, and Indonesia, the domestic like product, and non-subject imports from Brazil are generally substitutable. Indeed, the domestic industry maintains that the subject merchandise is a commodity product.⁸⁰ No respondent party refutes this characterization of subject CLPSS.⁸¹ Although there were several market participants that indicated quality differences in the products, the majority of responding producers, importers, and purchasers reported that the domestic like product and CLPSS imports from the three subject countries as well as Brazil were always or frequently interchangeable.⁸² In addition, purchasers that compared the domestic like product to subject imports from each subject country and to non-subject imports from Brazil overwhelmingly indicated that the quality of the products was comparable.⁸³

Price is an important factor in purchasing decisions. Price was identified by 14 of 24 purchasers as the number one factor considered in deciding from whom to purchase all lined paper products.⁸⁴ In addition, 29 of 32 purchasers reported that price was a very important factor in their purchasing decisions.⁸⁵ With regard to price, nearly all responding purchasers indicated that the domestic like product was inferior – higher in price – than subject imports from China, India, and Indonesia, and non-subject imports from Brazil.⁸⁶ The bid data collected in our questionnaires further support this proposition, as bids were awarded to the lowest or second-lowest bid price 71 percent of the time and to the lowest-priced bid 59 percent of the time.⁸⁷

Nevertheless, the record indicates that other non-price factors also affect purchasing decisions. Other factors listed by the majority of purchasers as very important in their purchasing decisions include availability, delivery time, product consistency, quality, and reliability of supply.⁸⁸ Of purchasers who

⁷⁹ CR at VI-7, PR at VI-2. We note that paper costs also increased on a per-unit basis, but give little weight to unit values in these investigations in light of the mix of products contained within all lined paper products. See Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002); see also Oil Country Tubular Goods from Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela, Inv. Nos. 701-TA-428 (Preliminary) and 731-TA-992-994 and 996-1005 (Preliminary), USITC Pub. 3511 (May 2002) at 23, n. 137 (declining to place weight on AUV data where there were differences in product mix between different countries and within a given country over time).

⁸⁰ Petitioner's Prehearing Brief at 13.

⁸¹ Indonesian Respondent Prehearing Brief at 14; CPP and Firstline's Posthearing Brief at 8; Tr. at 266 (Cameron), 267 (Trossevin).

⁸² CR at II-14, PR at II-9.

⁸³ CR/PR at Table II-5. In particular, we note that two purchasers reported that CLPSS from China and India are of lower quality than product from other sources, with one of these indicating that Indian quality is lower than the Chinese quality. Two U.S. producers reported that Chinese quality is inferior. One importer reported that CLPSS from China and India is inferior to that from Indonesia and Brazil. CR at II-14 to II-16, PR at II-9.

⁸⁴ CR/PR at Table II-1.

⁸⁵ CR/PR at Table II-2.

⁸⁶ CR/PR at Table II-5.

⁸⁷ Derived from CR/PR at Table V-9.

⁸⁸ CR/PR at Table II-2. These requests are not surprising, given that purchasers of all lined paper products largely compete against each other on price when selling to consumers at the retail level. Petitioner's Posthearing Brief at Exh. 21 (containing three sales ads from large retailers selling all lined paper products at sale prices).

participated in the bidding process, only six of 11 indicated that they had a policy whereby the lowest bidder always wins the contract.⁸⁹

IV. CUMULATION FOR EVALUATING THREAT OF MATERIAL INJURY

Section 771(7)(H) of the Tariff Act of 1930 provides as follows:

(H) Cumulation for determining threat of material injury – To the extent practicable and subject to subparagraph (g)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which –

- (i) petitions were filed under section 1671a(b) or 1673a(b) of this title on the same day.
- (ii) investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day, or
- (iii) petitions were filed under section 1671a(b) or 1673a(b) of this title and investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day,

if such imports compete with each other and with domestic like products in the United States market.⁹⁰

Thus, unlike with regard to the question of present injury, cumulation in determining threat of injury is within the discretion of the Commission. In exercising that discretion, the Commission has traditionally considered factors such as (1) whether the imports are increasing at similar rates in the same markets, (2) whether the imports have similar margins of underselling, and (3) the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.⁹¹ In these investigations, examination of these factors lead us to conclude that we should decline to exercise our discretion to cumulate imports from China with imports from India and Indonesia.⁹²

⁸⁹ CR at V-25, PR at V-10-V-11.

⁹⁰ 19 U.S.C. 1677(7)(H) (emphasis added).

⁹¹ See 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 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

⁹² Petitioners contend that all that is necessary for the Commission to exercise its discretion to cumulate for purposes of threat is for the Commission to find that subject imports competed simultaneously and aggressively in the U.S. market during the period examined, and that this requirement is met in these investigations since bid auction data confirm that imports from China, India, and Indonesia all compete interchangeably with the domestic product. Petitioners' prehearing brief at 62-65; petitioners' posthearing brief at Exhibit 1, pp. 48-51. Even assuming arguendo that petitioners' premise of competition is correct, we interpret the statute to provide that the Commission may proceed to exercise its discretion to cumulate as long as the competition requirement is satisfied. In other words, the existence of simultaneous competition is a necessary precondition to cumulation, but it is not, in and of itself, sufficient to cause us to exercise our discretion to cumulate. In any event, we do not agree with petitioners that imports from subject sources competed equally aggressively and successfully in the U.S. market. Of a total of 136 awarded bid contracts examined by the staff, Indian suppliers were successful in winning only *** percent of the value of the awards, and Indonesian suppliers only *** percent of the value, as opposed to, for example, ***

(continued...)

First, subject imports are clearly not increasing at similar rates in the U.S. market. Imports from China increased steadily and, in 2005, sharply, whereas imports from India declined steadily and imports from Indonesia first declined in 2004, then increased in 2005 to only slightly above their 2003 level.⁹³ Moreover, imports from China were between two and five times higher than combined imports from India and Indonesia throughout the period examined. These differing import levels and trends clearly indicate that, in the absence of antidumping and countervailing duty orders in these investigations, imports from subject sources would have very different impacts on the U.S. industry.

With regard to the second factor, the trends in under- and overselling are very different for the three countries. Imports from Indonesia undersold exclusively over the period examined, whereas with regard to imports from India and China, there were more instances of overselling than underselling.⁹⁴ Although there were more instances of overselling for imports from India and China, on a quantity-weighted basis China undersold more than it oversold, whereas India oversold more than it undersold.⁹⁵ Consequently, when imports from China and India during the period examined are compared, not only did imports from China increase in contrast to imports from India, which decreased, but the majority of imports from China were undersold, while the majority of imports from India were oversold. Moreover, although imports from both China and Indonesia were predominantly undersold, the vastly different volume trends between those two subject sources outweigh any potential similarity in pricing effects in our analysis. Thus, in considering whether imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of the merchandise, we conclude that imports from China, given their vastly greater volume, would likely have a greater depressing or suppressing effect on domestic prices than those from Indonesia, notwithstanding the fact that imports from both subject sources were predominantly undersold.⁹⁶

Finally, we note the differing export orientation of the Chinese industry as compared to industries in India and Indonesia.⁹⁷ By the end of the period examined (2005), the Chinese industry was shipping

⁹² (...continued)

percent of the value of awards being won by Chinese suppliers. CR at V-26, PR at V-10-V-11.

⁹³ Subject imports from China increased from 186 million units in 2003 to 221 million units in 2004, and then increased more sharply to 346 million units in 2005, for an overall increase of 86 percent. By contrast, combined imports from India and Indonesia declined from 76 million units in 2003 to 71.0 million units in 2004, then declined again, but more slightly, to 70.6 million units in 2005, for an overall decline of 7.4 percent. Staff Table C-2.

⁹⁴ CR/PR at Staff Table V-8. With regard to imports from China, such imports oversold products of the U.S. industry in 26 of 48 quarters. With regard to imports from India, such imports oversold products of the U.S. industry in 27 of 48 quarters. Finally, with regard to imports from Indonesia, such imports undersold products of the U.S. industry in all 38 quarters in which comparisons were possible.

⁹⁵ Imports from China that were undersold accounted for 88 percent of the volume of the subject merchandise from China considered in pricing comparisons. For India, imports that were oversold accounted for 57 percent of the volume of subject merchandise from India considered in pricing comparisons. CR/PR at Staff Table V-8.

⁹⁶ In addition, as discussed above, we note the widely differing success rates achieved by Chinese suppliers in bid auctions during the period examined, compared with those achieved by Indian and Indonesian suppliers. Of a total of 136 awarded bid contracts examined by the staff, Indian and Indonesian suppliers were successful in winning only *** percent and *** percent of the value of the awards, respectively, as opposed to, for example, *** percent of the value of the awards being won by Chinese suppliers. CR at V-26, PR at V-11. These differences suggest that, in the event orders are not issued in these investigations, imports from China would have far more significant price effects than would those from India or Indonesia.

⁹⁷ With regard to the Indian industry, we note that in the preliminary phase of these investigations we received data on a larger percentage of the industry than is available to us in this final phase. In particular, in the preliminary phase we received data from 13 of the 20 firms named in the petition as producing the subject merchandise in India, whereas in this final phase, we received data from only seven firms. CR at VII-5, PR at VII-3; Memorandum INV-

(continued...)

*** percent of its total shipments to the U.S. market, up from *** percent the previous year, and shipments to its home market were declining rapidly.⁹⁸ In contrast, the Indian and Indonesian industries in 2005 were shipping *** percent and *** percent of their total shipments, respectively, to the U.S. market, which were lower percentages than at the start of the period.⁹⁹ Moreover, in both India and Indonesia, home market shipments were stable as a share of total shipments, and shipments to export markets other than the United States were increasing steadily.¹⁰⁰ These dissimilar trends between China on the one hand, and India and Indonesia on the other, again suggest that, in the absence of antidumping and countervailing duty orders, imports from China would have very different effects on the U.S. industry than would imports from India or Indonesia.

Accordingly, for the reasons stated above, in determining whether an industry in the United States is threatened with material injury by reason of subject imports, we cumulate imports only from India and Indonesia. We conduct a separate threat analysis regarding imports from China.

V. THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA

Because it is the basis of our affirmative determination on China, in this section of our views we discuss how the domestic industry is threatened with material injury by reason of subject imports. In doing so we analyze data pertaining to the period examined (January 2003 through December 2005) as well as what is likely to occur in the imminent future. We then discuss our negative threat determination with respect to subject imports from India and Indonesia and, finally, our negative determination with respect to present injury from all three subject countries.

⁹⁷ (...continued)

CC-176 (Oct. 17, 2005) at VII-5, USITC Pub. 3811 at VII-4. Hence, data from the preliminary phase show, for example, larger amounts of existing and unused capacity than do data from this final phase. Nevertheless, trends in the data, for the most part, are identical, and we note further that the seven firms that provided data in this final phase accounted for *** percent of total exports of the subject merchandise from India to the United States during the period examined. CR at VII-6, n.27, PR at VII-3, n.27. Moreover, responding Indian firms accounted for more than *** percent of imports from India during the period of investigation. CR/PR at Tables VII-2 and C-2. Consequently, for purposes of our analysis we rely primarily on data from this final phase.

⁹⁸ CR/PR at Table VII-1. As a share of total shipments, shipments to the Chinese home market declined from *** percent in 2004 to only *** percent in 2005.

⁹⁹ CR/PR at Tables VII-2 and VII-3. For India, exports to the United States as a share of total shipments declined steadily from *** percent in *** to *** percent in 2005. For Indonesia, exports to the United States as a share of total shipments declined overall from *** percent in 2003 to *** percent in 2005.

¹⁰⁰ For India, home market shipments as a share of total shipments increased irregularly from *** percent in 2003 to *** percent in 2005. Exports to non-U.S. markets increased from *** million pieces in 2003 to *** million pieces in 2005. CR/PR at Table VII-2. For Indonesia, home market shipments as a share of total shipments remained virtually constant at between *** and *** percent of total shipments during the period examined. Exports to non-U.S. markets increased from *** metric tons in 2003 to *** metric tons in 2005. CR/PR at Table VII-3.

A. Analysis of Statutory Threat Factors¹⁰¹

1. Subject Import Volume and Market Penetration¹⁰²

The volume and market penetration of subject imports from China grew substantially over the period examined. The volume of subject imports increased by 85.7 percent from 2003 to 2005, with most of the increase occurring in 2005. The market share of subject imports also rose, from *** percent in 2003, to *** percent in 2004, and further to *** percent in 2005.¹⁰³

The domestic lined paper industry saw a similar decline in its market share over the period, declining from *** percent in 2003, to *** percent in 2004, and to *** percent in 2005. Although non-subject imports were responsible for a portion of the domestic industry's loss of market share, most of the decrease was due to subject imports from China.¹⁰⁴

As discussed above, subject imports that were either imported or brokered by domestic producers accounted for *** majority (*** percent) of the increased volume and market share of subject imports from China between 2003 and 2005.¹⁰⁵ We view the large increase in subject imports from China in the context of the domestic industry's dominant role in supplying those imports. Nevertheless, we find that the increase in volume and market share over a relatively short period of time is arguably significant.

These increases in volume and market share, particularly between the two most recent years of the period examined (2004 to 2005), are indicative of likely further increases in the imminent future. Moreover, there appear to be few barriers to rapid entry of new suppliers into the U.S. lined paper market.¹⁰⁶

2. Production Capacity in China¹⁰⁷

We find that Chinese producers have sufficient capacity to substantially increase production and exports to the United States. Out of 20 Chinese producers and/or exporters of subject merchandise identified in the petition and to whom the Commission sent questionnaires, only three responded with relevant data in our final phase investigations. The data from just these three firms indicated substantial

¹⁰¹ Statutory threat factors (I) and (VII) are inapplicable, as there is no CVD investigation on China and the investigation does not involve imports of agricultural products.

¹⁰² 19 U.S.C. § 1677(7)(F)(i)(III).

¹⁰³ Staff Table C-2.

¹⁰⁴ When the interim periods (January-June) of 2005 and 2006 are compared, these trends were reversed, with the domestic industry and non-subject imports gaining significant market share and subject imports from China losing significant share. Memorandum INV-DD-128 at Table C-2A (Aug. 23, 2006). The Commission collected annual data for the period January 2003 through December 2005. It also collected interim data for the periods January 2005 through June 2005 ("first half of 2005") and January 2006 through June 2006 ("first half of 2006"). We have focused our analysis on the annual data. The petition in these investigations was filed on September 9, 2005. The first half of 2006 data indicate that the domestic industry's condition substantially improved, while the volume of subject imports declined rapidly. See Memorandum INV-DD-128 at Table C-2A. We find that these improvements are related to the pendency of these investigations. Under the post-petition effects provision, we therefore do not rely on the interim data for purposes of our material injury analysis. 19 U.S.C. § 1677(7)(I); SAA at 854.

¹⁰⁵ Staff Table IV-10C.

¹⁰⁶ For example, one importer entered the market in the fall of 2005 and quickly obtained orders to supply *** of subject imports from China. *** Importer Questionnaire (supplemental) (increasing from *** in 2005 to *** in the first half of 2006).

¹⁰⁷ 19 U.S.C. § 1677(7)(F)(i)(II).

Chinese capacity, capacity growth, and excess capacity. These firms reported a capacity increase of *** percent between 2003 and 2005, and excess capacity of *** million units in 2005.¹⁰⁸

The reporting Chinese firms are also highly dependent on sales to the United States; exports to the United States accounted for *** percent of their combined sales in 2005. Respondent Target claims that Chinese producers will focus more of their future sales on the growing Chinese domestic market.¹⁰⁹ However, reporting producers and/or exporters reported declining shipments to the Chinese home market between 2003 and 2005; in 2005 these shipments represented only *** percent of total shipments by these firms.¹¹⁰

Moreover, we find that substantial additional capacity exists in China to increase exports to the United States over and above the capacity reported by the three reporting producers and/or exporters. In each year of the period examined, the three reporting firms accounted for between *** percent and *** percent of subject imports from China.¹¹¹ Thus, producers responsible for a majority of U.S. imports from China are not reflected in our data.

3. Product shifting/inventories¹¹²

With respect to China's potential to increase exports of subject imports via product shifting, we note that two of the three responding Chinese producers and/or exporters indicated that they produced other products on the same machinery used to make subject lined paper products.¹¹³

With respect to inventories of the subject merchandise from China, we note that end-of-period inventories held by U.S. importers *** from *** million units in 2003 to *** million units in 2005.¹¹⁴ Similarly, inventories of subject product maintained by Chinese producers and/or exporters *** from *** million units in 2003 to *** million units in 2005.¹¹⁵

4. Prices of Subject Imports¹¹⁶

We have examined data on prices of lined paper and have considered whether subject import prices are likely to increase demand for further imports, or are likely to have significant price suppressing or depressing effects.

The Commission collected pricing data on six common lined paper products made by domestic producers, by producers in the three subject countries, and by producers in Brazil, a non-subject country. These data reveal a mixed pattern of over- and under-selling by subject imports from China as compared to domestic lined paper products. Of the 48 quarterly comparisons, subject imports from China undersold U.S. prices in 22 instances, or 45.8 percent.¹¹⁷ With respect to quantity, 88 percent of the quantity of

¹⁰⁸ CR/PR at Table VII-1.

¹⁰⁹ Target Prehearing Brief at 21-23.

¹¹⁰ Although the Chinese producers and/or exporters projected much higher home market shipments in 2006 and 2007, we give little weight to these projections as they may well have been influenced by the firms' belief that the U.S. market would be closed off to them as a result of our proceedings.

¹¹¹ Compare CR/PR at Table VII-1 with Staff Table C-2.

¹¹² 19 U.S.C. §1677(7)(F)(i)(V), (VI).

¹¹³ CR at VII-13, PR at VII-7.

¹¹⁴ CR/PR at Table VII-4.

¹¹⁵ CR/PR at Table VII-1.

¹¹⁶ 19 U.S.C. § 1677(7)(F)(i)(IV).

¹¹⁷ Staff Table V-8.

imports from China reported in the pricing comparisons were in quarters in which the Chinese product undersold the domestic product.

We noted above the large role played by domestic producers in importing or brokering imports of subject lined paper products. As a result of this extensive role, an unusual aspect of the investigations was the extent to which the subject import prices related to sales by the domestic producers themselves. For the highest volume pricing products (products 1 and 2), domestic producers accounted for between *** percent and *** percent of the volume of subject imports from China.¹¹⁸

Respondents argue that the Commission should discount any underselling revealed by these data because they reflect intra-industry competition.¹¹⁹ Petitioner argues that the Commission should rely on its pricing data as it normally does. As a check, we have examined the pricing data on sales of subject imports by firms other than domestic producers. These data reveal underselling by Chinese product in 54 percent of instances, and 40 percent of the quantity of subject imports.¹²⁰ We note that these data are of somewhat limited utility given the relatively small quantities of subject imported product they reflect.

In the context of a record in which domestic producers themselves account for a large share of the increase in subject imports as well as the vast majority of the pricing data for subject imports, we find that the pricing comparisons are too mixed to reveal significant underselling by subject imports of the domestic like product.

Price trends varied for the different pricing products. For the highest volume products (products 1 and 2), domestic prices declined substantially from 2003 to 2004, then rebounded significantly from 2004 to 2005 to approximately their 2003 levels.¹²¹ Prices of subject imports from China exhibited similar trends for those high volume products.¹²²

We find that the decline in U.S. prices from 2003 to 2004 was not caused by subject imports from China. As noted above, data on underselling by imports from China are mixed. With respect to volume, while subject imports from China were arguably significant in volume throughout the period, they increased only modestly from 2003 to 2004, gaining *** percentage points in market share. The significant increase in the volume of subject imports from China occurred in 2005, which was the year in which prices increased for most U.S. pricing products.

By contrast, non-subject imports from Brazil grew much more significantly from 2003 to 2004, capturing *** percentage points of market share.¹²³ Over the period as a whole, imports from Brazil undersold domestic prices consistently, and more frequently than subject imports from China (77 percent of comparisons, 97 percent of volume).¹²⁴ While we do not weigh the relative effects of subject imports and other factors, we also are mindful not to ascribe to subject imports any negative effects caused by non-subject imports.

The Commission also collected data from purchasers on the results of auctions or bids on their purchases of lined paper products.¹²⁵ U.S. producers, producers in China, and producers in non-subject countries all won significant shares of the value of the contracts awarded under the reported bids.

¹¹⁸ CR at V-8, PR at V-6.

¹¹⁹ Target Prehearing Brief at 12 (U.S. industry “undersells itself”); Staples Prehearing Brief at 29-32, Exhs. 1-9, 13-14.

¹²⁰ Staff Table F-14.

¹²¹ Staff Tables V-1 and V-2.

¹²² Other products showed different trends. See CR at V-9-V-11, PR at V-6-V-8.

¹²³ We note that questionnaire data show *** figure for imports from Brazil in 2003, and therefore not the same type of increase from 2003 to 2004 that is shown by official statistics. CR at IV-7 n.11 at Table IV-3. As noted previously, we view the official statistics as more reliable.

¹²⁴ CR/PR at Table V-8.

¹²⁵ CR/PR at Table V-9.

Consistent with our import volume and pricing data, U.S. producers accounted for a significant portion of the value of awards for the supply of Chinese product. While the lowest priced bidder often did not capture all or even most of the volume awarded, lower-priced bidders generally were awarded more volume than higher-priced bidders. The reasons given by purchasers for their awards frequently included price but also often included other reasons such as product quality and reliability of supply.

Finally, we note that only a few of the lost sales or revenue allegations were agreed to in whole or in part;¹²⁶ this information is not inconsistent with our finding that subject imports have not had significant price effects.

Given the mixed information on underselling (again, where most subject import pricing represented imports by domestic producers) and the lack of significant current price effects, even in the face of a large increase in subject import volume over the POI, we do not find that subject imports from China are likely to depress or suppress domestic prices in the imminent future.

5. Industry Condition and Vulnerability

In considering whether the domestic industry is threatened with material injury, we also have examined the condition of the industry over the period examined. Despite rising apparent consumption of lined paper products over the period examined (up *** percent from 2003 to 2005), the industry experienced declines in most indicators. The domestic industry's production, shipments, employment indicators, and net sales quantity each fell by more than *** percent from 2003 to 2005.¹²⁷ Capacity declined by *** percent from 2003 to 2005.¹²⁸

The industry's operating income declined by *** percent from 2003 to 2004, from \$*** million to \$*** million.¹²⁹ This was due to reductions in unit sales values and sales quantities that outstripped the decline in costs. The industry's operating margin as a percentage of net sales fell from *** percent in 2003 to *** percent in 2004. The domestic lined paper industry's operating income fell a further *** percent in 2005, to \$*** million, although its operating margin increased to *** percent in 2005.¹³⁰

Based on the declines in nearly all indicators from 2003 to 2005, we find the domestic industry making lined paper is in a weakened condition such that it is vulnerable to the effects of further subject imports from China.

However, we do not find that the record establishes the requisite causal link between increased subject imports and current harm to the domestic industry. As described above, the main increase in subject import volume took place in 2005 and was mainly the result of *** domestic producers. Domestic producer MeadWestvaco *** accounted for *** share of the increased imports as well as *** share of the declines in the indicators of domestic performance in 2005.¹³¹ MeadWestvaco's falling

¹²⁶ CR/PR at Tables V-10, V-11.

¹²⁷ Staff Table C-2. The reduced number of production workers, hours worked and wages paid was offset somewhat by a *** percent increase in productivity.

¹²⁸ Staff Table C-2.

¹²⁹ Staff Table C-2.

¹³⁰ Staff Table C-2.

¹³¹ MeadWestvaco's increase in actual and brokered imports from China (*** million units) accounted for approximately *** percent of the increase in imports from China in 2005. See CR/PR at Table III-9, III-10, Staff Table C-2. Its *** capacity decrease in 2005 of *** million units accounted for *** of the domestic industry's decline in capacity in 2005. See Staff Table III-2. Its reduction in net sales represented *** percent of the industry's overall decline in net sales in 2005. See Staff Table VI-2. Its production decline accounted for *** percent of the total industry production decline in 2005. See Staff Table III-2. TOPS, *** producer in the industry and a company that ***, accounted for another *** percent of the decline in production in 2005. Staff Table III-2.

capacity, production, and shipments in 2005 were mainly the result of its decision in August 2004 to close two U.S. facilities, in St. Joseph, MO and Garland, TX.

Petitioner claims that MeadWestvaco closed these facilities because of an inability to compete with subject imports.¹³² However, the record does not support this conclusion. MeadWestvaco announced the closures of its St. Joseph and Garland facilities on August 5, 2004.¹³³ Nothing in its announcement indicated that it was due in whole or in part to the effects of subject imports; nor has Petitioner submitted other information establishing a connection between the closures and subject imports. Indeed, while a MeadWestvaco representative testified that the facilities closed because of subject import competition,¹³⁴ MeadWestvaco's contemporaneous announcement only identified the fact that these two facilities "were not strategically located."¹³⁵ Consistent with our finding above on price, subject import volume had not increased significantly in 2004 and we cannot ascribe any negative price effects to subject imports that may have been caused by non-subject imports. Furthermore, MeadWestvaco's announced shut-down corresponds in time to its announced acquisition of Tilibra, the largest lined paper producer in Brazil and a significant exporter of lined paper products to the United States.¹³⁶ In sum, the failure of the record to support a conclusion that MeadWestvaco's closure of two of its U.S. production facilities in 2004 was due to subject imports helps to sever the causal link between the rise in subject imports in 2005, which resulted *** from these closures, and the declining condition of the domestic industry in 2005.

We do not anticipate a repetition of this type of sequence of events to occur in the imminent future. Rather, as described above, we anticipate that imports of subject lined paper from China will continue to increase at a substantial rate, given the large and growing available production capacity in China and the absence of any substantial barriers in the U.S. market to further inroads by those imports.

Absent antidumping relief, imminent increases in subject import volume will accelerate the loss of operating income that has already been pronounced over the period examined. Although the market for lined paper has grown during the period examined, we do not expect it to grow in the imminent future at such a pace as to absorb the likely additional volumes of subject imports from China. We would expect the increases in imports to come largely at the expense of sales by the domestic industry, whose lined paper products generally compete with imports from China across all the main product types.

Accordingly, we find that the domestic industry is threatened with material injury by reason of subject imports from China.

¹³² Tr. at 51 (Mr. McLachlan). Petitioner cites the Department of Labor's grant of Trade Adjustment Assistance (TAA) to workers at the St. Joseph and Garland facilities as proof of the connection between subject imports and the plant closures. Petitioner's Prehearing Brief at 26. However, given different standards and procedures in TAA and title VII processes, the Commission generally has not relied upon TAA decisions as evidence of the effects of subject imports on domestic producers. Moreover, the decisions themselves do not support a causal link with subject imports. One of the TAA decisions was granted based on MeadWestvaco's transfer of productive facilities from the United States to Mexico, and the other was based on the increase in imports generally, without reference to source. CR at III-11, n.25. As noted earlier, subject imports from China did not increase substantially in 2004, but rather in 2005 (after the plant closures), and *** imports by MeadWestvaco itself.

¹³³ Staples' Prehearing Brief at Exh. 7 (MeadWestvaco, "MeadWestvaco Will Consolidate Consumer & Office Products Operations; Move Will Better Align Production and Distribution in U.S. Market" (August 5, 2004)).

¹³⁴ Tr. at 50 (McLachlan).

¹³⁵ Target's Prehearing Brief at Exh. 5-B; Staples' Prehearing Brief at Exh. 7 (MeadWestvaco, "MeadWestvaco Will Consolidate Consumer & Office Products Operations; Move Will Better Align Production and Distribution in U.S. Market" (August 5, 2004)).

¹³⁶ Staples' Prehearing Brief at Exh. 7 (MeadWestvaco, "MeadWestvaco Will Consolidate Consumer & Office Products Operations; Move Will Better Align Production and Distribution in U.S. Market" (August 5, 2004)); Staples' Prehearing Brief at Exh. 6 (Cellulose Online, "MeadWestvaco Acquires Tilibra" (August 16, 2004)).

B. Under the Bratsk Replacement/Benefit Test, Non-subject Imports Would Not Negate the Beneficial Effect of an Order on Subject Imports from China

Having determined that an industry in the United States is threatened with material injury by reason of subject imports from China, we now must assess whether the facts of this investigation trigger a Bratsk analysis under the “replacement/benefit test” interpretation of Bratsk. Based on the record, we conclude that Bratsk is triggered, but that non-subject imports would not negate the beneficial effect of an order on subject imports from China.

1. Bratsk Replacement/Benefit Test

The exact formulation of the Bratsk Court’s test is not clear. According to one part of the opinion:

{U}nder Gerald Metals, the Commission is required to make a specific causation determination and in that connection to directly address whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.¹³⁷

Stated this way, the test would require the Commission to analyze replacement/benefit during the period of investigation, *i.e.*, backward looking. The Court also has stated a different formulation that would require the Commission to analyze replacement/benefit in the future, *i.e.*, forward looking:

{T}he Commission has to explain, in a meaningful way, why the non-subject imports would not replace the subject imports and continue to cause injury to the domestic industry.¹³⁸

It therefore is unclear whether the Court intended to state the same test in different ways, or whether it contemplated that it was establishing two separate criteria.

Based upon our reading of Bratsk, we conclude that we now must assess the likely effectiveness of any import relief *vis-a-vis* non-subject imports to determine whether non-subject imports would eliminate the beneficial effect of the order on subject imports, in this case an order on China.

a. Triggering Factors

Bratsk requires a two-step analysis. First, the Commission must determine whether Bratsk is triggered based on the facts of the investigation. Second, if it is triggered, then the Commission must consider whether the non-subject imports would have replaced, or would replace in the context of threat, the subject imports and continue to cause injury to the domestic industry.

The Bratsk Court states that “{T}he obligation under Gerald Metals is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”¹³⁹ Thus, the Bratsk test purportedly is not required in every case, only in cases involving a “commodity product” and where “price competitive non-subject imports are a significant factor in the market.”

¹³⁷ Slip op. at 9.

¹³⁸ Slip op. at 12.

¹³⁹ Slip op. at 11.

The Bratsk Court refers to a “commodity product” as “meaning that it is generally interchangeable regardless of its source.”¹⁴⁰ Thus, the Court’s definition of “commodity product” is broad. The second trigger for the Bratsk replacement/benefit test is that price competitive non-subject imports are a significant factor in the U.S. market. On the issue of whether the non-subject imports are “price competitive,” the Bratsk Court refers to the fact that in Gerald Metals the non-subject imports had undersold the domestic product just as the subject imports had.¹⁴¹

b. Replacement/Benefit Factors

If the Commission determines that Bratsk is triggered, the second step in the analysis, assessment of replacement of subject imports by non-subject imports that negates the benefit to the domestic industry, also has two components. First, the non-subject imports must be able to replace the subject imports. In assessing replacement, the Commission should consider not only interchangeability, but the non-subject producers’ capacity to fill any void left by subject imports and whether there exists an incentive to do so.

The second step requires that the non-subject imports must negate the benefit of the order to the domestic industry. In assessing benefit, the Court indicated that the price of non-subject imports would be an important consideration in this analysis as non-subject imports may not be priced low enough to negate the benefit to the domestic industry (*i.e.*, “the price of the non-subject imports may be sufficiently above the subject imports such that the elimination of the subject imports would have benefitted the domestic industry”).¹⁴² The Court’s decision does not specify how complete the replacement of subject imports by non-subject imports must be, or how much of the benefit to the domestic industry must be negated, to require a negative determination.

2. Analysis

a. Triggering Factors

As we noted previously, we conclude that the domestic like product, subject imports, and non-subject imports of CLPSS are generally commodity products. The domestic like product and imports of CLPSS generally encompass three types of products: notebooks, composition books, and filler paper. The products are bound on one side or more, packaged, or loose-leaf and may contain no cover or both a front and a rear cover of any material, and/or may be hole-punched, drilled or perforated. The domestic like product and CLPSS imports are generally used for writing or taking notes. While there were several market participants that indicated quality differences in the products, the majority of responding producers, importers, and purchasers reported that the domestic like product and CLPSS imports from China, India, Indonesia, and Brazil were always or frequently interchangeable.¹⁴³ In addition, purchasers that compared the domestic like product to subject imports from each subject country and to non-subject imports from Brazil overwhelmingly indicated that the quality of the products was comparable.¹⁴⁴ Thus, we conclude that the domestic like product, subject imports, and non-subject imports of CLPSS are generally commodity products.

With respect to the second factor, whether price competitive non-subject imports are a significant factor in the U.S. market, the record indicates that total non-subject imports were present in each calendar

¹⁴⁰ Slip op. at 2.

¹⁴¹ Slip op. at 7.

¹⁴² Slip op. at 12.

¹⁴³ CR at II-14, PR at 9.

¹⁴⁴ CR/PR at Table II-5.

year during these final phase investigations.¹⁴⁵ According to official import statistics, Brazil is the largest non-subject supplier of the quantity of CLPSS to the United States, followed by Canada.¹⁴⁶ Total non-subject imports generally increased over the period of investigation. In absolute terms, non-subject imports from Brazil increased sharply from 37.2 million units in 2003 to 91.9 million units in 2004, then fell to 66.0 million units in 2005.¹⁴⁷ These imports as a share of total imports increased from 10.6 percent in 2003 to 20.1 percent in 2004, before falling to 11.8 percent in 2005 by quantity.¹⁴⁸ Relative to consumption, non-subject imports from Brazil *** from *** percent in 2003 to *** percent in 2004, before falling somewhat to *** percent in 2005, by quantity.¹⁴⁹

In absolute terms, non-subject imports from all other sources (excluding Brazil) increased sharply from 52.0 million units in 2003 to 73.9 million units in 2004, then increased to 77.8 million units in 2005.¹⁵⁰ These imports as a share of total imports increased from 14.8 percent in 2003 to 16.2 percent in 2004, before falling to 13.9 percent in 2005 by quantity.¹⁵¹ Relative to consumption, non-subject imports from all other sources (excluding Brazil) increased from *** percent in 2003 to *** percent in 2004, and further to *** percent in 2005 by quantity.¹⁵²

Combined, the volume of total non-subject imports and their market penetration increased over the period examined. Total non-subject imports, in absolute terms, increased irregularly over the period, from 89.2 million units in 2003 to 165.8 million units in 2004, then fell to 143.8 million units in 2005.¹⁵³ Total non-subject imports as a share of total imports increased from 25.4 percent in 2003 to 36.2 percent in 2004, before falling to 25.7 percent in 2005 by quantity.¹⁵⁴ Relative to consumption, total non-subject imports increased from *** percent in 2003 to *** percent in 2004, before falling somewhat to *** percent in 2005, by quantity.¹⁵⁵

In these investigations, cumulated subject imports maintain an overwhelming majority of total imports, by quantity, (ranging from 63.8 percent to 74.6 percent) and held the second-largest share of the U.S. market after domestic producers over the period by quantity (ranging from *** percent to *** percent).¹⁵⁶ Non-subject imports held approximately *** of the U.S. market held by total imports by quantity. We are cognizant of the fact that non-subject imports in this investigation account for a significantly smaller percentage of total imports when compared to the share held by non-subject imports

¹⁴⁵ CR/PR at Table IV-2.

¹⁴⁶ CR/PR at VII-10 (as revised by Memorandum INV-DD-129, August 23, 2006). Based on value, Canada is the largest non-subject supplier of CLPSS to the United States, followed by Brazil. Id.

¹⁴⁷ CR/PR at Table IV-2.

¹⁴⁸ CR/PR at Table IV-2.

¹⁴⁹ Staff Table C-2. As noted previously, the Staff Report analyzes trade data and pricing data for Brazil separately from other non-subject imports because an issue was raised in the preliminary phase of these investigations concerning the extent to which the members of the petitioning association had been *** importers of non-subject merchandise from Brazil. The Commission noted that non-subject import volumes had increased during that period of investigation and that it intended to examine these issues in the final phase of these investigations. USITC Pub. 3811 at 24-25. Thus, while we consider all non-subject imports in our analysis as directed by the Bratsk decision, we also specifically analyze non-subject imports from Brazil in more detail because we have more data and information concerning such imports.

¹⁵⁰ CR/PR at Table IV-2.

¹⁵¹ CR/PR at Table IV-2.

¹⁵² Staff Table C-2.

¹⁵³ CR/PR at Table IV-2.

¹⁵⁴ CR/PR at Table IV-2.

¹⁵⁵ Staff Table C-2.

¹⁵⁶ CR/PR at Table IV-2, Staff Table C-2.

in the underlying investigation in Bratsk (ranging from 73 percent to 82.6 percent of total imports and from 30.1 percent to 35.5 percent relative to consumption by quantity). We still conclude, however, that these data suggest that non-subject imports of CLPSS are at significant levels and are a “significant factor” in the U.S. market. Indeed, we noted above the role of non-subject imports, particularly from Brazil, in the domestic industry’s financial declines in 2004.

In the threat context, we also conclude that non-subject imports of CLPSS are at significant levels and are likely to continue to be a significant factor in the U.S. market. Following Commerce’s preliminary determination, non-subject imports from Brazil and the rest of the world increased substantially.¹⁵⁷ Non-subject imports from Brazil more than doubled from 41.5 million units in the first half of 2005 to 102.7 million units in the first half of 2006. Non-subject imports from all other sources (excluding Brazil) also increased from 41.4 million units in the first half of 2005 to 72.8 million units in the first half of 2006. Combined, total non-subject imports increased from 82.9 million units in the first half of 2005 to 175.5 million units in the first half of 2006, or by 111.6 percent.¹⁵⁸ This increase indicates that non-subject imports are likely to be a significant factor in the U.S. market.

As to whether non-subject imports were price competitive, the Commission collected product-specific pricing data only for Brazil as the Commission normally does not collect non-subject pricing data.¹⁵⁹ The pricing data show a consistent pattern of underselling. Non-subject imports from Brazil undersold the domestic like product in 30 out of 39 price comparisons.¹⁶⁰ The margins of underselling ranged from 1.0 percent to 52.1 percent.¹⁶¹ These data suggest substantial price underselling of the domestic like product by non-subject imports. In comparison to subject import prices, non-subject imports from Brazil generally undersold cumulated subject imports over the period.¹⁶²

Moreover, the AUVs of non-subject imports from Brazil were lower than cumulated subject imports and the domestic like product over the period.¹⁶³ The AUVs of all non-subject imports, however, were higher than those of cumulated subject imports over the period.¹⁶⁴ We have considered this evidence, but give it less weight because per-unit data should be used with caution in these investigations

¹⁵⁷ We are mindful that in our injury analysis we gave less weight to the interim period data for 2006 because it appears to reflect the effects of the investigations, which were initiated in September 2005 and continued through the first half of 2006. 19 U.S.C. §1677(7)(I). We, however, do not interpret the statute as preventing us from considering the interim period data in the context of our Bratsk analysis. Indeed, we see no better record information than the interim data to assist us in responding to the test put forth by the Bratsk Court.

¹⁵⁸ CR/PR at Table IV-2A. In contrast, subject imports declined from 265.3 million units in the first half of 2005 to 118.6 million units in the first half of 2006, or by 55.3 percent. CR/PR at Table IV-2A.

¹⁵⁹ Pricing data collected by the Commission accounted for approximately *** percent of U.S. shipments of non-subject CLPSS from Brazil. CR at V-7, PR at V-6.

¹⁶⁰ Staff Table V-8.

¹⁶¹ Staff Table V-8.

¹⁶² CR/PR at Figures V-2 to V-6 and Staff Tables V-1 to V-6. While Brazilian prices were generally higher than Indonesian prices on a quarterly basis, Brazilian prices actually were lower than Indonesian prices on a quantity-weighted underselling basis. We further note that when a Brazilian producer submitted offers in the same bid as domestic producers, the bid data reveal that the price quote from Brazil was lower in a great majority of the time. When Brazilian producers submitted offers in the same bids as subject producers from China and Indonesia, the offer for imports from Brazil was generally higher. When Brazilian producers submitted offers in the same bids as subject producers from India, the offer for imports from Brazil was priced either higher or lower than subject imports from India. See CR/PR at Table V-9.

¹⁶³ CR/PR at Table IV-2, Staff Table C-2.

¹⁶⁴ CR/PR at Table IV-2.

due to serious issues of product mix, and because the values may thus reflect different merchandise rather than differences in prices.¹⁶⁵

The record further indicates that other non-price factors often affect purchasing decisions. Although price was listed most frequently by purchasers as affecting purchasing decisions, quality was also listed with almost the same frequency.¹⁶⁶ Nonetheless, as indicated above, we note that the parties generally consider the domestic like product and imports of CLPSS as commodity products. Therefore, we conclude that non-subject imports of CLPSS were price competitive.

In the threat context, we also conclude that non-subject imports of CLPSS are likely to remain price competitive. The interim pricing data show that non-subject imports from Brazil generally continue to undersell the domestic like product and subject imports from China.¹⁶⁷

b. Replacement/Benefit Factors

Having determined that the Bratsk test is triggered, we now analyze whether non-subject imports are likely to replace subject imports and continue to cause injury to the domestic industry. The evidence discussed above regarding interchangeability suggests that non-subject imports could have replaced some subject imports during the period of investigation and that they could replace some subject imports in the imminent future.

The record contains only limited data on the lined paper products industries in non-subject sources. The main non-subject source is Brazil. Some factors suggest that Brazil would have a substantial ability to export lined paper products to the United States. Brazil has been the first or second leading source of non-subject imports during the period examined. The fact that school seasons differ in Brazil and the United States would enable Brazilian producers to devote more of their capacity to producing for export to the United States without shortchanging their domestic market. Some Brazilian producers have partnered with U.S. producers during the period of investigation to supply the U.S. market. Non-subject imports from Brazil increased dramatically during the interim period, when subject imports fell by more than half.¹⁶⁸

With respect to the Brazilian industry's productive capacity, the Brazilian Pulp and Paper Association suggests Brazilian printing and writing paper production capacity of 2.481 million metric tons in 2005, of which 922,000 metric tons was exported.¹⁶⁹ Brazilian paper mills, thus, have ample raw materials available to supply Brazilian converters.¹⁷⁰

With respect to production of lined paper products, an industry representative from *** estimated that Brazilian producers have the capacity to produce 205,000 metric tons or 417 million units, of which 120 million units are exported.¹⁷¹ Target's estimated capacity for four Brazilian firms was 149,000 metric

¹⁶⁵ While the Court in Bratsk referred to non-subject imports as a whole, it is not clear whether the presence of significant price-competitive imports from a single non-subject source would be enough to trigger the analysis required under Bratsk. If so, imports from Brazil could arguably suffice on their own. Between 2003 and 2005, imports from Brazil represented approximately 10 percent to 20 percent of all U.S. imports. This share increased to 34.9 percent in the first half of 2006. CR/PR at Table IV-2; INV-DD-128 at Table IV-2A.

¹⁶⁶ CR/PR at Table II-1.

¹⁶⁷ Memorandum INV-DD-128 at Tables V-1A (undersold), V-2A (oversold), V-3A (undersold), and V-4A (undersold).

¹⁶⁸ Memorandum INV-DD-128 at Table IV-2A.

¹⁶⁹ CR at VII-11, PR at VII-6.

¹⁷⁰ CR at VII-10, PR at VII-6.

¹⁷¹ CR at VII-11, PR at VII-6; Petitioner's Posthearing Brief, Responses to Questions at 25-26. We note that Petitioner converted the reported capacity data from metric tons to units.

tons or 303.4 million units, which is likely understated because the data do not include Tilibra.¹⁷² While substantial, these capacity estimates indicate that producers in Brazil could not completely replace subject imports from China, which totaled 345.9 million units in 2005 and, as discussed above, are likely to increase significantly in the imminent future.¹⁷³ The capacity of the Brazilian industry appears especially insufficient because that industry is already exporting substantial quantities of lined paper products to the U.S. market. Thus replacing subject imports would require it to produce and export an additional quantity in the amount of likely imminent imports from China.

With respect to other non-subject supply sources, the record is even more limited. Petitioner claims that the CLPSS industries in Mexico and Canada are dominated by single firms. Petitioner estimates that export capacity for the sole Mexican producer of CLPSS is *** metric tons.¹⁷⁴ The sole Canadian producer of CLPSS is related to domestic producer MeadWestvaco. Petitioner, however, failed to submit any data for this firm. We note that Canada is the largest non-subject supplier of CLPSS to the United States by value and the second largest non-subject supplier by quantity.^{175 176} Total non-subject imports generally increased over the period, indicating the ability to fill at least some gap presented by subject imports.

As we noted above, the Bratsk decision does not specify how complete the replacement of subject imports by non-subject imports must be. Based on the record, it is unclear whether non-subject producers possess sufficient capacity to fill replace subject import volume if the order were to be imposed. Based on interim data, non-subject imports filled a substantial amount of the void when subject imports decreased significantly following Commerce's preliminary determination, but they did not completely replace subject imports.¹⁷⁷ In addition, we lack information concerning whether non-subject producers have the incentive to enter the U.S. market to fill the void left by the exit of subject imports. On balance we conclude that non-subject producers have insufficient capacity to replace subject imports in the imminent future.

Inasmuch as we find that non-subject imports will not likely replace subject imports sufficiently with an order imposed, we determine that non-subject imports would not negate the benefit of the order

¹⁷² Target's Posthearing Brief, Exhibit 1 at 18, Exhibit 7.

¹⁷³ Staff Table C-2.

¹⁷⁴ CR at VII-11, PR at VII-7.

¹⁷⁵ CR at VII-10, PR at VII-7; official Commerce import statistics. Non-subject imports from Canada increased from 9.8 million units in 2003 to 23.0 million units in 2004, and were stable in 2005 at 23.5 million units. Official Commerce import statistics.

¹⁷⁶ We are troubled by the fact that the Petitioner did not supply capacity data for the Canadian facility. MeadWestvaco not only was a party to this proceeding, but was a member of the petitioning trade association. As the Canadian facility is a subsidiary of MeadWestvaco, MeadWestvaco was in a unique situation to assist the Commission in collecting the data necessary to comply with the Federal Circuit's approach in Bratsk. In response to Commission requests for information, MeadWestvaco reported that "Canadian capacity is largely attributable" to one firm. It also reported that that "company is focused on the Canadian market, and imports from Canada have decreased sharply over 2006." Petitioner's Posthearing Brief, Responses to Questions at 32. We note, however, that while imports from Canada declined over the interim periods, Canada has been and likely will be a significant source of supply for the U.S. market. We remind the trade bar that parties are expected to respond to requests of the Commission and to provide complete information in a timely fashion so that the Commission can undertake its investigative obligations as required by the statute and the Courts.

¹⁷⁷ Non-subject imports from Brazil more than doubled from 41.5 million units in the first half of 2005 to 102.7 million units in the first half of 2006. Non-subject imports from all other sources (excluding Brazil) also increased from 41.4 million units in the first half of 2005 to 72.8 million units in the first half of 2006. Combined, total non-subject imports increased from 82.9 million units in the first half of 2005 to 175.5 million units in the first half of 2006, or by 111.7 percent. CR/PR at Table IV-2A. In contrast, subject imports declined from 265.3 million units in the first half of 2005 to 118.6 million units in the first half of 2006, or by 55.3 percent. CR/PR at Table IV-2A.

on subject imports from China. As indicated above, we lack the type of pricing data for non-subject products that would be required to undertake a proper analysis of this factor. What information we have offers a mixed picture. The pricing data indicate that prices for Brazilian imports of Products 1, 2, and 3 were generally lower than the domestic like product and either the same price or lower than subject imports from China.¹⁷⁸ Moreover, non-subject imports from Brazil generally continue to undersell both the domestic like product and subject imports from China in the interim period.¹⁷⁹ The AUVs of total non-subject imports, however, were higher than both the domestic like product and subject imports.¹⁸⁰ Thus, it is unclear that non-subject imports as a whole would be priced so low in the U.S. market that domestic producers would not benefit from the imposition of the order on subject imports from China.

Furthermore, interim period (January-June 2006) data indicate that non-subject imports have not yet and are not likely to negate the benefit of the order to the domestic industry. The interim data show that while non-subject imports captured significant market share in the first half of 2006 (increasing from 23.8 percent of total imports in the first half of 2005 to 59.7 percent of total imports in the first half of 2006), domestic producers experienced increases in U.S. shipments and profitability after Commerce issued its preliminary determination and imposed duties, causing subject import volume to decline.¹⁸¹ When the interim periods are compared, U.S. shipments increased from 129.1 million units in the first half of 2005 to 185.6 million units in the first half of 2006.¹⁸² Our pricing data generally show improved prices, particularly for products 1 and 2, which make up the greatest volume of our pricing products.¹⁸³ Moreover, over the interim periods, the ratio of operating income to net sales also increased from *** percent to *** percent.¹⁸⁴ We, therefore, determine that non-subject imports would not negate the benefit of the order on subject imports from China.

VI. NO THREAT OF MATERIAL INJURY BY REASON OF SALES OF SUBSIDIZED OR LESS-THAN-FAIR-VALUE IMPORTS FROM INDIA AND INDONESIA

Based on an examination of the statutory factors relevant to threat of injury, we determine that the domestic industry producing lined paper products is not threatened with material injury by reason of subject imports from India and Indonesia.

¹⁷⁸ CR/PR at Figures V-2, V-3, V-4.

¹⁷⁹ Memorandum INV-DD-128 at Tables V-1A, V-2A, V-3A, and V-4A.

¹⁸⁰ While we find AUVs in these investigations to be of limited probative value, we note that our product specific pricing data for imports from Brazil, which show that such imports generally were below both the domestic like product and subject imports over the period of investigation, is generally consistent with the AUVs of non-subject imports from Brazil.

¹⁸¹ Memorandum INV-DD-128 at Table IV-2A, Table C-2A. Non-subject imports increased their share of the U.S. market from 13.8 percent in the first half of 2005 to 27.7 percent in the first half of 2006. Memorandum INV-DD-128 at Table IV-11A.

¹⁸² Memorandum INV-DD-128 at Table C-2A.

¹⁸³ Compare Staff Tables V-1 to V-4 with Memorandum INV-DD-128 at Tables V-1A to V-4A.

¹⁸⁴ Memorandum INV-DD-128 at Table C-2A. Several respondents claim that gains made by domestic producers between interim periods were the result of disruption to the market caused by the filing of the petition in September 2005, creating a sudden and unexpected need of purchasers for alternate supply sources, and are therefore only temporary. Indonesian Respondent's Posthearing Brief at App. E-17-19; Target's Posthearing Brief at 10. While it is likely that the investigations themselves helped generate gains to the domestic industry that may not be long-lasting, we do not believe that this factor can explain all of the substantial improvement experienced by the industry in the first half of 2006.

Subsidies¹⁸⁵ – With regard to India, Commerce found subsidies ranging from 1.67 percent to 10.24 percent, with an overall country-wide rate of 9.42 percent.¹⁸⁶ The subsidies found appear to be export subsidies within the purview of Articles 3 or 6.1 of the Subsidies Agreement.¹⁸⁷ With regard to Indonesia, Commerce found subsidies at an overall rate of 40.55 percent; however, none of these subsidies appear to be export subsidies.¹⁸⁸ Despite the fact that the countervailable subsidies for India appear to be export subsidies, we do not find this significant given the fact that, as discussed below, imports from India are not likely to increase in the imminent future.

Subject import volume and market penetration¹⁸⁹ – We do not find that substantially increased imports from India and Indonesia are likely, given the fact that, during the period examined, imports from these countries declined, both in terms of quantity and market share. Over the three-year period, cumulated imports from India and Indonesia fell from 76.2 million units in 2003 to 70.6 million units in 2005. The market share of such imports also declined, from *** percent in 2003 to *** percent in 2005.¹⁹⁰

Production capacity¹⁹¹ – We note as a preliminary matter that it is difficult to analyze cumulated data on this factor for India and Indonesia because Indian producers reported capacity data in pieces, whereas Indonesian producers reported such data in metric tons. Nevertheless, in neither country did capacity increase particularly strongly over the three-year period examined, with capacity in Indonesia remaining essentially flat, while capacity in India increased *** percent from 2003 to 2005.¹⁹² Production likewise showed no significant increasing trend in either country.¹⁹³ Capacity utilization in both countries was relatively high throughout the period, in particular for Indonesia.¹⁹⁴ Although there is some evidence of unused capacity in India, we do not find that such unused capacity will likely result in substantially increased imports into the United States, given the decline in the share of export shipments going to the U.S. market during the period examined, coupled with the substantial share of shipments serving the Indian home market.¹⁹⁵

¹⁸⁵ 19 U.S.C. § 1677(7)(F)(i)(I).

¹⁸⁶ CR/PR at Table I-2.

¹⁸⁷ With regard to India, subsidies found were (1) export financing at preferential rates, (2) import duty reduction and exemptions earned on the basis of export performance, and (3) tax exemption on profits derived from exports. CR at I-4, n.4, PR at I-4, n.4.

¹⁸⁸ CR/PR at Table I-2. Commerce found subsidies concerning (1) provision of timber at preferential rates and (2) subsidized funding of reforestation. CR at I-5, n.7; PR at I-4, n.7.

¹⁸⁹ 19 U.S.C. § 1677(7)(F)(i)(III).

¹⁹⁰ Staff Table C-2.

¹⁹¹ 19 U.S.C. § 1677(7)(F)(i)(II).

¹⁹² CR/PR at Tables VII-2 & VII-3. Capacity in India increased consistently from 55.4 million pieces in 2003 to 65.4 million pieces in 2005. Capacity in Indonesia was essentially flat at approximately *** metric tons from 2003 to 2005.

¹⁹³ CR/PR at Tables VII-2 & VII-3. Production in India declined overall, from 56.2 million pieces in 2003 to 50.9 million pieces in 2005. Production in Indonesia first declined in 2004 to a level of approximately *** metric tons, then rebounded in 2005 to a level (*** metric tons) that was less than *** percent above its level at the start of the period.

¹⁹⁴ CR/PR at Tables VII-2 & VII-3. Capacity utilization for the Indian industry declined from 101.5 percent in 2003 to 77.8 percent in 2005. Capacity utilization for the Indonesian industry consistently exceeded *** percent and increased toward the end of the period.

¹⁹⁵ CR/PR at Table VII-2. As a share of total shipments, shipments to the United States by the Indian industry declined *** from *** percent in 2003 to *** percent in 2005. Shipments to all other export markets, by contrast, (continued...)

Prices of subject imports¹⁹⁶ – We determine that imports of the subject merchandise from India and Indonesia are not likely to have a significant depressing or suppressing effect on domestic prices, nor will such imports have a stimulative effect on future imports from these sources. Imports from India primarily oversold the domestic like product during the period examined and were declining in volume. Although imports from Indonesia exclusively undersold the domestic like product, we do not conclude that this signifies future price-depressing or suppressing effects for two reasons. First, although imports from Indonesia were undersold, they did not win significant business through the bid auctions during the period. Indonesian suppliers, despite having low prices, could win only *** percent of the value of contracts awarded during the period.¹⁹⁷ Second, to the extent that much of the prior success of Indonesian producers in penetrating the U.S. market was based on the fact that they were exclusive suppliers of the kind of 92-bright paper that was demanded by U.S. buyers (such as Staples), the record indicates that 92-bright paper can now be obtained from other foreign suppliers (e.g., ***) as well as from the U.S. industry.¹⁹⁸ Thus, there is less reason for U.S. buyers to buy from Indonesian suppliers, notwithstanding the lower price of the product.

Inventories¹⁹⁹ – End-of-period inventories held in Indonesia were relatively small as a percentage of shipments, and such inventories held in India declined markedly over the 3-year period, both in absolute value and as a percentage of shipments. U.S. importers held very small quantities of inventories from these sources during the period examined.²⁰⁰

Product shifting²⁰¹ – There is little hard evidence on the record of the potential for product shifting in either India or Indonesia. In theory, there should be scope for product-shifting in these investigations, inasmuch as the subject merchandise is a subset of the larger product category of all lined paper products. Even if product-shifting were to occur, however, given the lack of significant unused capacity in the Indian and Indonesian industries coupled with the export patterns demonstrated during the period examined it is unlikely that such product-shifting would result in significantly increased exports to the United States.

Industry condition and vulnerability – Finally, although as discussed above we find the domestic industry to be vulnerable to future injury, the record does not indicate that the industry is vulnerable to injury specifically from imports from India and Indonesia. There are no demonstrable adverse trends in the industry that are attributable to imports from either India or Indonesia. In fact, with

¹⁹⁵ (...continued)

increased from *** percent in 2003 to *** percent in 2005. The share of home market shipments in total shipments remained virtually constant over the three-year period, accounting for approximately *** of shipments.

¹⁹⁶ 19 U.S.C. § 1677(7)(F)(i)(IV).

¹⁹⁷ CR at V-26; PR at V-11-V-12. This suggests that purchasers were shying away from buying Indonesian product for non-price reasons.

¹⁹⁸ CR at I-14; PR at I-11; CR at II-12, II-16 and II-20; PR at II-9-II-12; Tr. at 191 (Rahn). Although Indonesian respondents claimed that customers preferred the 92-bright paper for quality reasons (enhanced brightness), the record does not indicate that customers were willing to pay a premium for the 92-bright product.

¹⁹⁹ 19 U.S.C. § 1677(7)(F)(i)(V).

²⁰⁰ CR/PR at Tables VII-2, VII-3 and VII-4. End-of-period inventories held in Indonesia as a percentage of shipments were consistently less than *** percent. As a percentage of shipments, end-of-period inventories held in India declined from *** percent in 2003 to only *** percent in 2005. In 2005, U.S. importers held inventories of Indian product of approximately *** million pieces, and inventories of Indonesian product of only *** pieces. Although inventories of Indian product in 2005 were significant in terms of their share of shipments, we note that these amounts are minuscule in comparison to U.S. apparent consumption of *** pieces in 2005. Staff Table C-2.

²⁰¹ 19 U.S.C. § 1677(7)(F)(i)(VI).

regard to Indonesia, the potential for injury from that source is lessened by the fact that U.S. producers are now producing the type of 92-bright paper that once was produced exclusively by Indonesia.²⁰²

Given the declining trends in subject import volume and lack of evidence of significant price effects from these imports during the period, coupled with the lack of evidence of any significant unused capacity in the Indian and Indonesian industries, we cannot find a likelihood of imminent injury to the U.S. industry from imports from these two sources. Consequently, we find that material injury by reason of subject imports will not occur absent issuance of antidumping orders against subject imports from India and Indonesia. We therefore conclude that the domestic lined paper products industry is not threatened with material injury by reason of imports from India and Indonesia.

VII. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA, INDIA AND INDONESIA

The data relevant to our determination of material injury have been discussed above in the section on threat of material injury. In this section we summarize the basis of our determination that the domestic industry producing lined paper products is not materially injured by reason of subject imports from China, India, and Indonesia.

With respect to volume, section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.” We indicated above that the volume of subject imports from China, and the increase in that volume, in absolute terms and relative to domestic consumption and production, is significant. We make a similar finding with respect to cumulated subject imports from China, India, and Indonesia. Cumulated subject imports grew by 58.7 percent from 2003 to 2005, and increased in market share from *** percent in 2003 to *** percent in 2005.²⁰³ Nearly all of the increase was from China, and most took place from 2004 to 2005. Domestic producers themselves imported or brokered subject imports that accounted for *** percent of the increase in cumulated subject imports from 2003 to 2005.²⁰⁴

With respect to prices, section 771(7)(C)(ii) of the Act provides that the Commission shall consider whether –

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
- (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.²⁰⁵

In the context of a record in which domestic producers themselves account for a large share of the increase in subject imports as well as the vast majority of the pricing data for subject imports, we find that the pricing comparisons are too mixed to reveal significant underselling by subject imports of the domestic like product. We described above in the threat sections the mixed pattern on under- and overselling by imports from China and imports from India and Indonesia taken together. Cumulated subject imports show a similar pattern. Cumulated subject imports undersold domestic prices in

²⁰² CR at I-14, n.28; PR at I-11, n.27; CR at II-12 and II-16; PR at II-9-II-11; Tr. at 191 (Rahn).

²⁰³ Staff Table C-2.

²⁰⁴ Staff Table IV-10C.

²⁰⁵ 19 U.S.C. § 1677(7)(C)(ii).

approximately 60 percent of comparisons, or 76 percent by volume.²⁰⁶ Price data on subject imports limited to non-producers showed less frequent underselling: underselling in 54.6 percent of quarterly comparisons, and only 42 percent by quantity.²⁰⁷

Furthermore, we do not find that cumulated subject imports have depressed or suppressed domestic prices to a significant degree, for the same reasons described above in the sections on threat of injury. In addition to showing a mixed pattern on under- and overselling, subject imports did not increase significantly in 2004, the year in which domestic prices for the higher-volume pricing products (products 1 and 2) declined; rather the imports increased mainly in 2005, accompanied by rising domestic prices.

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.²⁰⁸ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{209 210}

We summarized data on pertinent industry factors in the section above on threat of injury from imports from China. While these data indicate declining industry performance in most areas such that the industry is in a weakened state, we are unable to attribute these declines to any significant degree to cumulated subject imports. As noted above, *** decline in domestic indicators, and *** increase in subject imports, was due to MeadWestvaco’s plant closures in late 2004, and its subsequent *** increase in imports and brokering of imports of lined paper products from China.²¹¹ As explained above, we do not find that the record supports MeadWestvaco’s claims that these closures were driven by the growth in subject imports.

²⁰⁶ Staff Table V-8 (underselling in 60.4 percent of comparisons with each subject country’s prices considered separately; underselling in 58.5 percent of comparisons with subject country prices combined).

²⁰⁷ CR/PR at Table F-14.

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

²⁰⁹ 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

²¹⁰ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final determinations, Commerce found a range of dumping margins from 76.7 percent to 258.21 percent for subject CLPSS from China. Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 Fed. Reg. 53,079, 53,084-85 (Dep’t Commerce Sept. 8, 2006). In its final affirmative determination for subject lined paper school supplies from India, Commerce calculated a weighted-average dumping margin of 23.17 percent for two Indian exporters, Aero Exports and respondent Navneet Publications, and 3.91 percent for Kejriwal Paper and all others. 71 Fed. Reg. at 45,014. It calculated a weighted-average dumping margin of 118.63 percent for Indonesian Respondent based on adverse facts available and 97.85 percent for all others. Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper School Supplies from Indonesia, 71 Fed. Reg. 47,174, 47,177 (Dep’t Commerce Aug. 16, 2006).

²¹¹ MeadWestvaco accounted for *** percent of the increase in cumulated subject imports from 2004 to 2005. See CR/PR at Table III-9, III-10, Staff Table C-2.

CONCLUSION

For the foregoing reasons, we find that the domestic industry producing lined paper products is threatened with material injury by reason of subject imports from China. We further find that the domestic industry is neither materially injured nor threatened with material injury by reason of subject imports from India and Indonesia.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on September 9, 2005, by MeadWestvaco Corp. (“MeadWestvaco”) of Dayton, OH; Norcom, Inc. (“Norcom”), of Norcross, GA; and Top Flight, Inc. (“Top Flight”), of Chattanooga, TN (collectively, the Association of American School Paper Suppliers, or “Petitioner”), alleging that an industry in the United States is materially injured and threatened with further material injury by reason of subsidized imports of certain lined paper school supplies¹ (“CLPSS”) from India and Indonesia, and by reason of less-than-fair-value (“LTFV”) imports of CLPSS from China, India, and Indonesia. Information relating to the background of these investigations is summarized in table I-1.²

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determinations in these investigations the Commission--

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

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

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

¹ A description of the subject product, based on the scope definition contained in Commerce’s final determinations, is presented in “The Subject Product” section below.

² *Federal Register* notices cited in table I-1, beginning with the scheduling of the Commission’s final-phase investigations, are presented in app. A.

Table I-1
CLPSS: Background information

Action	Effective date	Federal Register notice
Petition filed with Commerce and the Commission/ institution of Commission investigations	September 9, 2005	70 FR 54961 (September 19, 2006)
Commerce's notice of initiation: Antidumping ("AD") investigations Countervailing duty ("CVD") investigations	October 6, 2005 October 7, 2005	70 FR 58374 70 FR 58690
Commission's preliminary determinations	October 24, 2005	70 FR 62329 (October 31, 2005)
Extension of Commerce's preliminary CVD investigations	November 8, 2005	70 FR 67668
First postponement of Commerce's preliminary LTFV determinations	February 10, 2006	71 FR 7015
Commerce's preliminary subsidy determinations: Indonesia India	February 13, 2006 February 15, 2006	71 FR 7524 71 FR 7916
Notice of alignment of Commerce's CVD and AD investigations (for India and Indonesia)	March 7, 2006	71 FR 11379
Second postponement of Commerce's preliminary LTFV determinations (China and India only)	March 14, 2006	71 FR 13090
Commerce's preliminary LTFV determinations: Indonesia China ¹ India	March 27, 2006 April 17, 2006 April 17, 2006	71 FR 15162 71 FR 19695 71 FR 19706
Scheduling of Commission's final-phase investigations	March 27, 2006	71 FR 17914 (April 7, 2006)
Postponement of Commerce's final determinations for Indonesia	May 9, 2006	71 FR 26925
Notice of revised Commission schedule	May 30, 2006	71 FR 30694
Commission's hearing ²	July 25, 2006	Not applicable
Commerce's final determinations: India Indonesia China	August 8, 2006 August 16, 2006 September 8, 2006	71 FR 45012/45034 71 FR 47171/47174 71 FR 53079
Commission's vote	September 6, 2006	Not applicable
Commission determinations due to Commerce: ³ India Indonesia China	September 21, 2006 September 28, 2006 October 23, 2006	Not applicable

¹ Commerce published an amended preliminary LTFV determination for China on June 1, 2006 (71 FR 31159).
² A list of hearing witnesses is presented in app. B.
³ The Commission intends to transmit its determinations to Commerce for China, India, and Indonesia concurrently.

In examining the impact required to be considered under subparagraph (B)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to, (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in an antidumping investigation, the magnitude of the margin of dumping.

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

SUMMARY DATA

A summary of data collected in these investigations is presented in appendix C. U.S. producers' data are based on the questionnaire responses of 10 firms that are believed to account for virtually all known U.S. production of lined paper products ("LPP")³ in 2005, and 100 percent of known U.S. production of the subject merchandise, CLPSS. U.S. imports are based on official Commerce statistics.

SUMMARY OF U.S. MARKET PARTICIPANTS

Eleven U.S. producers of LPP have been positively identified in these investigations. On the basis of data submitted in response to Commission questionnaires, *** is the largest U.S. producer of LPP, accounting for *** percent of reported U.S. production in 2005. *** was the next largest producer of LPP in 2005, accounting for *** percent of reported production, followed by *** (at *** percent) and *** (at *** percent). Based on responses to Commission questionnaires, the majority of LPP is sold to large retailers such as supermarkets, drug stores, mass merchants, dollar stores, and office supply stores. These firms, along with ***, are the largest importers of subject merchandise. The five largest importers of CLPSS in 2005, based on questionnaire-reported import value, were ***.

³ Definitions of the product terminologies employed in this report are presented in the section entitled "Domestic Like Product Issues," below.

THE NATURE AND EXTENT OF SUBSIDIES AND SALES AT LESS THAN FAIR VALUE

As noted in table I-1, the Department of Commerce has aligned its antidumping and countervailing duty investigations for India and Indonesia. The results of Commerce’s final determinations for these two subject countries are summarized in table I-2. As indicated in this table, Commerce determined that Indian firms have received net countervailable subsidies ranging from 1.67 (*de minimis*) to 10.24 percent,⁴ and determined that these firms have sold subject merchandise in the United States at LTFV margins ranging from 3.91 to 23.17 percent.⁵ Critical circumstances were determined not to exist with respect to exports of CLPSS from India.⁶

Table I-2

CLPSS: Commerce’s final subsidy rates and dumping margins for India and Indonesia

Producer/exporter	Net subsidy rate	Dumping margin
	<i>Percent</i>	
India:		
Aero Exports	7.05	23.17
Kejriwal Paper	1.67 ⁽¹⁾	3.91
Navneet Publications	10.24	23.17
All others	9.42	3.91
Indonesia:		
Tjiwi Kimia	40.55	118.63
All others	40.55	97.85
¹ <i>De minimis</i> . Source: Commerce’s final determinations for India (71 FR 45012 & 71 FR 45034, August 8, 2006) and Indonesia (71 FR 47171 & 47174, August 16, 2006).		

With respect to Indonesia, Commerce determined that one firm, PT. Pabrik Kertas Tjiwi Kimia Tbk. (“Tjiwi Kimia”) received net subsidies of 40.55 percent,⁷ and sold CLPSS in the United States at a

⁴ *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034, August 8, 2006. Commerce identified six Government of India programs that it determined conferred subsidies on Indian producers of CLPSS. These programs relate to export financing at preferential rates, import duty reductions and exemptions earned on the basis of export performance, and tax exemption on profits derived from exports. *Ibid.*, app. II (Issues and Decisions Memorandum).

⁵ *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012, August 8, 2006.

⁶ *Ibid.*

⁷ *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indonesia*, 71 FR 47174, August 16, 2006. Commerce identified two Government of Indonesia subsidy programs that it determined to be countervailable during its period of investigation: the provision of timber at preferential rates, and the subsidized funding of reforestation (Commerce (continued...))

LTFV margin of 118.63 percent.⁸ Commerce’s “all others” net subsidy rate for Indonesia was also 40.55; its dumping margin for these firms was 97.85 percent. Critical circumstances were determined to exist with respect to Tjiwi Kimia, but not with respect to all other Indonesian producers/exporters of CLPSS.⁹

With respect to China, Commerce found a final company-specific dumping margin of 76.7 percent *ad valorem* for nine individual exporter-producer combinations; a margin of 78.39 percent for 52 other exporter-producer combinations; and a margin of 94.98 percent for a further seven exporter-producer combinations.¹⁰ Commerce determined a “China-entity” margin of 258.21 percent for all other exporters of subject merchandise from China.¹¹ Critical circumstances were determined to exist for eight Chinese firms, as well as for the “China entity” (see “Critical Circumstances” in Part IV).

THE SUBJECT PRODUCT

The imported products subject to these investigations are certain lined paper school supplies. Commerce’s final determinations define the scope of the subject merchandise in these investigations as follows:¹²

The scope of this investigation includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling of these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (i.e., stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper).

⁷ (...continued)

determined that Tjiwi Kimia is “part of a group of pulp and paper, and forestry companies linked by varying degrees of common ownership.”) *Ibid.*, Issues and Decisions Memorandum appendix.

⁸ *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia*, 71 FR 47171, August 16, 2006. Commerce’s calculation of the dumping margin for Tjiwi Kimia was based entirely on adverse facts available.

⁹ *Ibid.*

¹⁰ *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079, September 8, 2006. A full list of exporters and manufacturers receiving company-specific margins is available in the referenced notice (presented in app. A).

¹¹ Commerce’s China-entity margin was based on adverse facts available, derived from information contained in the petition for these investigations. *Ibid.*

¹² *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012, August 8, 2006. Commerce’s scope language is quoted verbatim.

However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points.

Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this petition are:

- unlined copy machine paper;*
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;*
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;*
- index cards;*
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;*
- newspapers;*
- pictures and photographs;*
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);*
- telephone logs;*
- address books;*
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;*
- lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;*
- lined continuous computer paper;*
- boxed or packaged writing stationary {sic} (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;*
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page.*

For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;

Also excluded from the scope of these investigations are the following trademarked products:

- *FlyTM lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a FlyTM pen-top computer. The product must bear the valid trademark FlyTM (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).*
- *ZwipesTM: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a ZwipesTM pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark ZwipesTM (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).*
- *FiveStar®AdvanceTM: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®AdvanceTM (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).*
- *FiveStar FlexTM: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the*

polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

U.S. Tariff Treatment

According to the scope language of Commerce’s final determinations, CLPSS are “typically” imported into the United States under statistical reporting numbers 4810.22.5044, 4811.90.9090,¹³ 4280.10.2010, 4820.10.2020, and 4820.10.2050 of the Harmonized Tariff Schedule of the United States (“HTS”).¹⁴ HTS excerpts and tariff rates for these HTS numbers are presented in table I-3. Imports under the referenced HTS numbers enter the United States free of duty under the general duty rate, applicable to imports from all three subject countries. As indicated in table I-3, the HTS numbers identified by Commerce as covering subject imports are not coextensive with its scope definition for these investigations, either individually or in the aggregate. Recipients of the Commission’s importers’ questionnaire in the final phase of these investigations were asked to identify the reporting numbers of the HTS under which they imported subject CLPSS. All but four of the 32 firms that responded to this question reported importing CLPSS under HTS statistical reporting number 4820.10.2050; seven firms reported importing CLPSS under HTS number 4811.90.9090; six firms reported importing CLPSS under HTS number 4820.10.2020; three firms reported importing CLPSS under HTS number 4810.22.5044; and only one firm reported importing subject merchandise under HTS number 4820.10.2010.¹⁵

In the preliminary phase of the Commission’s investigations, and in the prehearing staff report, data on U.S. imports of the subject product were based on official statistics for two of the five HTS numbers identified by Commerce, namely 4811.90.9090 (4811.90.9000 prior to July 1, 2005) and 4820.10.2050.¹⁶

¹³ Prior to July 1, 2005, items imported under this HTS number entered the United States under HTS statistical reporting number 4811.90.9000. Effective July 1, 2005, statistical breakouts were implemented for certain tissue papers (4811.90.9010) and “other” paper (4811.90.9090) (see table I-3).

¹⁴ *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012, August 8, 2006.

¹⁵ Five or fewer firms responding to the Commission’s importers’ questionnaire reported importing subject merchandise under HTS reporting numbers other than the five identified in Commerce’s scope. The majority of these numbers fell within Chapter 48 of the HTS, while two reported numbers fell in Chapter 42 (covering articles of leather). See responses to question II-8 of the importers’ questionnaire.

¹⁶ Record evidence collected in the preliminary phase of these investigations indicated that subject lined paper is not likely imported under HTS reporting number 4810.22.5044. *Certain Lined Paper School Supplies From China, India, and Indonesia, Investigation Nos. 701-TA-442-443 and 731-TA-1095-1097 (Preliminary)*, USITC Publication 3811, October 2005 (“Preliminary determinations”), pp. I-4-I-6. The remaining two HTS numbers, 4820.10.2010 and 4820.10.2020, were added to Commerce’s tariff record subsequent to the prehearing report in these final-phase investigations.

**Table I-3
CLPSS: HTS excerpts and tariff rates, 2006**

		General ¹	Special	Column 2 ²
HTS provision	Article description	Rates (<i>percent ad valorem</i>)		
4810	Paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size: Paper and paperboard of a kind used for writing, printing or other graphic purposes, of which more than 10 percent by weight of the total fiber content consists of fibers obtained by a mechanical or chemi-mechanical process:	Free		30.0
4810.22.50	Light-weight coated paper (printed, embossed, or perforated), not in strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
<i>4810.22.5044</i>	<i>Hole-punched looseleaf paper</i>			
4820	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, exercise books, blotting pads, binders (looseleaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; albums for samples or for collections and books covers (including cover boards and book jackets) of paper or paperboard:	Free		25.0
4820.10.20	Diaries, notebooks and address books, bound; memorandum pads, letter pads and similar articles			
<i>4820.10.2010</i>	Diaries and address books			
<i>4820.10.2020</i>	Memorandum pads, letter pads and similar articles			
<i>4820.10.2050</i>	<i>Other</i>			
4811	Paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809, or 4810):	Free		35.0
4811.90	Other paper, paperboard, cellulose wadding and webs of cellulose fibers: In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.90.90	Other			
4811.90.9010	Tissue papers having a basis weight not exceeding 29 g/m ² , in sheets			
<i>4811.90.9090</i>	<i>Other</i>			

¹ Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from China, India, and Indonesia.

² Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Note.—Statistical reporting numbers identified by Commerce as those under which subject merchandise are imported are italicized.

Source: Harmonized Tariff Schedule of the United States (2006).

Parties to these investigations were invited at the Commission's public hearing to comment on whether and how this methodology for determining the volume of CLPSS imports should be changed.

With one exception, all parties that addressed the question of how to compile import statistics for CLPSS argued that the Commission should continue to assess the volume of these imports on the basis of the two HTS numbers used in the preliminary-phase investigations. These parties, which include Petitioner, argue that the two numbers presently employed capture the "vast majority" of subject imports, while a "great majority" of imports under the presently excluded numbers comprise out-of-scope merchandise.¹⁷ These parties note that the inclusion by Commerce of additional HTS reporting numbers is for purposes of Customs expediency, rather than a suggestion that the numbers cover primarily subject merchandise.¹⁸

Indian respondents, the only party to argue for a change in the methodology for compiling official import statistics for CLPSS, identify nine HTS subheadings and statistical reporting numbers (including the five numbers identified by Commerce) under which they contend subject merchandise may be imported.¹⁹ Indian respondents argue that all nine categories contain both subject and nonsubject merchandise, and, as such, all nine subheadings/reporting numbers should be used in the compilation of import statistics for CLPSS.²⁰ No record evidence in these investigations suggests that any of the nine HTS categories identified by Indian respondents, other than the two reporting numbers presently used to calculate CLPSS imports, contain a preponderance of in-scope merchandise. To the contrary, record evidence suggests that the two HTS numbers used in prehearing report together most closely correspond to the scope of these investigations.²¹ Import data presented in this report are therefore based on HTS numbers 4811.90.9090 (4811.90.9000 prior to July 1, 2005) and 4820.10.2050, consistent with the prehearing report and the preliminary-phase investigations.

Physical Characteristics and Uses

CLPSS encompass a range of products, including, but not limited to, looseleaf filler paper and notebooks. Commerce's scope definition (above) provides information regarding the physical characteristics of products included within the scope of these investigations. According to information provided by Petitioner, the primary use for CLPSS is to take notes, perform class assignments, and provide completed work to teachers for correction and grades.²² As such, Petitioner notes, CLPSS must conform to teacher and student expectations relating to size, the presence of margins, and hole punches for storage. Petitioner contends that the sizes of products covered by the scope of the petition are the most effective for the uses in which they are employed.²³

Petitioner notes further that the physical characteristics of CLPSS combine necessary elements of privacy, protection, and convenience. Notebooks, for instance, include covers that shield written work from others, as well as protect pages from wear during transport, while looseleaf paper (when placed in a

¹⁷ Staples' posthearing brief, p. 55. See also Petitioner's posthearing brief, pp. 115-122; Target's posthearing brief, p. 41; and Tjiwi Kimia's posthearing brief, pp. 3-4 and 33.

¹⁸ *Ibid.*

¹⁹ Indian respondents' posthearing brief, p. 10 and exh. 4a.

²⁰ *Ibid.*

²¹ See, e.g., emails from F. Forstall, Commission Industry Analyst, August 7, 2006; and Petitioner's posthearing brief, pp. 119-121.

²² Response to Commerce Request for Petition Clarification, September 26, 2005, p. 3.

²³ *Ibid.*

binder²⁴) performs a similar function. Petitioner observes that notebooks may also contain enhancements such as dividers, pockets, and reference materials that promote their core classroom and educational use.²⁵

Respondents in these investigations have argued that imports of CLPSS from Indonesia have physical characteristics that differ from those of domestically produced CLPSS.²⁶ In particular, respondents identify brightness as a distinguishing characteristic between Indonesian and U.S.-produced merchandise, asserting that Indonesian CLPSS are produced to a brightness of 92 percent, compared to a standard brightness of 83-84 percent in the United States.²⁷ Indonesian producer Tjiwi Kimia noted in the preliminary phase of these investigations that ***.²⁸

Manufacturing Process²⁹

The production of CLPSS begins with rolls of unlined paper, purchased by U.S. producers at arms length.³⁰ Most of the paper used in the production of CLPSS has a basis weight of 56 grams per square meter (15 pounds).³¹ The width of the rolls typically varies between 31 and 36 inches depending on the dimensions of the final product for which the paper is to be used. The most important performance specification is a smooth surface suitable for writing with either a pen or pencil.

Manufacturing entails three basic processes: ruling, binding, and wrapping/packing. These processes can be accomplished with highly automated “web-to-finish” machines that rule, bind, and wrap products in one continuous line of production, or with multiple machines for ruling and binding (and greater labor input) in a “step and repeat” process. The majority of high volume CLPSS (e.g., looseleaf filler paper and wire-bound notebooks) is produced using web-to-finish machines, while lower volume CLPSS or CLPSS requiring special handling is typically produced using step and repeat machines.³²

Ruling

Ruling is typically done in the same manner whether on separate ruling machines or web-to-finish machines. Rolls of paper are mounted on a roll stand at the upstream end of the machine. The web of paper runs through a rotary flexographic press that has four cylinders. Two cylinders (one for red ink and one for blue) print the top of the paper, and two print the bottom of the paper. Given appropriate printing plates for their presses, ruling machines can be used to make products with any ruling pattern and of any

²⁴ As indicated in Commerce’s scope definition, binders are not included in the scope of the subject product, provided that they do not include lined paper of the type included in the scope.

²⁵ Response to Commerce Request for Petition Clarification, September 26, 2005, p. 3.

²⁶ Tjiwi Kimia’s prehearing brief, pp. 10-11.

²⁷ Conference transcript, pp. 127 (Rahn) and 170 (Ciulla). Record evidence from the preliminary phase of these investigations ***. Staff report of October 17, 2005, Memorandum INV-CC-176, p. I-12, n. 37. See also hearing transcript, p. 191 (McLachlan & Rahn).

²⁸ Tjiwi Kimia’s response to the (preliminary-phase) foreign producers’/exporters’ questionnaire, p. 8. In this regard, counsel to Chinese respondents noted that paper used to produce CLPSS in China is typically composed of only 30 percent wood pulp and 70 percent pulp of other materials (counsel did not identify the comparable wood pulp content for U.S. and other subject CLPSS). Chinese respondents’ postconference brief, p. 34.

²⁹ ***.

³⁰ According to an industry representative, there are no remaining vertically integrated producers of both paper and lined paper products in the United States. Conference transcript, p. 92 (McLachlan).

³¹ 17-inch x 22-inch basis. Conference transcript, p. 127 (Rahn).

³² ***.

dimension.^{33 34} Web-to-finish machines are generally dedicated to particular products but can be configured to make products with various dimensions and ruling patterns.

After printing, the paper passes under a rotary sheeter, which cuts the web perpendicular to the direction of travel into large sheets that represent a certain number of the finished product depending on its dimensions. The large sheets are counted, stacked to the desired page count, and, if necessary, covers, backing material, dividers and/or an inner liner are added to the stack. Perforations may also be made and holes may be punched, depending on the particular product being made. The compiled layers of large sheets are then either collected on a pallet at the end of the ruling machine to await further processing or moved to the binding operation in web-to-finish machines.

Binding

Binding equipment differs depending on the type of binding required (e.g., spiral binding, double-wire binding, glue tape binding, center-stitch binding, or stapling). Web-to-finish machines are therefore configured to handle exclusively one particular type of binding. For wire-bound notebooks, compiled layers of large sheets resulting from the ruling process outlined above are cut into three rows representing the size of two notebooks each. These “two-on strips” are then punched with wire binding and ring holes, and cut into two notebooks each. Each notebook is then automatically wired, and passed along a conveyer for packing. The components of notebooks produced by web-to-finish machines must be of the same size and of a single consistency; the process does not allow for oversized covers or backs, or for pocketed dividers.

For spiral bound products made with the step and repeat process, pallets of large sheets are delivered by forklift to an automatic programmable paper cutter (“APPC”) that makes a series of cuts that reduce the large sheets into product-size pieces. The heart of an APPC is a large guillotine that is capable of cutting several layers at a time. The APPC also has various movable fences that corral the sheets as they are being cut. Because the position of the fences for each cut is computer controlled, APPCs are capable of cutting products of any dimension; cutting patterns can be changed at the touch of a button, with no set-up time in between. Once cut to the proper size, the notebooks are moved to a spiral binding machine. For single-subject notebooks, a binder operator may add a cover to each layer as it is fed into the binder. The machine then punches small holes into the edges of the completed stack and twists spiraled wire into the holes in a fraction of a second. For multi-subject notebooks, an operator adds pockets to the bottom and middle sections of the notebook, and a cover to the top section. The binder machine then hole-punches each section, assembles each section into a notebook, and finally twists a wire binding on. Some binder machines are capable of both single- or twin-wire binding. The same machines can be used to bind CLPSS and out-of-scope lined paper products.³⁵

Composition books and exercise books that require stitch-binding are ***. Traditional composition books begin with ***.³⁶

Wrapping and Packing

Finished CLPSS is often wrapped in plastic before packing. Wrapping is an integral function of web-to-finish machines. For the step and repeat process, wrapping equipment is ***. Looseleaf paper requires wrapping in lieu of binding. Printed top sheets are inserted onto finished paper stacks prior to cutting, and the requisite number of sheets are then passed through a plastic wrapper. Other products,

³³ ***.

³⁴ ***.

³⁵ ***.

³⁶ ***.

such as notebooks, may be collected in multiples and also packaged in plastic wrap. Finished CLPSS, wrapped or otherwise, passes along a conveyer to an employee for hand-packing in a corrugated shipping box. Corrugated boxes may be “display ready” to facilitate restocking on retailers’ shelves.

In the preliminary phase of these investigations, counsel for Chinese respondents noted that the production process for CLPSS in China is different from that employed in the United States. According to counsel, the production process for CLPSS in China occurs on multiple single-function machines, involving far greater use of manual labor than those employed by U.S. manufacturers.³⁷ Preliminary-phase record evidence indicated that CLPSS are produced in Indonesia using “automatic machines,”³⁸ whereas production in India ranged from “manual to fully automatic,” with the majority of manufacturers using a “semi-automatic” process.³⁹

Channels of Distribution

U.S.-produced CLPSS are primarily sold to retailers, including large grocery chains, drug stores, mass merchants such as Target and Wal-Mart, dollar stores, and university bookstores. Questionnaire data obtained in these final-phase investigations indicate that nearly 90 percent of U.S.-produced CLPSS is sold to retailers, with virtually all of the remainder sold to distributors.⁴⁰ With respect to channels of distribution, imports of CLPSS are divided into two categories: direct imports by retailers, and imports by distributors for resale. Based on data submitted in response to Commission questionnaires, direct imports by retailers accounted for a growing share of total U.S. imports of CLPSS over the period examined, from 31 percent of total reported imports in 2003 to 49 percent in 2005. Of CLPSS imported by distributors, over 95 percent is resold to retailers. U.S. producers of LPP accounted for the majority of reported imports of CLPSS by distributors during the period examined.

DOMESTIC LIKE PRODUCT ISSUES

In the preliminary phase of these investigations, the Commission collected data from U.S. producers and importers for two product categories: CLPSS, as defined in the scope of the petition; and other lined paper products (“OLPP”), defined as “any lined paper or lined paper products with dimensions between 5 x 7 and 15 x 15 inches which are not included in the above {Commerce} scope definition.”⁴¹ In its preliminary determinations, the Commission defined a single domestic like product, lined paper products (or “LPP”) encompassing both CLPSS and OLPP, but noted that it intended to “explore this issue further in any final phase of these investigations, including the extent to which we should define the domestic like product more or less broadly. . . .”⁴²

In addition to CLPSS and OLPP, the Commission collected data for a third product category in these final-phase investigations, oversized lined paper products (“OSLPP”), defined as “any lined paper or lined paper product with the smaller dimension measuring less than 5 inches or larger than 15 inches, or with the larger dimension measuring less than 7 inches or greater than 15 inches.”⁴³ Recipients of the Commission’s producers’, importers’, and purchasers’ questionnaires in these final-phase investigations

³⁷ Chinese respondents’ postconference brief, p. 34.

³⁸ ***.

³⁹ Indian respondents’ postconference brief, exh. 1.

⁴⁰ Less than 1 percent of U.S.-produced CLPSS is sold directly to end users. See table I-6, below.

⁴¹ Preliminary determinations, p. I-2.

⁴² Preliminary determinations, p. 8. Throughout the body of this report, U.S. industry and apparent consumption data are presented for LPP, as defined by the Commission in its preliminary determinations.

⁴³ *General Information, Instructions, and Definitions for Commission Questionnaires*, p. 7.

were asked to comment on the similarities and differences between CLPSS and OLPP, as well as between LPP and outsized lined paper products, with respect to the Commission’s six traditional like product factors.⁴⁴ Questionnaire respondents’ comments on these factors are presented in appendix D, while other information relevant to the Commission’s domestic like product analysis is presented in the sections below.

Four parties have addressed the domestic like product issue in the final phase of these investigations. Respondent Target has argued that the Commission should continue to define the like product as it did in its preliminary determination, i.e., LPP, comprised of CLPSS and OLPP.⁴⁵ Respondents Staples and Tjiwi Kimia argue that the Commission should define the like product more broadly, to include outsized lined paper products.⁴⁶ Finally, Petitioner states that it does not contest the domestic like product as defined by the Commission in its preliminary determinations (i.e., LPP), but argues that this definition should not be expanded to include outsized lined paper products.⁴⁷

The domestic like product terminology used in this report is summarized as follows:⁴⁸

CLPSS	The scope product.
OLPP	Products between 5 x 7 and 15 x 15 inches that are otherwise out-of-scope (e.g., legal pads).
LPP	CLPSS and OLPP combined (the Commission’s preliminary-determinations domestic like product).
OSLPP	Products smaller than 5 x 7 or larger than 15 x 15 inches.

Physical Characteristics, Uses, and Interchangeability

CLPSS, OLPP, and outsized lined paper products are product categories defined on the basis of their physical characteristics, primarily their dimensions. CLPSS is defined by Commerce’s scope, and includes products with a smaller dimension measuring between 6 and 15 inches (inclusive) and a larger dimension measuring between 8-3/4 and 15 inches (inclusive). OLPP includes products with a smaller dimension measuring between 5 and 15 inches (inclusive) and a larger dimension measuring between 7 and 15 inches (inclusive), that otherwise fall outside the scope of CLPSS. Outsized lined paper products include products that, due to their dimensions, fall outside the definition of OLPP and CLPSS.

Products in all three categories of lined paper products are used for writing. The extent of their interchangeability depends upon the extent to which specific uses of the products demand certain physical characteristics. Questionnaire respondents’ comments regarding the similarities and differences in the uses and interchangeability of products in the three product categories are included in appendix D.

⁴⁴ The six factors considered by the Commission in its domestic like product analysis are: (1) physical characteristics and uses, (2) interchangeability, (3) common manufacturing facilities and production employees, (4) channels of distribution, (5) customer and producer perceptions, and, where appropriate, (6) price.

⁴⁵ Target’s posthearing brief, exh. 1, p. 16.

⁴⁶ Staples’ posthearing brief, exh. 1, p. 1; Tjiwi Kimia’s posthearing brief, “Responses to Questions from the Commission,” p. 14. See also hearing transcript, p. 257 (Shor).

⁴⁷ Petitioner’s posthearing brief, “Answers to Commissioner Questions,” pp. 64-69.

⁴⁸ Summary data in app. C are arranged as follows: table C-1 presents market data for LPP; table C-2 presents market data for LPP and outsized lined paper products combined; table C-3 presents market data for the subject product (CLPSS) alone. In the preliminary phase of these investigations, one respondent argued that the Commission should define “value-added lined fashion stationery” as a separate like product. Although the Commission did not indicate an intention to explore this issue further in any final-phase investigations, it nevertheless collected data for this product, a subset of LPP. Summary data for this product, fashion notebooks, are presented in table C-4.

Manufacturing Facilities and Production Employees

Fieldwork conducted in the preliminary and final phases of these investigations indicates that CLPSS, OLPP, and outsized lined paper products can be, and are, produced in the same manufacturing facilities.⁴⁹ U.S. producers receiving the Commission's final-phase questionnaires were asked to report on the extent to which the machinery and production employees used in the production of CLPSS are also used in the production of other products. U.S. producers' responses to these questions are presented in tables I-4 and I-5. As indicated in table I-4, *** out of the nine responding U.S. producers reported producing OLPP using machinery used in the manufacture of CLPSS, while *** firms reported producing outsized lined paper products on this machinery. With respect to production workers, *** out of nine producers reported that workers employed in the production of CLPSS are also used to produce OLPP, while *** firms reported that these workers are also used in the production of outsized lined paper products.

Table I-4

LPP: Share of U.S. producers' production on CLPSS equipment and machinery, 2005

* * * * *

Table I-5

LPP: Share of U.S. producers' production using CLPSS production workers, 2005

* * * * *

Customer and Producer Perceptions

U.S. producers', importers', and purchasers' comments regarding similarities and differences between customers and producer perceptions of CLPSS and OLPP, and their perceptions of LPP and outsized lined paper products, are presented in appendix D.

⁴⁹ See generally, staff field trip reports, ***.

Channels of Distribution

Channels of distribution data for CLPSS, OLPP, LPP (i.e., CLPSS and OLPP combined), and outsized lined paper products, based on responses to the Commission's final-phase producers' questionnaire, are presented in table I-6. As indicated in this table, the majority of CLPSS and outsized lined paper products are sold to retailers, while ***.⁵⁰

Table I-6
All lined paper products: U.S. producers' channels of distribution, 2003-05

Distribution channel	2003	2004	2005
	<i>(Percent)</i>		
CLPSS:			
Shipments to distributors	8.6	9.0	11.3
Shipments to retailers	90.6	90.2	88.0
Shipments to end users	0.8	0.8	0.7
OLPP:			
Shipments to distributors	***	***	***
Shipments to retailers	***	***	***
Shipments to end users	***	***	***
Subtotal, LPP:			
Shipments to distributors	***	***	***
Shipments to retailers	***	***	***
Shipments to end users	***	***	***
OSLPP:			
Shipments to distributors	24.5	25.7	29.2
Shipments to retailers	75.5	74.3	70.8
Shipments to end users	0.0	0.0	0.0
Note.—Due to rounding, percentages may not add to 100.			
Source: Compiled from data submitted in response to Commission questionnaires.			

⁵⁰ ***.

Price

Table I-7 presents data on the unit value of U.S. producers' reported commercial U.S. shipments of CLPSS, OLPP, LPP, and oversized lined paper products. As indicated in this table, the average unit value of products within CLPSS was higher than those within OLPP, which, in turn, were higher than those of oversized lined paper products.

Table I-7
All lined paper products: Average unit value of U.S. producers' commercial U.S. shipments, 2003-05

Product category	2003	2004	2005
	Unit value (<i>per piece</i>)		
CLPSS	\$0.71	\$0.69	\$0.77
OLPP	0.41	0.43	0.40
Subtotal, LPP	0.59	0.58	0.60
OSLPP	0.35	0.37	0.34
Source: Compiled from data submitted in response to Commission questionnaires.			

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

LPP is sold in three main forms: spiral-bound or wireless notebooks (with or without pockets and/or dividers); hole-punched filler paper; and composition books. The paper may be wide-ruled or college-ruled and is typically white in color, while notebook covers may be plain or consist of fashion graphics. The product is primarily used for notetaking by students in school and for school assignments that are turned in to teachers for grading, although it may also be used for business purposes. The demand tends to be highly seasonal, peaking in the second and third quarters as retailers stock up for back-to-school promotions.¹ The generally accepted back-to-school season runs for four to ten weeks, from mid-July through September.² There is also reportedly a smaller peak in demand occurring in January for “second semester” sales.³

*** U.S. manufacturers of LPP are converters that buy rolls of unlined paper and process it into lined paper products.⁴

Most sales of LPP are made to retailers, including general merchandise superstores, office supply stores, and grocery chains and pharmacies.⁵ The majority of responding U.S. producers listed office supply stores, school districts, and general merchandise retailers (including superstores like *** and ***) as their primary customers. For responding importers that import from China, general merchandise stores were listed most often as customers, followed by office supply stores. Likewise, for responding importers that import from India, general merchandise stores were listed most often as customers, followed by office supply stores. For responding importers that import from Indonesia, ***. For responding importers that import from Brazil,⁶ general merchandise stores were listed most often as customers, followed by office supply stores.

Of 15 responding purchasers, 13 reported purchasing at least some imported CLPSS through U.S. producers in 2005. The majority of these purchasers reported that they purchased at least *** percent of their total import purchases through U.S. producers. Five purchasers reported that they purchased at least some of their imported CLPSS from U.S. importers (other than producers). Two of these purchasers reported that these purchases accounted for at least *** percent of their total import purchases of CLPSS in 2005. Twelve purchasers reported that at least some of their imported CLPSS was imported directly from foreign producers in China, India, and Indonesia. Five of these purchasers reported that these direct imports accounted for less than *** percent of their total import purchases of CLPSS in 2005, while three reported that they accounted for at least *** percent of their total import purchases. One purchaser reported that it directly imported *** percent of its total import purchases in 2005 from a producer in

¹ *** data submitted by the petitioners show that approximately *** of annual retail sales of school supplies taking place during the 10-week back-to-school season. Petitioners’ postconference brief, p. 6.

² Conference transcript, p. 110 (Price).

³ Conference transcript, p. 201 (Ciulla). However, Petitioner contends that “second semester” sales are not very substantial. Conference transcript, p. 111 (Price, Robinson). Petitioner reported that sales may also rise slightly in the fourth quarter as companies renew budgets, and around tax season. Conference transcript, p. 98 (McLachlan).

⁴ ***, ***. Staff also notes that lined pads are still made manually in the United States by “lighthouse” operations, which often perform government business but which sometimes subcontract to the larger producers. Staff telephone interview with ***.

⁵ Conference transcript, p. 26 (McLachlan).

⁶ Although the subject countries in these investigations are China, India, and Indonesia, information is also presented on Brazil, the major source of nonsubject CLPSS.

Brazil. Three purchasers reported purchasing at least some of their imported CLPSS from foreign firms other than producers in China, India, Indonesia, or Brazil.⁷

When firms were asked to list market areas in the United States in which they sell CLPSS and LPP, the responses showed that the market areas tended to be nationwide. Among the nine responding U.S. producers, seven reported that they sell nationwide while the other two producers reported that they sell specifically in the mid-Atlantic, Southeast, Midwest, Northeast, and the Northwest regions. Fifteen of 17 responding importers of CLPSS from China reported that they sold nationally. The two other importers of CLPSS from China reported specific geographic regions including the mid-Atlantic, the Midwest, the Southeast, the Northwest, and the West Coast. Seven of eight responding importers of CLPSS from India reported that they sold nationally; the other importer of CLPSS from India reported that it sold in the Northeast. ***.

U.S. inland shipping distances for U.S.-produced LPP were compared with those for imports of CLPSS from China, India, and Indonesia. For U.S. producers, 5 percent of their U.S. sales occur within 100 miles of their storage or production facility, 75 percent were within distances of 101 to 1,000 miles, and 20 percent were at distances of over 1,000 miles from their facilities. For subject imports from China, 6 percent of sales occurred within 100 miles of importers' storage facilities, 74 percent were within 101 to 1,000 miles, and 20 percent were over 1,000 miles. For subject imports from India, 8 percent of sales occurred within 100 miles of importers' storage facilities, 46 percent were within 101 to 1,000 miles, and 46 percent were over 1,000 miles. For subject imports from Indonesia, *** percent of sales occurred within 100 miles of importers' storage facilities, *** percent were within 101 to 1,000 miles, and *** percent were over 1,000 miles. For nonsubject imports of CLPSS from Brazil, *** percent of sales occurred within 100 miles of importers' storage facilities, *** percent were within 101 to 1,000 miles, and *** percent were over 1,000 miles.

Based on questionnaire responses, U.S. producers' sales of LPP and importers' sales of CLPSS are mostly from inventory rather than on a made-to-order basis.⁸ Lead times for delivery ranged widely for both U.S. producers and importers. For U.S. producers of LPP, lead times from inventory ranged from immediate delivery to as much as three months. For importers of CLPSS, they ranged from two days to as much as three months. For U.S. producers, lead times from made-to-order shipments ranged from two weeks to as much as 90 days. For importers, they ranged from 30 days to as much as 120 days.

Three of eight responding U.S. producers reported that they have back-to-school or other periodic supply agreements which call for delivery of products to be phased in over a given period of time, but they also reported that the agreements do not affect lead times for delivery. Seven of 21 responding importers reported that they have such periodic supply agreements. One importer reported that its share of produced-to-order goods may increase during promotional periods such as back-to-school season or tax season.

⁷ Among the largest responding purchasers, *** reported purchasing *** percent of its import purchases through ***, and *** reported that the majority of its imports are purchased directly from foreign manufacturers and that it purchases about *** of its imports from U.S. producers.

⁸ Of eight responding producers, three reported that *** of their sales are from inventory (including ***) and four reported that at least 63 percent of their sales are from inventory. Only one producer reported that a majority of its sales are on a made-to-order basis. Of 17 responding importers, 10 reported that *** percent of their sales are from inventory, two reported that at least 63 percent of their sales are from inventory, while four others reported a mixture of both sales from inventory and sales on a made-to-order basis.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

The supply response of domestic LPP producers to changes in price depends on such factors as the level of excess capacity, the availability of alternate markets for U.S.-produced LPP, inventory levels, and the ability to shift to the manufacture of other products. The available information indicates that U.S. supply is likely to be elastic, due primarily to the substantial amount of unused capacity, high inventory levels, and the ability to shift to the manufacture of other products, weighed against limited alternate markets.

Industry capacity

U.S. producers' annual capacity utilization rates decreased from 61.1 percent in 2003 to 48.6 percent in 2005. This level of capacity utilization indicates that U.S. producers have substantial unused capacity with which they could increase production of LPP in the event of a price change.

Alternative markets

Total exports by U.S. producers, as a share of their total shipments by quantity, decreased from *** percent in 2003 to *** percent in 2005. These data indicate that U.S. producers have little ability to divert shipments to or from alternative markets in response to changes in the price of LPP.

Inventory levels

The ratio of end-of-period inventories to U.S. shipments increased from 20.8 percent in 2003 to 27.5 percent in 2005. These data indicate that U.S. producers have the ability to use inventories as a means of increasing shipments of LPP to the U.S. market.

Production alternatives

Five of six responding U.S. producers reported using the actual machinery and equipment used to make CLPSS in the production of other products. One producer reported that converting existing machinery to alternative production processes would cost *** dollars.⁹

Subject Imports

The responsiveness of the supply of CLPSS imports from China, India, and Indonesia to changes in price in the U.S. market is affected by such factors as capacity utilization rates and the availability of home markets and other export markets. Based on available information, producers in China are likely to respond to changes in demand with moderate changes in the quantity of shipments of CLPSS to the U.S. market. The main contributing factor is the existence of unused capacity in conjunction with somewhat limited alternate markets and inventory levels. Based on available information, producers in India and Indonesia are likely to respond to changes in demand with moderate changes in the quantity of shipments

⁹ ***.

of CLPSS to the U.S. market. The main contributing factors are the availability of unused capacity and the existence of alternate markets.

Industry capacity

During the period of investigation, the capacity utilization rate for responding Chinese producers of CLPSS decreased ***, from *** percent in 2003 to *** percent in 2005. It is projected to be *** percent in 2006. The capacity utilization rate for Indian producers of CLPSS was 101.5 percent in 2003 and decreased to 77.8 percent in 2005; it is projected to be 70.7 percent in 2006. The capacity utilization rate for the responding Indonesian producer of CLPSS increased from *** percent in 2003 to *** percent in 2005; it is projected to *** percent in 2006.

Alternative markets

Available data indicate that producers in China, India, and Indonesia have the ability to divert shipments to or from alternative markets in response to changes in the price of CLPSS. Shipments of CLPSS from China to the United States increased from *** percent of total shipments in 2003 to *** percent in 2005. The share of China's shipments to export markets other than the United States increased from about *** percent in 2003 to *** percent in 2005, with the remainder going to its home market, including internal consumption. Shipments of CLPSS from India to the United States decreased from *** percent of total shipments in 2003 to *** percent in 2005. The share of India's shipments to export markets other than the United States increased from about *** percent in 2003 to *** percent in 2005, with the remainder going to its home market, including internal consumption. Shipments of CLPSS from Indonesia to the United States decreased from *** percent of total shipments in 2003 to *** percent in 2005. The share of Indonesia's shipments to export markets other than the United States increased from *** percent in 2003 to *** percent in 2005, with the remainder going to its home market, including internal consumption.

Inventory levels

Chinese producers' inventories, as a share of their total shipments, increased from *** percent in 2003 to *** percent in 2005. These data indicate that Chinese producers have a limited ability to use inventories as a means of increasing shipments of CLPSS to the U.S. market. Indian producers' inventories, as a share of total shipments, decreased from *** percent in 2003 to *** percent in 2005. These data indicate that Indian producers have the ability to use inventories as a means of increasing shipments of CLPSS to the U.S. market. The Indonesian producer's inventories, as a share of total shipments, increased from *** percent in 2003 to *** percent in 2005. These data indicate that the responding Indonesian producer has *** to use inventories as a means of increasing shipments of CLPSS to the U.S. market.

Nonsubject Imports

Based on official Commerce statistics, U.S. imports of CLPSS from nonsubject sources (including Brazil) accounted for 25.4 percent of the quantity of total U.S. imports in 2003 and remained relatively unchanged at 25.7 percent of total U.S. imports in 2005. Nonsubject imports from Brazil alone accounted for 10.6 percent of the quantity of total U.S. imports in 2003 and increased slightly to 11.8 percent of total U.S. imports in 2005.

U.S. Demand

Demand Characteristics

The limited availability of substitutes for LPP discussed below indicates that the demand for this product is likely to be slightly price inelastic. When asked how the overall demand for LPP has changed since January 2003, four U.S. producers and seven importers stated that demand had increased, citing overall economic growth and the increasing school-age population. One producer cited an increase in sales of multi-packs, thereby increasing total consumption of LPP, either by intent or by default. One importer attributed the increase in demand to promotional pricing by retailers, while another importer reported that demand for fashion notebooks has increased. Two U.S. producers and three importers reported that demand had decreased.¹⁰ Two U.S. producers and 12 importers reported that demand was unchanged.

When purchasers were asked how demand had changed for LPP since January 2003, 11 of 25 responding firms reported that demand was unchanged. One purchaser attributed the flat demand to a shift away from LPP to electronic media. Eight purchasers reported that demand had increased. One of these purchasers attributed the increased demand to the sale of multi-packs, while another attributed it to an improved selection of high quality products. Six purchasers reported that demand had decreased.

Substitute Products

When asked whether there are substitutes for LPP, most U.S. producers of LPP and most responding importers of CLPSS cited one or more alternative products, including unlined copy paper, personal computers or laptops, tape recorders, and handheld digital organizers known as PDAs. However, three responding U.S. producers indicated that these products are not direct substitutes for LPP as they are not efficient for taking notes in class or turning in handwritten school assignments. Four of 30 responding purchasers cited substitutes, including computers and copy paper. Also, one of these purchasers reported that notebooks of smaller dimensions are also substitutes for LPP. One out of eight responding producers and one other importer said that as the prices of electronic note-taking devices have fallen, demand for these products has increased, thus lowering the demand and the prices for LPP.

SUBSTITUTABILITY ISSUES

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

Factors Affecting Purchasing Decisions

Available information indicates that a variety of factors are considered important in the purchasing decision for LPP. While price and quality are mentioned as being important factors in the sale of LPP, other factors such as reliability of supply, availability, delivery times, product range, and custom product development are also important considerations. Purchasers were asked to list the top three factors that they consider when choosing a supplier of LPP. Table II-1 summarizes the responses.

¹⁰ One U.S. producer reporting decreased demand attributed it to the reduction in school budgets, under the supposition that some schools that typically purchase LPP and provide them to students now have a diminished budget with which to purchase the products. The other U.S. producer reported that the availability of substitutes has increased while their prices have fallen. One importer that reported a recent decrease in demand attributed it to the imposition of the provisional antidumping duties in 2006.

Table II-1

LPP: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers¹

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Price	14	3	7
Quality	11	6	8
Availability	4	8	2
Other ²	3	8	14

¹ One purchaser reported the following ranking of factors used in its purchasing decisions related to OLPP and OSLPP: (1) design, (2) quality, and (3) availability.

² Other factors include one instance of "reliability" for the number one factor; one instance of "delivery time" for the number one factor; one instance of "product range" for the number one factor; two instances of "delivery time" for the number two factor; two instances of "reliability" for the number two factor; two instances of "custom product development" for the number two factor; one instance of "product range" for the number two factor; one instance of "credit terms" for the number two factor; seven instances of "reliability or reputation of supplier" for the number three factor; two instances of "meeting specifications" for the number three factor; two instances of "delivery time" for the number three factor; two instances of "minimum quantity requirements or terms" for the number three factor; and one instance of "product range" for the number three factor.

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

Purchasers were also asked if they only purchased CLPSS from only one country or if they specifically ordered CLPSS from one country over other sources of supply. Of 30 responding purchasers, six reported that they may only purchase from one country due to price, but did not cite the specific country to which they were referring; six purchasers reported that they only purchase domestic product, citing convenience, short lead time, and lower transportation costs; two purchasers reported that they prefer Chinese suppliers because they are flexible in creating value-added or customized products and can offer them affordably; and one purchaser reported that it historically has purchased from Indonesia and Brazil for brightness and high quality.

Price was named by 14 purchasers as the number one factor considered in deciding from whom to purchase LPP, three indicated that it was the number two factor, and seven responded it was the number three factor. As indicated in table II-2, 29 of 32 purchasers indicated that price was a "very important" factor in their purchasing decisions. Two purchasers also reported that the lowest price will "always" win a contract or sale, 17 reported "sometimes," 13 reported "usually," and one reported "never."

Quality was named by 11 purchasers as the number one factor generally considered in deciding from whom to purchase LPP, while six other purchasers indicated that it was the number two factor, and eight responded that it was the number three factor. Nearly all the responding purchasers indicated that product consistency was a "very important" factor in their purchasing decisions and nearly all purchasers indicated that quality meeting industry standards was a "very important" factor. When purchasers were asked what characteristics they consider when determining the quality of LPP, 15 of 32 responding purchasers cited paper weight, ten purchasers cited paper brightness, ten purchasers cited packaging, and seven cited the printing of the lines. Other characteristics cited included quality of the spirals or binding, paper consistency (or lack of flecks), strength of paper and cover material, color, texture, design, quality of 3-hole punches, and cut quality.

Availability was named by four purchasers as the number one factor generally considered in deciding from whom to purchase LPP, while eight other purchasers indicated that it was the number two factor, and two responded that it was the number three factor. Nearly all responding purchasers indicated that availability was a "very important" factor in their purchasing decisions.

Table II-2
LPP: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	28	2	0
Delivery terms	20	11	0
Delivery time	27	4	0
Discounts and rebates	11	11	9
Extension of credit	9	11	10
Price	29	3	0
Minimum quantity requirements	9	13	9
Packaging	16	15	0
Product consistency	26	5	0
Quality meets industry standards	27	5	0
Quality exceeds industry standards	6	19	6
Product range	5	21	4
Reliability of supply	27	4	0
Technical support/service	4	16	11
U.S. transportation costs	14	11	6
Paper brightness	5	20	6
Paper weight	8	21	2
Paper strength	8	21	2
Other ¹	6	0	0
¹ Other factors include: ability to hold inventory for peak season; product having the correct dimensions; type of binding or coil; ability to produce collegiate logo on cover; general appearance; and domestic warehousing capability. Source: Compiled from data submitted in response to Commission questionnaires.			

Reliability of supplier, or “reputation of supplier,” was named by one purchaser as the number one factor generally considered in deciding from whom to purchase LPP, while two other purchasers indicated that it was the number two factor, and seven responded that it was the number three factor. Nearly all responding purchasers indicated that reliability of supply was a “very important” factor in their purchasing decisions.

As indicated in table II-2, a majority of responding purchasers indicated that product range, paper brightness, paper strength, paper weight, and quality exceeds industry standards were all “somewhat important” factors in their purchasing decisions.

Nineteen of 32 responding purchasers reported that they or their customers “never” have a preference for 92-bright paper. Five reported that they “sometimes” have a preference for 92-bright

paper, three reported “always,” and three reported “usually.”¹¹ When asked for the brightness level of their LPP purchases since 2003, 11 purchasers reported that brightness was not a factor or that they did not know the brightness level of their purchases. Eleven other purchasers reported that the brightness level was under 92. Two of these purchasers reported that they have switched to 92-bright paper at some point since the summer of 2005.¹² These two firms, along with two other purchasers, reported purchasing only 92-bright paper.¹³ Three purchasers reported purchases of LPP with brightness levels ranging from 84 to 92. Nearly all of the responding purchasers reported that the brightness level of their purchases of LPP and OSLPP was the same as the brightness level of their CLPSS purchases.¹⁴ Nearly all of the responding purchasers reported that there is no price premium for 92-bright paper.¹⁵

Based on their questionnaire responses, five of eight responding U.S. producers reported that they began producing LPP with 92-bright paper in late 2005 but had previously produced LPP with 84- to 86-bright paper. Two of these producers attributed the switch to U.S. paper mills producing more 92-bright paper in response to increasing demand for copy paper. Three other producers reported that they use paper with a brightness range of 83 to 85. One other producer reported a brightness range of 88 to 92. U.S. producers did not report any difference in brightness between their paper for LPP, CLPSS, and OSLPP; however, one producer stated that the paper used in some children’s drawing pads is of markedly different quality and brightness than paper used in other products.

Ten of 22 responding importers reported that they import CLPSS with paper that is less than 92 bright. Four other importers reported that they began importing CLPSS with 92-bright paper in late 2005 but had previously imported paper with brightness in the mid-80s. Two importers reported that they only import CLPSS with 92-bright paper; one reported a minimum of 90-bright paper; one reported a range of 85 to 90; one reported that brightness levels vary; and another reported a range of 90- to 95-bright paper specifically for fashion notebooks. One importer reported that it imports CLPSS with paper ranging from 80- to 92-bright, but that its purchases are mostly spot buys made irrespective of paper brightness. Four importers gave no response or reported that they do not have a preference for brightness levels.

Fifteen responding purchasers reported that they require their suppliers to become certified. Seven purchasers reported that since 2003 one or more suppliers have failed in their attempts to qualify LPP. Seven domestic firms (***) , three suppliers of Chinese product (***) , two suppliers of Indian product (***) , and one supplier of product from Taiwan (***) were named. *** was disqualified for quality concerns. *** and *** were disqualified for product that failed to meet specifications. *** was disqualified for insufficient capacity to fill an order. *** were cited for failing a light fastness test. *** were disqualified for pricing, minimum order requirements, and quality issues with the printed lines on the paper. *** was also cited by one purchaser for not delivering product. ***.

Thirteen purchasers responded that they have, or intend to, qualify suppliers from China, India, or Indonesia. Seven other purchasers reported they have not qualified suppliers from the subject countries, while another reported that it does not know as it only buys what its distributor supplies.

None of the responding purchasers indicated that certain grades/types of LPP are available from only certain sources. When purchasers were asked how often they or their customers are aware whether

¹¹ Two purchasers responded that they did not know if there was a preference for 92-bright paper.

¹² One purchaser reported switching to 92-bright paper in the summer of 2005, while the other reported that the shift occurred in 2006.

¹³ One of these purchasers reported that its paper brightness is driven by U.S. paper mills, which converted to 92-bright paper in the fall of 2005.

¹⁴ Only one purchaser reported a difference in brightness levels between the three categories. For CLPSS, this purchaser reported a brightness level of 86, for other LPP a range of 88 to 92, and for outsized lined paper products a brightness level of 85.

¹⁵ Two purchasers cited price premiums of between two and five percent.

they are purchasing U.S.-produced or imported product, nine reported “always,” 11 reported “usually,” nine reported “sometimes,” and three reported “never.” When asked if they purchased LPP from one source when a comparable product was available from another source at a lower price, 19 purchasers indicated that they may not purchase at the lowest price based on reliability of the supplier, delivery terms, and/or quality. Eight responding purchasers reported that they choose U.S. suppliers even when they do not offer the lowest price, primarily citing short lead times, reliability, and favorable delivery terms. Two purchasers reported that they do not purchase CLPSS from Indonesian suppliers because they fail to meet their environmental standards. Four of the 27 responding purchasers reported that they have not purchased LPP from one source when it was available from another source at a lower price.

Comparison of Domestic Product and Subject and Nonsubject Imports

In order to determine whether U.S.-produced LPP can generally be used in the same applications as imports of CLPSS from China, India, Indonesia, and Brazil, U.S. producers and importers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. The majority of U.S. producers that compared CLPSS from China, India, Indonesia, and Brazil with LPP from the United States reported that they are always or frequently interchangeable, as shown in table II-3. Likewise, the majority of importers that compared CLPSS from China, India, Indonesia, and Brazil with LPP from the United States reported that they are always or frequently interchangeable. The majority of purchasers that compared CLPSS from China, India, Indonesia, and Brazil with LPP from the United States reported that they are always interchangeable.

One U.S. producer which also imports subject merchandise reported that the product from China is of lower quality than that of the United States because Chinese paper reportedly consists of *** percent non-wood fiber (e.g., straw, bamboo, and/or recycled fiber). This firm also reported that the Chinese paper may be acceptable for use in elementary schools, but may not be acceptable for office use. One importer that is *** reported that CLPSS produced in India are often thin and poorly constructed while CLPSS from China are available in a wide range of quality levels. This importer also reported that Indonesia and Brazil produce comparable, high-quality CLPSS and are generally superior to CLPSS from India and China.

Two importers reported that some customers choose not to buy CLPSS from Indonesia because of perceived poor environmental standards; one of these importers also reported, however, that some customers prefer CLPSS from Indonesia because of its brightness level.¹⁶ One importer reported that the quality of CLPSS from India is inconsistent and inferior to that of U.S. LPP, while CLPSS from China and Indonesia are sometimes comparable to U.S. LPP. Another importer reported that there is limited availability of plastic spiral and twin-wire spiral notebooks from domestic producers. However, at least one U.S. producer, ***, does produce notebooks with plastic-coated wire.¹⁷

***, *** in the comparisons shown in table II-3, reported that ***.¹⁸ ***.¹⁹ While *** reported that it has typically bought ***. Moreover, this purchaser also reported that the paper from China has the

¹⁶ This importer also reported that some customers may require a “Social Accountability Report” from Chinese and Indian producers, but not from U.S. producers.

¹⁷ ***.

¹⁸ *** due to the high-quality texture and brightness of the paper from Indonesia and Brazil. ***. Indonesian producer Tjiwi Kimia, which contends that it accounts for *** percent of Indonesia’s exports of CLPSS to the United States, reports that U.S. imports of CLPSS from Indonesia and Brazil “are uniformly 92-93 bright” on the international brightness scale compared with 83-84 brightness for U.S. producers and 83-86 brightness for imports from China and India. (Indonesian respondent’s postconference brief, pp. 1, 3, and 4.)

¹⁹ *** provided ***. ***.

Table II-3

LPP: Perceived degree of interchangeability of product produced in the United States and in other countries

Country comparison	U.S. producers				U.S. importers				Purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	3	5	1	0	6	7	3	3	9	6	4	1
U.S. vs. India	3	4	0	0	7	5	1	1	8	1	2	2
U.S. vs. Indonesia	3	3	1	0	4	5	1	0	5	2	2	1
U.S. vs. Brazil	4	3	0	0	7	3	1	0	5	4	2	1
U.S. vs. Other	1	0	0	0	2	1	1	0	5	3	0	1
China vs. India	3	2	0	0	4	2	3	0	6	1	2	1
China vs. Indonesia	3	2	0	0	4	2	2	0	5	2	1	1
China vs. Brazil	3	2	0	0	4	2	2	0	5	4	1	1
China vs. Other	1	0	0	0	1	1	2	0	5	2	1	1
India vs. Indonesia	3	1	1	0	3	1	2	1	4	1	1	1
India vs. Brazil	3	2	0	0	4	3	1	0	5	1	1	1
India vs. Other	1	0	0	0	1	1	1	0	4	1	0	1
Indonesia vs. Brazil	2	2	0	0	2	3	0	0	6	2	1	0
Indonesia vs. Other	1	0	0	0	1	1	1	0	5	2	0	0
Brazil vs. Other	1	0	0	0	1	1	1	0	5	2	0	0

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

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

most imperfections, while CLPSS from India are of lower quality than both U.S. LPP and Chinese CLPSS.

Another purchaser reported that the quality of CLPSS from China and India is inferior to that of other countries due to poor attention to details (including hole punches, margins, and printed lines), ink bleed-through, and paper that shreds easily when using an eraser. Two purchasers reported that U.S. producers offer more favorable minimum order requirements than foreign suppliers. Another purchaser, Target, reported that it requires its shipments to be "palletized," which can be a labor-intensive, complicated process.²⁰ This purchaser also reported that it has experienced packaging problems when it directly imported CLPSS, which eroded any price advantage that these direct imports offered.²¹

²⁰ Hearing transcript, pp. 232-233 and 314-315 (Graham).

²¹ Hearing transcript, pp. 314-315 (Tucci).

Another factor limiting interchangeability is the flexibility of producers to create value-added features for fashion notebooks (including glitter, rhinestones, ribbons, and matching portfolios). Three importers reported that Chinese suppliers offer these features more “affordably” than U.S. producers.²²

As indicated in table II-4, the majority of U.S. producers that compared LPP from the United States with CLPSS from China, India, Indonesia, and Brazil reported that differences other than price are at least sometimes significant. Likewise, the majority of importers reported that these differences are at least sometimes significant.

Table II-4
LPP: Differences other than price between products from different sources¹

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	1	1	4	2	6	3	7	2
U.S. vs. India	0	2	3	2	4	4	4	2
U.S. vs. Indonesia	0	2	3	2	2	3	5	0
U.S. vs. Brazil	0	2	3	2	3	4	4	1
U.S. vs. Other	0	0	1	0	1	1	2	1
China vs. India	0	1	3	1	1	2	4	1
China vs. Indonesia	0	1	3	1	1	1	5	1
China vs. Brazil	0	1	3	1	1	1	5	1
China vs. Other	0	0	1	0	0	0	3	0
India vs. Indonesia	0	1	3	1	1	1	3	1
India vs. Brazil	0	1	3	0	1	1	4	1
India vs. Other	0	0	1	0	0	0	2	0
Indonesia vs. Brazil	0	1	3	0	1	1	4	1
Indonesia vs. Other	0	0	1	0	0	0	2	0
Brazil vs. Other	0	0	0	0	0	0	1	0

¹ Producers and importers were asked if differences other than price between LPP produced in the United States and CLPSS produced in other countries are a significant factor in their firms' sales.

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

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

²² *** fashion stationery is typically priced 3 to 4 times higher at wholesale and 10 to 15 times higher at retail than CLPSS without fashion accessories. Conference transcript, pp. 176, 205 (Presley).

Two producers reported that CLPSS from China are of low quality. Another producer reported that there are *** retailers that refuse to buy CLPSS from Indonesia because of its poor environmental standards. One importer reported that India offers different types of paper, including mixed pulp and wood-free. This importer also reported that Brazil has a greater ability than the United States to produce fashion notebooks with turned-edge, heavy board covers. This importer, along with two others, reported that China has a greater flexibility to incorporate value-added features on fashion notebooks. Moreover, one importer reported that the materials used to produce these value-added features are often native to foreign countries. Another importer that is *** reported that most retailers prefer U.S. production capabilities to ensure an uninterrupted supply chain even when the producer is sourcing some of the order from foreign sources.

As indicated in table II-5, with respect to lower price, nearly all responding purchasers indicated that U.S.-produced LPP was “inferior” (i.e., higher in price). For the other factors that almost all responding purchasers indicated were “very important” in their purchasing decisions (see table II-2), purchaser comparisons of U.S.-produced LPP and imported CLPSS indicate that the domestic product is mostly comparable to the imported product. With respect to availability, minimum quantity requirements, packaging, quality meeting and exceeding industry standards, product consistency, product range, reliability of supply, discounts offered, lower U.S. transportation costs, paper brightness, paper weight, and paper strength, a majority of responding purchasers indicated that U.S.-produced LPP was “comparable” to CLPSS produced in China, India, Indonesia, and Brazil.

Other Country Comparisons

In addition to comparisons between the U.S. product and imports from the subject countries, U.S. producer and importer comparisons between the U.S. product and imports from nonsubject countries other than Brazil and between subject imports and nonsubject imports are also shown in tables II-3 and II-4. The sole U.S. producer comparing U.S.-produced LPP and subject imported CLPSS with nonsubject CLPSS reported that they are always interchangeable. All importers comparing U.S.-produced LPP and subject imported CLPSS with nonsubject CLPSS reported that they are at least sometimes interchangeable, while the majority of purchasers reported they are always interchangeable. One purchaser specifically reported that CLPSS from Taiwan is always interchangeable with CLPSS from all of the other countries, while another purchaser reported that CLPSS from Vietnam and Taiwan are frequently interchangeable with LPP from the United States and CLPSS from China, Indonesia, and Brazil. *** reported that in *** it was able to obtain ***.²³

The predominant Indonesian producer and exporter to the United States of CLPSS contends that ***.²⁴

When asked how often nonsubject CLPSS meet minimum quality specifications, one purchaser reported that imports from Spain, Italy, and Korea “usually” meet minimum quality specifications; one purchaser reported that imports from Vietnam “usually” do; this purchaser and one other reported that imports from Taiwan “usually” do; and one purchaser reported that any nonsubject CLPSS “rarely” or “never” meets minimum quality specifications.

²³ *** also noted that in 2006 domestic producer *** began offering 92-bright paper.

²⁴ ***.

Table II-5

LPP: Comparisons between U.S.-produced and imported product, as reported by U.S. purchasers

Factor	China			India			Indonesia			Brazil		
	S	C	I	S	C	I	S	C	I	S	C	I
Availability	5	13	2	1	7	2	0	5	1	2	7	1
Delivery terms	11	6	2	4	5	0	1	3	1	4	3	2
Delivery time	13	7	1	7	3	0	3	2	1	7	2	1
Discounts offered	7	10	1	3	5	1	1	3	1	3	5	1
Extension of credit	6	10	2	5	4	1	2	2	2	3	5	2
Lower price ¹	0	4	15	0	3	6	0	0	5	0	0	9
Minimum quantity requirements	7	11	3	3	7	0	1	4	0	4	6	0
Packaging	2	18	1	0	9	0	0	5	0	0	10	0
Product consistency	2	19	0	1	8	0	0	5	0	1	8	0
Quality meets industry standards	0	21	0	1	9	0	0	5	0	0	9	1
Quality exceeds industry standards	5	16	0	2	8	0	1	4	0	3	6	1
Product range	1	15	4	0	7	2	0	4	1	0	7	3
Reliability of supply	6	15	0	2	7	0	1	4	0	4	6	0
Technical support/service	9	12	0	4	4	0	2	3	0	5	5	0
Lower U.S. transportation costs ¹	6	11	1	3	5	1	1	2	1	3	5	1
Paper brightness	2	17	1	2	7	1	1	2	1	2	6	2
Paper weight	2	19	0	1	9	0	1	3	1	1	9	0
Paper strength	1	19	0	0	9	0	0	5	0	0	9	0
Other ²	2	0	1	1	0	1	0	0	1	2	0	1

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

² Other factors in the comparison with China include superior ratings for the United States for "year-round service" and "domestic warehousing capability" and one inferior rating for "specific materials/parts/coils"; in the comparison with India, the other factors include one superior rating for the United States for "domestic warehousing capability" and one inferior rating for "specific materials/parts/coils;" in the comparison with Indonesia, the other factor is one inferior rating for the United States for "specific materials/parts/coils;" and in the comparison with Brazil the other factors include superior ratings for the United States for "year-round service" and "domestic warehousing capability" and one inferior rating for "specific materials/parts/coils."

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

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

ELASTICITY ESTIMATES

This section discusses the elasticity estimates. Parties were asked to comment on these estimates; information from the parties is included where appropriate.

U.S. Supply Elasticity²⁵

The domestic supply elasticity for LPP measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of LPP. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced LPP. Analysis of these factors above indicates that the U.S. industry is able to increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 6 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for LPP measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of LPP. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products. Based on the available information, the aggregate demand for LPP is likely to be in the range of 0.5 to 1.5.²⁶

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic product and subject imports.²⁷ Product differentiation, in turn, depends upon such factors as quality and conditions of sale (availability, sales terms/discounts, etc.). Based on available information, the elasticity of substitution between U.S.-produced LPP and CLPSS from the subject countries is likely to be in the range of 2 to 4.²⁸

²⁵ A supply function is not defined in the case of a non-competitive market.

²⁶ Petitioner argued that the estimated U.S. demand elasticity in the prehearing report was too high, citing the fact that only limited substitute opportunities exist (Petitioner's prehearing brief, p. 16). Staff had originally focused the estimate of U.S. demand elasticity on CLPSS, as some purchasers listed OLPP and/or OSLPP as substitutes for CLPSS. The revised U.S. demand elasticity presented here reflects demand for LPP.

²⁷ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

²⁸ Petitioner contends that the substitution elasticity should be much higher, with "a low end no less than 5" (Petitioner's prehearing brief, p. 16). Staff has revised the substitution elasticity upward from a range of 1 to 3 to a range of 2 to 4, noting that several purchasers made comments regarding quality differences and delivery or logistical differences between domestic LPP and subject imports of CLPSS and that several suppliers were named by purchasers as failing in their attempts to be certified.

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

The Commission analyzes a number of factors in making injury determinations (*see* 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and on the margins of dumping was presented in Part I of this report, while information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 10 firms that are believed to account for virtually all known U.S. production of LPP during 2005.¹

U.S. PRODUCERS

U.S. producers' questionnaires in these final-phase investigations were sent to eight firms identified by Petitioner as producers of subject lined paper products,² and to an additional 37 firms identified by Commission staff as potential producers of LPP or oversized lined paper products.³ Responses were received from 27 firms, including seven of the eight firms identified in the petition.⁴ An additional seven questionnaires were returned to the Commission owing to the recipient firm having closed down or moved to an unknown address. Fourteen responding firms certified that they had not produced LPP or oversized lined paper products during the period examined in these final-phase investigations (January 1, 2003 through December 31, 2005),⁵ while 10 firms provided the Commission with trade and financial data.^{6 7}

Based on information submitted in response to the Commission's producers' questionnaire, 13 firms produced LPP in the United States during the period examined in these investigations. As noted above, three of these firms, estimated to account for less than 1 percent of U.S. production of LPP in

¹ Three firms, ***, reported to Commission staff that they produce LPP, but did not provide data in response to the Commission's questionnaires. *** is the ***. *** accounted for *** percent of reported U.S. production of LPP in 2004, based on data submitted in the preliminary phase of these investigations. *** accounted for *** percent of reported LPP production in 2004, based on preliminary-phase questionnaire data. *** reported that it "produces under \$1,000 worth of paper for school supplies."

² Petition, exh. I-2.

³ Questionnaires were sent to potential U.S. producers listed in the industry directory *Lockwood-Post's Directory of the Pulp, Paper, and Allied Trades (2000)* (Miller Freeman, 1999), as well as to all firms identified in the course of the Commission's preliminary-phase investigations as potential U.S. producers of any lined paper products.

⁴ As in the preliminary-phase investigations, *** not to have responded to the Commission's producers' questionnaire. The company president did not respond to staff attempts to contact the firm. See staff telephone notes, May 5, 2006.

⁵ On July 10, 2006, firms responding to the Commission's questionnaires were requested to provide certain data relating to their production and/or shipments of LPP and oversized lined paper products during January-June 2005 and January-June 2006. Data collected in response to this Commission request are included in app. J.

⁶ Trade and financial data were also received from CPP, an importer of subject CLPSS and a party to these investigations. CPP produced LPP until September 2003. Conference transcript, pp. 173-174 (Presley). In its preliminary determinations, the Commission found that appropriate circumstances existed to exclude CPP from its definition of the domestic industry. Preliminary Determinations, p. 13. Data for this firm (for 2003 and 2004 (shipments only)) have therefore been excluded from aggregate U.S. producers' data presented in this Part of the report.

⁷ In addition to the eight U.S. producers of LPP whose data were included in the prehearing staff report, U.S. producers' aggregate data in this report include American Scholar, a firm that identified itself as a producer of LPP prior to the Commission's hearing (see Indian respondents' prehearing brief, exh. 2), and TOPS, ***.

2005, did not provide data in response to the Commission’s questionnaires. The identity of the remaining ten firms, as well as their plant locations, positions on the petition, and shares of reported 2005 U.S. production of LPP, are presented in table III-1. On the basis of these reported data, *** is the largest U.S. producer of LPP, accounting for *** percent of reported U.S. production in 2005. ***. The firm reported ***. According to the company’s questionnaire response, ***.

Table III-1
LPP: U.S. producers, positions on the petition, and shares of reported 2005 production

Firm	Plant locations	Position on petition	Share of production (percent)
American Scholar	Brentwood, NY	Opposes	***
Ampad	Richardson, TX	***	***
Fay Paper Products	Norwood, MA	Supports	***
Kurtz Bros.	Clearfield, PA	***	***
MeadWestvaco	Alexandria, PA Garden Grove, CA Sidney, NY	Supports	***
Norcom	Norcross, GA	Supports	***
Pacon	Appleton, WI	Supports	***
Roaring Spring	Martinsburg, PA	Supports	***
Top Flight	Chattanooga, TN	Supports	***
TOPS Products	Covington, TX Osage, IA	***	***

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

*** is the second-largest U.S. producer of LPP, accounting for *** percent of reported U.S. production in 2005. ***. With respect to its operations during the period examined in these investigations, the company only reported ***.⁸ ***.

Based on reported production data, *** is the third-largest U.S. producer of LPP, accounting for *** percent of reported production in 2005. The *** firm ***.⁹ According to its producers’ questionnaire response, ***. With respect to its U.S. operations on lined paper products during the period examined, *** reported ***.¹⁰

On the basis of questionnaire data, *** is the next-largest U.S. producer of LPP, accounting for *** percent of reported U.S. production in 2005. According to its questionnaire response, ***. The

⁸ ***’s response to the producers’ questionnaire, p. 4.

⁹ ***.

¹⁰ ***.

company reported ***.¹¹ U.S. producer *** accounted for *** percent of reported U.S. production of LPP in 2005. *** reported a ***.¹²

*** accounted for *** percent of reported U.S. production of LPP in 2005. The company is ***. *** reported no changes in the character of its operations on any lined paper products during the period examined, and noted that the petition for these investigations ***.¹³ *** each accounted for less than *** percent of reported U.S. production of LPP in 2005. None of these firms reported being owned by any other firm or being related to any importers or producers (foreign or domestic) of any lined paper products. *** as a result of “***.”¹⁴ None of the remaining producers reported any changes to the character of their operations on any lined paper products during the period examined.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data relating to U.S. producers’ capacity and production of LPP during the period examined in these investigations are presented in table III-2. As indicated in this table, U.S. producers’ aggregate LPP production capacity decreased by 10 percent between 2003 and 2005, from 995 million to 898 million units.¹⁵ This decrease in capacity was primarily attributable to *** firms: *** reported a capacity reduction of *** units between 2003 and 2005;¹⁶ *** reported a reduction of *** units;¹⁷ and *** reported a reduction of *** units.¹⁸

Table III-2
LPP: U.S. producers’ capacity and production, 2003-05

* * * * *

U.S. producers’ reported production of LPP decreased by 28 percent between 2003 and 2005, from 608 million to 437 million units. Producers’ capacity utilization also decreased throughout the period. Firms responding to the Commission’s producers’ questionnaire were asked to describe the constraints that limit their production capabilities; firms’ responses to this question are presented in table III-3.

Table III-3
LPP: U.S. producers’ reported production constraints

* * * * *

¹¹ ***’s response to the producers’ questionnaire, p. 5. According to its questionnaire response, ***.

¹² ***’s response to the producers’ questionnaire, p. 4.

¹³ ***’s response to the producers’ questionnaire, p. 2.

¹⁴ ***.

¹⁵ Recipients of the Commission’s questionnaires were requested to report trade, financial, and pricing data on a “per unit” basis. A unit, or “each” in industry parlance, refers to an individual product unit, such as a notebook or a package of filler paper. Petitioner noted in the preliminary phase of the investigations that, to the best of its knowledge, all industry participants tracked quantity on this unit basis. Response to Commerce Request for Petition Clarification, September 26, 2005, p. 15. See also, conference transcript, pp. 128-129 (Smith); hearing transcript, p. 189 (Price); Petitioner’s posthearing brief, pp. 70-80.

¹⁶ As noted above, ***.

¹⁷ ***.

¹⁸ As alluded to above, ***.

In its preliminary determinations, the Commission noted that it intended to examine more closely in the final phase of these investigations the seasonal nature of LPP and the extent to which this may affect U.S. producers' capacity and production.¹⁹ U.S. producers responding to the Commission's questionnaires in these final-phase investigations were asked to report their capacity and production of LPP during the period examined for half-year periods, i.e., January-June and July-December. Data submitted in response to this question are presented in table III-4.²⁰ As indicated in this table, U.S. producers' reported capacity utilization was higher in the first six months of each year of the period examined than in July-December.

Table III-4
LPP: U.S. producers' half-year capacity and production, 2003-05

* * * * *

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

Information relating to U.S. producers' shipments of LPP during the period examined in these investigations is presented in table III-5.²¹ As indicated in this table, U.S. producers' U.S. shipments of LPP decreased by 23 percent between 2003 and 2005, from 561 million to 432 million units. U.S. producers' total shipments, including exports,²² decreased by *** percent over the same period. The value of U.S. producers' U.S. shipments of LPP decreased by 21 percent during the period examined, while the value of total shipments (including exports) decreased by *** percent. The unit value of U.S. producers' U.S. shipments of LPP was higher in 2005 than in 2003, while the unit value of export shipments decreased throughout the period examined.

U.S. PRODUCERS' INVENTORIES

Data relating to U.S. producers' inventories of LPP are presented in table III-6. Reported inventories increased during the period examined, relative to U.S. producers' production and shipments.²³

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data relating to U.S. producers' employment, wages, and productivity are presented in table III-7. As indicated in table III-7, the number of LPP production and related workers ("PRWs"), hours worked by PRWs, and total wages paid by U.S. producers all decreased during the period examined.²⁴ Hourly wages and productivity were higher at the end of the period than at the beginning; unit labor costs remained constant throughout the period.

¹⁹ Preliminary determinations, p. 24.

²⁰ As indicated in table III-4, six month capacity and production data ***.

²¹ ***.

²² ***.

²³ Firms reporting production and shipments data in their questionnaire responses were asked to reconcile their data as follows: beginning-of-period inventories, plus production, minus total shipments equals end-of-period inventories. Overall, unreconciled shipments equaled *** percent of U.S. producers' total shipments of LPP during the period examined.

²⁴ *** was the only producer to report a constant number of PRWs during the period examined; all other firms reported a lower number of PRWs in 2005 than in 2003.

Table III-5
LPP: U.S. producers' U.S. shipments and export shipments, 2003-05

Item	Calendar year		
	2003	2004	2005
Quantity (1,000 pieces)			
U.S. shipments	560,951	551,756	432,272
Export shipments	***	***	***
Total shipments	***	***	***
Value (\$1,000)¹			
U.S. shipments	328,868	321,572	260,082
Export shipments	***	***	***
Total shipments	***	***	***
Unit value (per piece)			
U.S. shipments	\$0.59	\$0.58	\$0.60
Export shipments	***	***	***
Total shipments	***	***	***
Share of quantity (percent)			
U.S. shipments	***	***	***
Export shipments	***	***	***
Total shipments	100.0	100.0	100.0
Share of value (percent)			
U.S. shipments	***	***	***
Export shipments	***	***	***
Total shipments	100.0	100.0	100.0
¹ F.o.b. U.S. point of shipment.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Table III-6
LPP: U.S. producers' end-of-period inventories, 2003-05

Item	Calendar year		
	2003	2004	2005
End-of-period inventories (1,000 pieces)	116,926	124,097	118,683
Ratio to production (percent)	19.2	21.8	27.2
Ratio to U.S. shipments (percent)	20.8	22.5	27.5
Ratio to total shipments (percent)	***	***	***

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

Table III-7
LPP: U.S. producers' employment data, 2003-05

Item	Calendar year		
	2003	2004	2005
PRWs (number)	1,264	1,157	942
Hours worked (1,000)	2,540	2,266	1,610
Hours worked per PRW	2,009	1,959	1,709
Wages paid (\$1,000)	44,669	40,870	29,319
Hourly wages	\$17.58	\$18.03	\$18.21
Productivity (pieces per hour)	239.3	250.7	271.4
Unit labor cost (per piece)	\$0.07	\$0.07	\$0.07

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

Two out of the ten U.S. producers that submitted completed questionnaire responses in these final-phase investigations reported that their firms had filed applications for Trade Adjustment Assistance (“TAA”) during the period examined relating to their production of LPP or oversized lined paper products. MeadWestvaco *** TAA applications in February 2003 and August 2004 for workers affected by closure of two of the company’s LPP manufacturing facilities.²⁵ In both cases, the Department of Labor determined that the affected workers were eligible for assistance. Roaring Spring *** a TAA application

²⁵ ***. See also Department of Labor TAA Decisions for petitions Nos. 50931 and 55523 (available at http://www.doleta.gov/tradeact/taa/taa_search_form.cfm). In its certifications of eligibility for workers at MeadWestvaco’s Garland, TX, facility, the Department of Labor determined that “increases of imports of articles like or directly competitive with school and office supplies produced at {the facility} contributed importantly to the total or partial separation of workers.” In its certification for workers at the company’s St. Joseph, MO, facility, the Department of Labor concluded that “the layoffs at the subject plant are attributed to a shift of a meaningful portion of plant production from the subject facility to Mexico.”

for workers producing LPP or oversized lined paper products. The company filed its application in August 2005; the Department of Labor determined that the affected workers were eligible for assistance.²⁶

On March 28, 2006, Petitioner filed an entry of appearance in these investigations on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC, which represents workers engaged in the production of CLPSS at MeadWestvaco’s Alexandria, PA, facility and Roaring Spring’s production facility in Roaring Springs, PA. A written statement on behalf of the union was filed with the Commission in the preliminary phase of these investigations,²⁷ and the union filed briefs in this final phase.

U.S. PRODUCERS’ IMPORTS AND PURCHASES OF IMPORTS

Importers’ questionnaire responses were received from 9 of the 10 U.S. producers of LPP identified above.²⁸ *** of the 10 producers reported having directly imported subject merchandise during the period examined in these investigations.²⁹ These firms were asked to indicate their reasons for importing CLPSS; their responses are presented in table III-8.³⁰ *** out of the 10 U.S. producers of LPP reported purchasing CLPSS imported by other firms. *** reported purchasing imported CLPSS from ***, and reported that it made such purchases due to “lack of capacity.”³¹ *** reported purchasing CLPSS imported from ***. It reportedly made such purchases because of “price advantage.”³² The quantity of each U.S. producer’s reported imports of CLPSS (and/or purchases of imported CLPSS) is presented in table III-9.³³ (The data in table III-9 do not include imports brokered by U.S. producers, which are addressed later in this section of the report.)

Table III-8

LPP: U.S. producers’ reported reasons for importing subject merchandise

* * * * *

Table III-9

CLPSS: U.S. producers’ imports and ratios of imports to LPP production, 2003-05

* * * * *

²⁶ ***. See also Department of Labor TAA Decision for petition No. 57681 (available at http://www.doleta.gov/tradeact/taa/taa_search_form.cfm).

²⁷ October 6, 2005.

²⁸ ***.

²⁹ *** were the only U.S. producers to report no imports of CLPSS during the period examined.

³⁰ See also Petitioner’s posthearing brief, pp. 15-17.

³¹ *** identified *** as the firm from which it purchased imported CLPSS. ***’s response to the producers’ questionnaire, p. 10.

³² *** identified *** as the firms from which it purchased imported CLPSS. *** responses to the producers’ questionnaire, p. 10.

³³ Table III-9 also includes import data for CPP International. The company’s data are not aggregated with those of other producers in the totals presented.

U.S. PRODUCERS' BROKERED IMPORTS

Firms responding to the Commission's producers' questionnaire were asked to report any arrangements whereby they act as a broker, sales representative, or middleman for foreign producers of subject lined paper, i.e., arrangements whereby imported CLPSS is marketed by U.S. producers, but not directly imported by them. *** U.S. producers (MeadWestvaco, ***) responded in the affirmative,³⁴ and provided data relating to imports arranged by or brokered by their firm during the period examined in these investigations.³⁵ These data are presented in table III-10. MeadWestvaco described the foreign firms through which it conducts brokered imports as ***.³⁶ According to MeadWestvaco's questionnaire response, the company ***.³⁷

Table III-10
CLPSS: U.S. producers' brokered imports, 2003-05

* * * * *

***.³⁸ According to its questionnaire response, ***.³⁹ ***.⁴⁰ ***.⁴¹

³⁴ See also conference transcript, p. 138 (McLachlan); hearing transcript, pp. 66-67 (McLachlan).

³⁵ Financial data relating to these *** producers' brokered import transactions are presented in app. H.

³⁶ MeadWestvaco's response to Question I-1 of the producers' questionnaire (Supplemental Questions).

³⁷ MeadWestvaco's response to Question I-2 of the producers' questionnaire (Supplemental Questions). See also Petitioner's posthearing brief, "Answers to Commissioner Questions," p. 15-17.

³⁸ ***.

³⁹ ***.

⁴⁰ ***.

⁴¹ ***.

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

U.S. IMPORTERS

Commission importers' questionnaires were sent to 65 firms identified in confidential Customs data as large importers of subject CLPSS between 2003 and 2005,¹ including all importers named in the petition,² and all firms identified as U.S. customers by foreign producers responding to the Commission's preliminary-phase questionnaires. Importers' questionnaires were also sent to all recipients of the Commission's producers' questionnaires. Responses were received from 49 firms, including 9 of the 10 U.S. producers of LPP for which data are presented in Part III.³ Ten firms certified that they had not imported LPP or oversized lined paper products from any source during the period examined in these investigations. The remaining firms provided some degree of data relating to their imports. A list of the 10 largest U.S. importers of CLPSS, based on responses to the Commission's importers' questionnaire, is presented in table IV-1.⁴

Table IV-1
CLPSS: Ten largest reporting U.S. importers, by value, 2005

* * * * *

Confidential Customs data indicate that CLPSS were imported into the United States by no fewer than 1,000 different firms during the period examined in these investigations.⁵ As noted above, importers' questionnaires were sent to only 65 of the largest importers. Data submitted by responding firms for 2005 were equivalent to 39 percent of the value of total U.S. imports of CLPSS as indicated in official Commerce statistics. For this reason, imports and apparent consumption data in this section are based on official Commerce statistics.⁶

¹ Importers' questionnaires were sent to all firms having imported more than \$*** worth of products from subject countries under the HTS reporting numbers covering CLPSS between January 2003 and December 2005, as well as to the 10 largest importers of CLPSS from nonsubject countries.

² Petition, September 8, 2005, exh. I-6.

³ As indicated in Part III, ***.

⁴ Questionnaire responses were received from the 10 largest U.S. importers of CLPSS from subject countries, based on confidential Customs import data. According to these data, the largest importers of subject merchandise not responding to the Commission's questionnaire were ***.

⁵ See Customs Net Import File, April 2006.

⁶ As noted in Part I, import data for CLPSS are based on HTS statistical reporting numbers 4811.90.9090 and 4820.10.2050 (see table I-3). Quantity data for HTS number 4811.90.9090 have been converted from kilograms using a conversion reflecting the per-unit weight of the most common imported looseleaf filler paper package, as indicated in responses to the Commission's importers' questionnaire (150-count, at 0.491262 kg). See also Petition, September 8, 2005, p. 9. Quantity data for HTS number 4820.10.2050 are collected by Commerce on a unit basis. In value terms, imports in 2005 under HTS number 4811.90.9090 (4811.90.9000 prior to July 1, 2005) accounted for 32 percent of total imports reported for the two HTS numbers combined. As indicated in table I-3, the two HTS numbers used for CLPSS import data are not coextensive with Commerce's scope for the subject merchandise.

U.S. IMPORTS

Data on the quantity, value, and unit value of U.S. imports of CLPSS, based on official Commerce statistics, are presented in table IV-2.⁷ Based on these data, total U.S. imports of CLPSS increased by 59 percent between 2003 and 2005, from 352 million to 560 million units. The largest portion of this increase was attributable to imports from China, which increased by 86 percent during the period examined. Imports from India decreased by 16 percent during this period,⁸ while imports from Indonesia exhibited a mixed pattern, decreasing by 10 percent between 2003 and 2004, then increasing by 12 percent between 2004 and 2005. Imports from nonsubject sources increased by 61 percent during the period examined.

The unit value of CLPSS imports from all three subject countries was lower than the unit value of imports from all other sources throughout the period examined, excluding imports from Brazil. Among subject countries, the unit value of imports from China was higher than those of imports from India and Indonesia. Throughout the period examined, the unit value of imports from Brazil was lower than that of imports from China, but higher than those of imports from India and Indonesia. The unit value of imports from all other sources was more than twice those of imports from subject countries or imports from Brazil.

As indicated in table IV-2, in quantity terms, the share of total CLPSS imports accounted for by imports from China fluctuated but generally increased during the period examined, while the share of imports from India and Indonesia both decreased. The share of total CLPSS imports accounted for by imports from nonsubject countries (including Brazil) increased between 2003 and 2004, then decreased between 2004 and 2005. Relative to U.S. production of LPP, imports of CLPSS from subject and nonsubject sources increased between 2003 and 2005, owing in part to decreasing U.S. production during this period.

Firms responding to the Commission's importers' questionnaire were asked to report whether they had changed the level of their imports of, or plans to import, subject merchandise as a result of the filing of the petition for these investigations. Twenty-eight of 38 responding firms responded in the affirmative. The majority of these firms reported that they had delayed, reduced, or eliminated imports of CLPSS from subject countries. Some of these firms reported increasing their purchases of CLPSS from nonsubject sources or from U.S. producers.⁹

, the largest U.S. importer of subject merchandise from China in 2005, reported that it ***. *** were the next largest importers of CLPSS from China in 2005. ***. ***. ***, the next-largest importer of subject merchandise from ***, reported that it had "*" as a result of the filing of the petition.

⁷ Throughout these investigations, respondents have highlighted Petitioner's import activities with respect to Brazil. In its preliminary determinations, the Commission noted that it intended to examine the issue of nonsubject imports of CLPSS more closely in any final phase of these investigations. See Preliminary Determinations, p. 25. Data for U.S. imports of CLPSS from Brazil are therefore presented separately throughout this section.

⁸ As indicated in Part I, Commerce determined that the net subsidy rate for one Indian producer, Kejriwal, is *de minimis* (see table I-2). Imports from India presented in table IV-2 would include the shipments of this firm, which was determined by Commerce to have dumped CLPSS in the United States at a (non-*de minimis*) margin of 3.91 percent. ***.

⁹ Responses to question II-4 of the importers' questionnaire.

Table IV-2
CLPSS: U.S. imports, by source, 2003-05

Source	Calendar year		
	2003	2004	2005
Quantity (1,000 pieces)			
Imports from: China	186,278	220,744	345,897
India	37,226	35,991	31,312
Indonesia	38,998	34,985	39,305
Subtotal, subject imports	262,503	291,719	416,514
Brazil	37,200	91,891	65,996
All other sources	51,975	73,899	77,798
Total imports	351,678	457,509	560,308
Value¹ (\$1,000)			
Imports from: China	108,779	131,836	191,063
India	15,779	13,122	11,929
Indonesia	15,477	12,603	14,804
Subtotal, subject imports	140,035	157,561	217,797
Brazil	16,448	35,172	28,713
All other sources	59,307	98,418	109,528
Total imports	215,791	291,151	356,037
Share of quantity (percent)			
Imports from: China	53.0	48.2	61.7
India	10.6	7.9	5.6
Indonesia	11.1	7.6	7.0
Subtotal, subject imports	74.6	63.8	74.3
Brazil	10.6	20.1	11.8
All other sources	14.8	16.2	13.9
Total imports	100.0	100.0	100.0

Table continued on following page.

Table IV-2--Continued
CLPSS: U.S. imports, by source, 2003-05

Source	Calendar year		
	2003	2004	2005
Share of value (percent)			
Imports from: China	50.4	45.3	53.7
India	7.3	4.5	3.4
Indonesia	7.2	4.3	4.2
Subtotal, subject imports	64.9	54.1	61.2
Brazil	7.6	12.1	8.1
All other sources	27.5	33.8	30.8
Total imports	100.0	100.0	100.0
Unit value (per piece)			
Imports from: China	\$0.58	\$0.60	\$0.55
India	0.42	0.36	0.38
Indonesia	0.40	0.36	0.38
Subtotal, subject imports	0.53	0.54	0.52
Brazil	0.44	0.38	0.44
All other sources	1.14	1.33	1.41
Total imports	0.61	0.64	0.64
Ratio of imports to U.S. LPP production (percent)			
Imports from: China	30.6	38.9	79.2
India	6.1	6.3	7.2
Indonesia	6.4	6.2	9.0
Subtotal, subject imports	43.2	51.4	95.3
Brazil	6.1	16.2	15.1
All other sources	8.6	13.0	17.8
Total imports	57.9	80.5	128.2
¹ Landed, duty-paid. Source: Compiled from official Commerce statistics.			

According to questionnaire data, *** was the largest importer of subject merchandise from Indonesia in 2005. The firm reported that “as a direct result of the petition, ***.” According to its questionnaire response, ***.¹⁰

U.S. Producers’ and Other Imports

As noted in Part III, 7 out of the 10 U.S. producers that submitted questionnaire data in these final-phase investigations reporting importing and/or purchasing imports of CLPSS during the 2003-05 period (see table III-9). Table IV-3 presents the quantity and value of total U.S. imports of CLPSS (based on Commerce statistics), the quantity and value of U.S. producers’ reported imports and purchases of imported CLPSS (based on questionnaire data), and the ratio of U.S. producers’ reported imports (and purchases of imports) to total U.S. imports of CLPSS. As indicated by these data, U.S. producers’ imports (and import purchases) were equivalent to *** to *** percent of total subject imports during the period examined, and *** to *** percent of total U.S. imports from all sources.¹¹

Table IV-3
CLPSS: U.S. imports, U.S. producers’ reported imports, and ratio of U.S. producers’ imports to total imports, 2003-05

* * * * *

Table IV-4 presents official import statistics for CLPSS, minus the reported imports (and import purchases) of U.S. producers. The import quantity trends in this table are comparable with those in table IV-2 (total U.S. imports) with one exception: absent U.S. producers’ imports, subject imports from India and Indonesia increased between 2003 and 2004, rather than decreased. The unit values of total subject imports and total imports (from all sources) are higher in table IV-4 than in table IV-2.¹²

Table IV-4
CLPSS: U.S. imports by firms other than U.S. producers, by source, 2003-05

* * * * *

Table IV-5 presents the same data as table IV-4, except that U.S. producers’ reported brokered imports of CLPSS (as presented in table III-10) are also excluded from the data.

Table IV-5
CLPSS: U.S. imports by firms other than U.S. producers, excluding U.S. producers’ reported brokered imports, by source, 2003-05

* * * * *

¹⁰ ***.

¹¹ ***.

¹² As noted above, U.S. producers’ imports are based on questionnaire data, whereas total imports are based on official statistics. Differences in the composition and calculation of these two data sets may diminish their comparability.

NEGLIGIBILITY AND CUMULATION CONSIDERATIONS

Sections 705(b)(1) and 735(b)(1) of the Act (19 U.S.C. §§ 1671d(b)(1) and 1673d(b)(1)) require that the Commission terminate an investigation if imports of subject merchandise from a country are negligible; i.e., if imports from a subject country account for less than 3 percent of the volume of all such imports into the United States in the most recent 12-month period preceding the filing of a petition.¹³ As noted in Part I, the petition for these investigations was filed in September 2005. Data on U.S. imports of CLPSS from subject and nonsubject sources for September 2004-August 2005 are presented in table IV-6. As indicated in table IV-6, imports from China, India, and Indonesia accounted for 61.8, 5.9, and 6.9 percent, respectively, of total U.S. imports of CLPSS during this period by quantity, and 53.6, 3.4, and 4.0 (3.958) percent, respectively, of total U.S. imports during this period by value.^{14 15}

Section 771(7)(G) of the Act (19 U.S.C. § 1677(7)(G)) requires that the Commission cumulatively assess the volume and effect of imports of subject merchandise from all countries with respect to which petitions were filed on the same day, if such imports compete with each other and with U.S.-produced merchandise in the U.S. market. In determining whether imports compete with each other and with the domestic like product, the Commission generally considers four factors: (1) the degree of fungibility between imports from different subject countries, and between subject imports and the domestic like product; (2) the presence of sales or offers to sell in the same geographic markets; (3) the existence of similar channels of distribution; and (4) whether imports are simultaneously present in the U.S. market.

A discussion of the degree of fungibility among subject imports, and between subject imports and U.S.-produced LPP, was presented in Part II of this report. With respect to presence in the same geographic markets, table IV-7 presents the value of U.S. imports of CLPSS from subject countries during the 2003-05 period, by Customs district. On the basis of these data, CLPSS imports from subject countries overlapped in 20 Customs districts during the period examined. The districts were spread across the East Coast, West Coast, Southern, and Midwestern United States. As indicated in Part II of this report, U.S.-produced LPP is sold throughout the United States.

Channels of distribution data for subject imports, based on data reported by firms responding to the Commission's importers' questionnaire, are presented in table IV-8.¹⁶ As indicated in this table, the majority of imported CLPSS from all three subject countries is distributed through retailers, as is U.S.-produced LPP (see table I-6).

¹³ In countervailing duty investigations involving developing countries, the threshold of negligibility is 4 percent.

¹⁴ Counsel to Indian and Indonesian respondents argue that, in assessing the volume of imports for negligibility purposes, the Commission should consider value, rather than quantity. Indian respondents' posthearing brief, p. 1; Tjiwi Kimia's posthearing brief, pp. 1-3. Indian respondents further argue that if the compilation of import statistics for CLPSS include all the HTS reporting numbers identified by Commerce as typically covering subject merchandise, India's share of total imports (measured by value) is less than 3 percent. Indian respondents' posthearing brief, p. 11 and exh. 4b.

¹⁵ Import data for India in table IV-6 would include the shipments of Kejriwal, a producer determined by Commerce to have a *de minimis* net subsidy rate. ***.

¹⁶ Table IV-8 only includes data reported by distributors of imported CLPSS, including U.S. producers. It does not include CLPSS imported directly by retailers. During the period examined, such imports accounted for *** percent of reported imports of CLPSS from China, *** percent of reported imports from India, and *** percent of reported imports from Indonesia.

Table IV-6
CLPSS: U.S. imports, by source, September 2004-August 2005

Source	September 2004-August 2005 imports ¹
Quantity (1,000 pieces)	
China	337,709
India	32,086
Indonesia	37,683
Total subject	407,478
All other sources	138,930
Total imports	546,407
Value (\$1,000)	
China	189,042
India	11,906
Indonesia	13,953
Total subject	214,901
All other sources	137,617
Total imports	352,517
Share of quantity (percent)	
China	61.8
India	5.9
Indonesia	6.9
Total subject	74.6
All other sources	25.4
Total imports	100.0
Share of value (percent)	
China	53.6
India	3.4
Indonesia	4.0 ⁽²⁾
Total subject	61.0
All other sources	39.0
Total imports	100.0
<p>¹ Import data for September 2004-June 2005 were compiled using HTS numbers 4820.10.2050 and 4811.90.9000; data for July 2005 and August 2005 were compiled using HTS numbers 4820.10.2050 and 4811.90.9090. As noted previously, effective July 1, 2005, statistical reporting number 4811.90.9000 was broken out into two separate reporting numbers (see table I-3).</p> <p>² Rounded from 3.958.</p>	
Source: Compiled from official Commerce statistics.	

Table IV-7
CLPSS: U.S. imports, by Customs district, 2003-05 aggregated

Customs district	China	India	Indonesia
Value ¹ (\$1,000)			
Anchorage, AK	225	0	0
Baltimore, MD	1,834	189	95
Boston, MA	1,231	35	0
Buffalo, NY	4,893	12	89
Charleston, SC	1,292	1,377	352
Charlotte, NC	16,772	5,350	38
Chicago, IL	25,187	192	61
Cleveland, OH	7,598	174	194
Columbia-Snake, OR	3,580	56	511
Dallas-Fort Worth, TX	6,849	643	441
Detroit, MI	5,742	66	0
El Paso, TX	78	0	0
Great Falls, MT	1,987	9	74
Honolulu, HI	378	0	904
Houston-Galveston, TX	9,999	206	571
Laredo, TX	47	0	0
Los Angeles, CA	156,641	3,505	21,031
Miami, FL	3,452	489	298
Milwaukee, WI	111	0	0
Minneapolis, MN	1,656	0	0
Mobile, AL	1,348	0	192
New Orleans, LA	5,221	377	487
New York, NY	51,345	22,363	11,584
Nogales, AZ	806	0	0
Norfolk, VA	18,187	1,856	3,090
Ogdensburg, NY	2,355	0	0
Pembina, ND	37	0	0

Table continued on following page.

Table IV-7--Continued
CLPSS: U.S. imports, by Customs district, 2003-05

Customs district	China	India	Indonesia
Value ¹ (\$1,000)			
Philadelphia, PA	925	1,046	10
Providence, RI	358	0	0
San Diego, CA	1,108	0	4
San Francisco, CA	16,102	139	361
San Juan, PR	526	363	0
Savannah, GA	53,181	1,617	1,916
Seattle, WA	24,374	647	488
St. Louis, MO	5,344	71	20
Tampa, FL	906	0	74
Washington, DC	0	46	0
¹ Landed, duty-paid.			
Source: Compiled from official Commerce statistics.			

Table IV-8
CLPSS: U.S. importers' channels of distribution, 2003-05

* * * * *

Table IV-9 presents quarterly import statistics for CLPSS from subject and nonsubject sources during the period examined in these investigations, by value. As indicated in this table, imports of CLPSS from China, India, and Indonesia were present in the United States in each quarter of this period.

Table IV-9
CLPSS: Quarterly U.S. imports, by source, 2003-05

Period	China	India	Indonesia	Total subject	All other sources	Total imports
Value¹ (\$1,000)						
2003: January-March	11,008	1,352	660	13,020	10,594	23,614
April-June	55,339	7,279	9,462	72,080	24,812	96,892
July-September	24,224	5,781	3,697	33,702	26,838	60,540
October-December	18,208	1,367	1,658	21,234	13,510	34,744
2004: January-March	15,401	1,736	745	17,882	20,246	38,128
April-June	63,758	7,015	8,036	78,809	47,549	126,359
July-September	31,901	3,224	3,097	38,222	38,298	76,520
October-December	20,775	1,147	726	22,648	27,497	50,144
2005: January-March	19,699	2,031	1,107	22,837	25,822	48,659
April-June	95,217	6,132	7,399	108,749	48,397	157,146
July-September	53,353	2,664	5,310	61,327	36,181	97,509
October-December	22,793	1,103	988	24,884	27,840	52,724
¹ Landed, duty-paid.						
Source: Compiled from official Commerce statistics.						

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table IV-10 presents apparent U.S. consumption of LPP, based on U.S. producers' questionnaire data and official Commerce import statistics, while table IV-11 presents the shares of the U.S. LPP market accounted for by U.S. producers, subject imports, and nonsubject imports.¹⁷ As indicated in these tables, the quantity of apparent U.S. consumption of LPP increased between 2003 and 2004, then decreased between 2004 and 2005, whereas, in value terms, apparent consumption increased throughout the period examined. U.S. producers' shipments accounted for a diminishing share of the LPP market during the period examined in these investigations. The market share of subject imports from China was higher in 2005 than in 2003, while those of subject imports from both India and Indonesia were lower. The market share of nonsubject CLPSS imports (including imports from Brazil) increased between 2003

¹⁷ As noted in Part III, in its preliminary determinations, the Commission excluded CPP International from its definition of the domestic industry producing LPP. The shipments of this firm for 2003 and 2004 have therefore been presented separately from those of other U.S. producers for market share purposes.

Table IV-10
LPP: Apparent U.S. consumption, 2003-05

Item	Calendar year		
	2003	2004	2005
Quantity (1,000 pieces)			
U.S. producers' U.S. shipments	560,951	551,756	432,272
CPP International's U.S. shipments	***	***	***
U.S. CLPSS imports from-- China	186,278	220,744	345,897
India	37,226	35,991	31,312
Indonesia	38,998	34,985	39,305
Subtotal, subject imports	262,503	291,719	416,514
Brazil	37,200	91,891	65,996
All other sources	51,975	73,899	77,798
Subtotal, total CLPSS imports	351,678	457,509	560,308
U.S. OLPP imports (all sources)	276,025	283,201	297,775
Total imports	627,703	740,710	858,083
Apparent consumption	***	***	***
Value (\$1,000)			
U.S. producers' U.S. shipments	328,868	321,572	260,082
CPP International's U.S. shipments	***	***	***
U.S. CLPSS imports from-- China	108,779	131,836	191,063
India	15,779	13,122	11,929
Indonesia	15,477	12,603	14,804
Subtotal, subject imports	140,035	157,561	217,797
Brazil	16,448	35,172	28,713
All other sources	59,307	98,418	109,528
Subtotal, total CLPSS imports	215,791	291,151	356,037
U.S. OLPP imports (all sources)	128,851	148,124	165,348
Total imports	344,642	439,275	521,385
Apparent consumption	***	***	***
Source: Compiled from official Commerce statistics and data submitted in response to Commission questionnaires.			

Table IV-11
LPP: U.S. market shares, 2003-05

* * * * *

and 2004, then decreased between 2004 and 2005, while the market share of U.S. imports of OLPP exhibited the inverse pattern.¹⁸

CRITICAL CIRCUMSTANCES

As indicated in Part I, Commerce’s final LTFV determinations for Indonesia and China found critical circumstances to exist with respect to one Indonesian firm, respondent Tjiwi Kimia, and eight Chinese firms, as well as for the “China-entity.”¹⁹ Tjiwi Kimia and five of the eight Chinese firms²⁰ were requested by Commission staff, either directly or through Counsel, to provide data relating to their exports of subject merchandise to the United States between January 2005 and April 2006. Of these firms, only Tjiwi Kimia furnished the data requested by the Commission. Data for two of the five Chinese firms were provided ***.²¹ Table IV-12 presents available data for Chinese critical circumstances firms, as well as for the “China-entity”;²² table IV-13 presents data for Tjiwi Kimia.

Table IV-12
CLPSS: Monthly exports to the United States by Chinese entities subject to critical circumstances, January 2005-April 2006

* * * * *

Table IV-13
CLPSS: Monthly exports to the United States reported by Tjiwi Kimia, January 2005-April 2006

* * * * *

¹⁸ Import data for OLPP are based on Commerce statistics for HTS statistical reporting number 4820.10.2020 (see table I-3).

¹⁹ Commerce’s final LTFV determinations for China (71 FR 53079, September 8, 2006) and Indonesia (71 FR 47171, August 16, 2006).

²⁰ Three of the eight firms for which Commerce determined that critical circumstances exist were not included in the Department’s preliminary affirmative critical circumstances determination. See *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 19705, April 17, 2006. Commerce’s final determination with respect to China was not made until after the closing of the record in the Commission’s investigations.

²¹ ***.

²² The “China-wide” data set in table IV-12 is based on official Commerce import statistics for the HTS numbers covering CLPSS. These data include all imports of CLPSS from China during the specified period, including imports from the individual firms listed in table IV-12. Official import statistics and reported export data by Chinese firms are composed and calculated differently, and may not be directly comparable.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The principal raw material in producing LPP is paper, and U.S. producers report that they purchase this paper from domestic suppliers.¹ LPP are typically manufactured from uncoated freesheet paper,² which can be subdivided into three main segments; reprographic (or “copy paper”), printing and converting, and value-added grades. U.S. producers report that they are facing increasing paper costs and energy costs.³ Other raw materials include stainless steel wire; plastic-coated wire; cardboard and paperboard for backings; staples; stitching; glue; and film or other packaging materials. Additionally, there are five principal processing steps in the production of LPP. These steps include ruling/printing; hole-punching and/or perforating; insertion of covers, backs, and/or dividers; cutting; and binding (which may consist of wiring, glueing, tape-binding, thread-stitching, or stapling). Other steps may include wrapping and packaging.

Transportation Costs to the U.S. Market

Transportation costs for LPP shipped from China, India, Indonesia, and Brazil⁴ to the United States averaged 10.9 percent, 10.0 percent, 20.4 percent, and 14.4 percent of their respective customs values during 2005. These estimates are derived from official import data.⁵

U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of LPP generally account for a small-to-moderate share of the delivered price of these products. For the nine responding U.S. producers, reported costs ranged from 3.5 to 15 percent of the delivered price. For the 20 responding importers, the costs ranged from zero to as much as 20 percent of the delivered price.⁶

¹ Conference transcript, pp. 94 (McLachlan, Robinson) and 95 (Rahn).

² The term “uncoated” denotes paper not coated with kaolin clay. The term “freesheet” denotes paper comprised mainly of chemically pulped wood fiber.

³ Conference transcript, pp. 78 (McLachlan) and 79 (Robinson).

⁴ Although the subject countries in these investigations are China, India, and Indonesia, information is also presented on Brazil, a major source of nonsubject CLPSS.

⁵ Following normal Commission practice, the estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2005 and then dividing by the customs value. This calculation used import data on HTS statistical reporting numbers 4820.10.2050 and 4811.90.9000.

⁶ Six importers reported that their purchasers paid the transportation costs, while another importer reported that it splits transportation costs with its purchasers. Among the largest importers, ***, ***, and *** reported that they pay for transportation costs.

Exchange Rates

China's currency (yuan) was pegged to the U.S. dollar during most of the period for which data were collected, so the nominal value of the Chinese yuan remained stable relative to the U.S. dollar.⁷ A real value is unavailable. Nominal and real exchange rate data for India, Indonesia, and Brazil are presented on a quarterly basis in figure V-1.⁸ The data show that the nominal and real exchange rates of the Indian rupee appreciated slightly relative to the U.S. dollar over the period. In both nominal and real terms, the Indonesian rupiah appreciated slightly from the first quarter of 2003 to the first quarter of 2004. In nominal terms, the Indonesian rupiah depreciated moderately relative to the U.S. dollar over the rest of the period, and in real terms it remained relatively stable. In both nominal and real terms, the Brazilian real appreciated relative to the U.S. dollar, dramatically increasing from the first quarter of 2004 to the fourth quarter of 2005.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the Indian, Indonesian, and Brazilian currencies and the U.S. dollar, by quarters, January 2003-December 2005

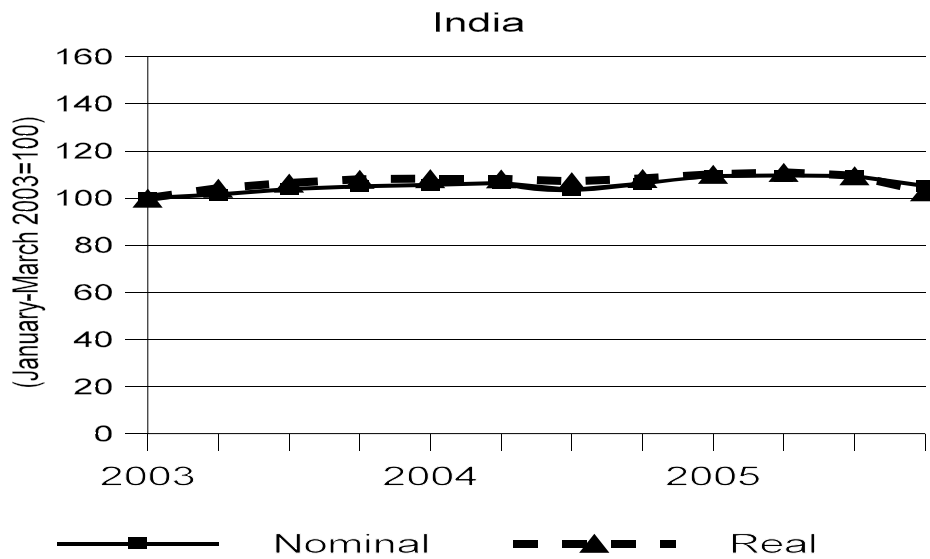


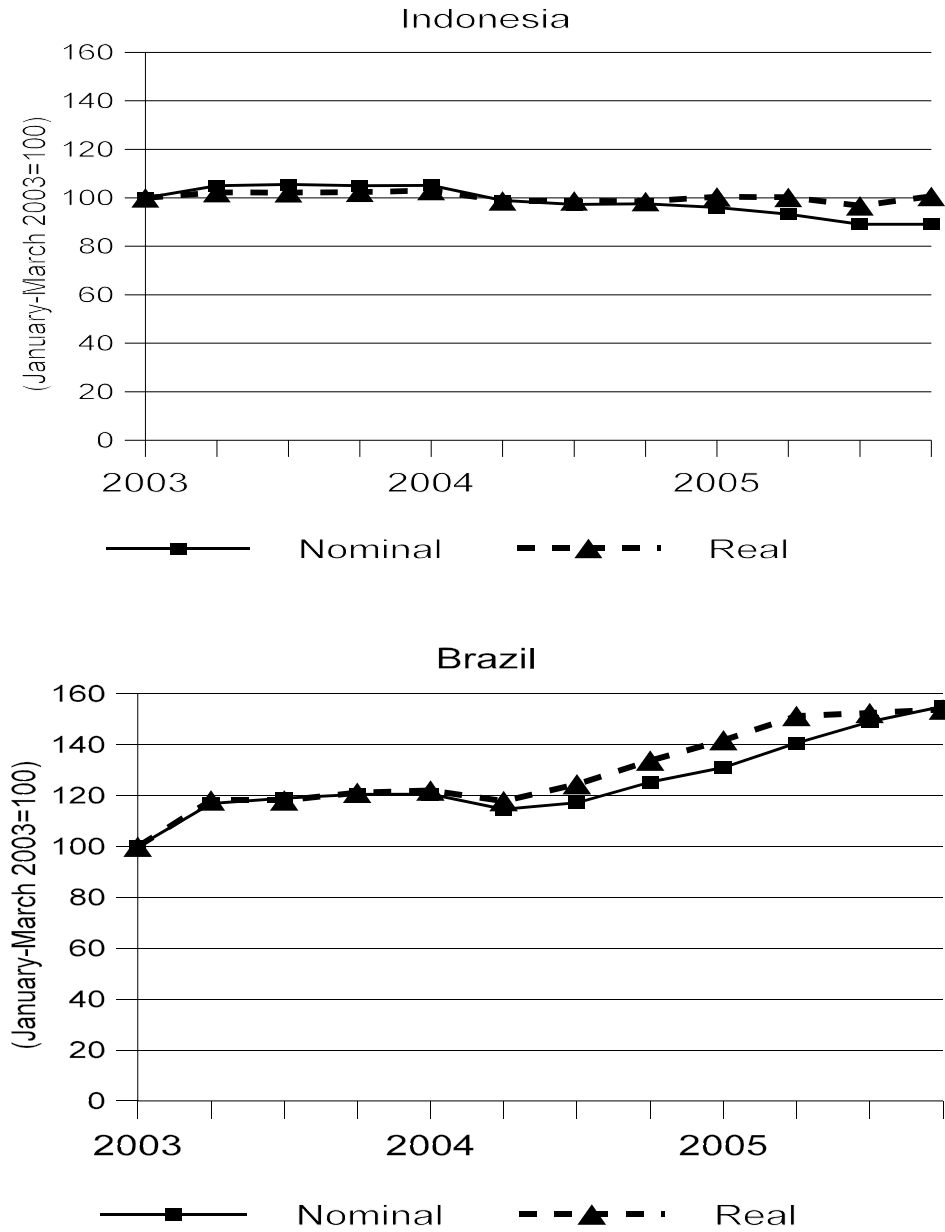
Figure continued on the following page.

⁷ On July 21, 2005, China re-evaluated its currency to allow narrow fluctuations based on a basket of foreign currencies, which caused an immediate appreciation of the Chinese yuan of 2 percent against the U.S. dollar. The Chinese yuan appreciated again, by 1 percent, from the third quarter of 2005 to the fourth quarter of 2005.

⁸ Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the foreign countries.

Figure V-1--Continued

Exchange rates: Indices of the nominal and real exchange rates between the Indian, Indonesian, and Brazilian currencies and the U.S. dollar, by quarters, January 2003-December 2005



Source: International Monetary Fund, *International Financial Statistics*, June 8, 2006.

PRICING PRACTICES

Pricing Methods

When questionnaire respondents were asked how they determined the prices that they charge for LPP, responses were varied. Among U.S. producers, customer-by-customer negotiations and contracts for multiple shipments were cited by most firms. Five producers and two importers reported the use of price lists. In other cases, the responses focused upon competitive market conditions. One producer reported that it sells to customers based on ***.

Prices of LPP are most commonly quoted on a delivered basis rather than on an f.o.b basis. One U.S. producer offers *** on orders above \$***.

Sales Terms and Discounts

U.S. producers of LPP and importers of CLPSS from China, India, Indonesia, and Brazil were asked what share of their sales were on a (1) long-term contract basis (multiple deliveries for more than 12 months), (2) short-term contract basis, and (3) spot sales basis (for a single delivery) during 2005. Among producers, two firms reported that they sell nearly entirely on a spot basis, two producers reported that they sell nearly entirely on a short-term contract basis, and the other five producers reported a mixture of mostly spot sales and short-term contracts. Among responding importers, one reported that it sells exclusively on a long-term contract basis, four reported that they sell exclusively on a short-term contract basis, 13 reported that they sell entirely or nearly entirely on a spot basis, and three other responding importers reported a mixture of spot sales and both long- and short-term contracts.⁹ For U.S. producers selling on a contract basis, provisions varied from company to company. Long-term contracts are typically for periods of three years, while short-term contracts range from periods of 3 months to one year. For long-term contracts, neither price nor quantity are fixed, while for short-term contracts, prices and sometimes quantities are fixed during the contract period. These producer contracts usually do not have a meet-or-release provision and no producer reported that such a provision had been activated in the last two years. In the case of importers, short-term contracts range from periods of 60 days to one year, with prices and sometimes quantities fixed during the contract period. For long-term contracts, the period is typically one to three years, with prices but not quantities usually fixed. These importer contracts typically do not contain meet-or-release provisions and no importer reported that such a provision had been activated in the last two years.

Discount policies on sales of LPP vary. Three producers reported the use of volume discounts and one reported applying discounts to ***. U.S. producers' sales are typically made in an auction or bid process and discounts are not typically offered outside of the formal bid.¹⁰ Twelve importers reported the use of discounts, which are mostly based on volume and are negotiated on a customer-by-customer basis. One of these importers reported that it offers discounts to its *** purchasers and another reported providing allowances for advertising. Four other importers reported that they have no formal discount policy, but will apply one in response to competitive pricing pressure.

When asked if they consider any producers to be price leaders in the industry, 21 of 32 responding purchasers named one or more supplier.¹¹ MeadWestvaco was named by 11 purchasers, reporting that other suppliers' price increases tend to follow its price increases. Top Flight was named by eight purchasers as being a price leader; Norcom was named by five purchasers; and Roaring Spring,

⁹ Among the largest responding importers, *** and *** reported that *** percent of their import sales are spot contracts, whereas *** reported that *** percent of its import sales are short-term contracts.

¹⁰ Conference transcript, pp. 114 (Robinson) and 115 (Kaplan).

¹¹ Seven purchasers did not respond to the question and another four reported that there are no price leaders.

Kurtz Bros., Ampad, and TOPS were each named by one purchaser. Six purchasers named a supplier of CLPSS from China and one purchaser named a supplier of CLPSS from India.

PRICE DATA

The Commission requested U.S. producers of LPP and importers of CLPSS to provide quarterly data for the total quantity and f.o.b. value of selected products that were shipped to unrelated customers in the U.S. market.¹² Data were requested for the period January 2003-December 2005. The products for which pricing data were requested are as follows:¹³

Product 1 (CLPSS).—70-sheet count 10.5" x 8.0" wirebound notebook with paperboard cover and backing, no pockets/folders, and no fashion graphics

Product 2 (CLPSS).—150-sheet count 10.5" x 8.0" package of filler paper--college ruled or wide ruled

Product 3 (CLPSS).—180-sheet count 10.5" x 8.0" 5-subject wirebound notebook with paperboard cover and backing and no fashion graphics

Product 4 (CLPSS).—100-sheet count 9.75" x 7.5" composition book with a marbled cover and no fashion graphics

Product 5 (OLPP).—50-sheet count 11.75" x 8.5" letter pad bound at the top, with cardboard backing, no cover

Product 6 (CLPSS).—80-sheet count 10.0" x 8.5" wire bound or plastic coil bound fashion notebook with polyolefin or paperboard cover

Seven U.S. producers (***)¹⁴ and eight importers (***)¹⁵ provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.¹⁶ Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' shipments of LPP from January 2003-December 2005 and *** percent of U.S. shipments of CLPSS from China, ***

¹² The pricing data presented here exclude retail sales prices. Purchasers also were asked to report the quantity and delivered value for imported products purchased through an importer as well as direct import purchases of CLPSS from China, India, Indonesia, and Brazil. These data, along with purchase price data of domestic product, are presented for January 2003-June 2006 in appendix E. However, three purchasers (***, ***, and ***) reported that they do not always know the country of origin of the product when they purchase from a domestic producer that also has manufacturing facilities in other countries. U.S. producers also reported that accounting for their imports can be complicated because sometimes they arrange imports for their customers but may not be the importers themselves. Conference transcript, p. 138 (McLachlan).

¹³ Product 5 is not a within-scope product, but rather an OLPP, as it is a pad with a backing but no cover.

¹⁴ U.S. producer *** did not provide pricing data. Also, one other firm, ***, provided pricing data for sales of domestically produced product. The Commission ***; therefore, these data are not presented in this section of the report.

¹⁵ Among the 10 largest U.S. importers as listed in table IV-1, *** did not provide pricing data; however, ***.

¹⁶ The pricing data presented herein differ from those in the prehearing report, as they now incorporate data as reported by U.S. producer and importer ***, revisions made by U.S. producer *** to ***, and importer ***'s revisions to ***.

percent of U.S. shipments of CLPSS from India, *** percent of U.S. shipments of CLPSS from Indonesia, and *** percent of U.S. shipments of nonsubject CLPSS from Brazil.¹⁷

U.S. producers ***, ***, ***, and *** also reported pricing data on sales of imported product, which are included here.¹⁸ These U.S. producers account for *** percent of the pricing data collected on product 1 imported from China over the period of investigation; *** percent of product 1 imported from India;¹⁹ *** percent of product 1 imported from Indonesia; and *** percent of product 1 imported from Brazil. These U.S. producers also accounted for *** percent of the pricing data collected on product 2 imported from China; *** percent of product 2 imported from India;²⁰ *** percent of product 2 imported from Indonesia; and *** percent of product 2 imported from Brazil. They accounted for *** percent of the pricing data collected on product 3 imported from China; *** percent of product 3 imported from India;²¹ *** percent of product 3 imported from Indonesia; and *** percent of product 3 imported from Brazil. They accounted for *** percent of the pricing data collected on product 4 imported from China; *** percent of product 4 imported from India;²² *** percent of product 4 imported from Indonesia; and *** percent of product 4 imported from Brazil. They accounted for *** percent of the pricing data collected on product 5 imported from China; *** percent of product 5 imported from India;²³ and *** percent of product 5 imported from Indonesia. These U.S. producers also accounted for *** percent of the pricing data collected on product 6 imported from China; *** percent of product 6 imported from India;²⁴ and *** product 6 imported from Indonesia.

Price Trends

The weighted-averages sales prices for U.S. producers and importers are presented in tables V-1 through V-6 and in figures V-2 through V-7 for products 1-6 on a quarterly basis during January 2003-December 2005 on a net basis.

The annual quantity-weighted average sales price of U.S.-produced product 1 decreased overall by *** percent from 2003 to 2005, with a decrease of *** percent from 2003 to 2004 followed by an increase of *** from 2004 to 2005. The weighted-average annual sales price of product 1 imported from China decreased overall by *** percent from 2003 to 2005, with a decrease of *** percent from 2003 to 2004 followed by an increase of *** percent from 2004 to 2005. The weighted-average annual sales

¹⁷ Although the subject countries in these investigations are China, India, and Indonesia, information is also presented on Brazil, a major source of nonsubject CLPSS.

¹⁸ In appendix F, pricing data for imported products, as reported by U.S. producers only, are presented separately from pricing data on imported products as reported by importers only. The corresponding margins of underselling and overselling are also presented in appendix F.

¹⁹ *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** percent of product 1 imported from India.

²⁰ *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** percent of product 2 imported from India.

²¹ *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** product 3 imported from India.

²² *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** percent of product 4 imported from India.

²³ *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** product 5 imported from India.

²⁴ *** is included in this calculation as a U.S. producer *** of LPP. If *** is excluded, U.S. producers account for *** product 6 imported from India.

price of product 1 from India decreased *** by *** percent from 2003 to 2005.²⁵ The weighted-average annual sales price of the product from Indonesia fluctuated over the period, increasing overall by *** percent from 2003 to 2005. The weighted-average annual sales price of product 1 imported from Brazil increased overall by *** percent from 2003 to 2005, decreasing by *** percent from 2003 to 2004, followed by an increase of *** percent from 2004 to 2005.

The annual quantity-weighted average sales price of U.S.-produced product 2 decreased overall by *** percent from 2003 to 2005, declining by *** percent from 2003 to 2004, followed by an increase of *** percent from 2004 to 2005.²⁶ The weighted-average annual sales price of product 2 imported from China decreased by *** percent from 2003 to 2005, decreasing by *** percent from 2003 to 2004, followed by an increase of *** percent from 2004 to 2005. The weighted-average annual sales price of product 2 from India steadily increased by *** percent from 2003 to 2005. The weighted-average annual price of the product from Indonesia decreased overall by *** percent from 2003 to 2005, declining by *** percent from 2003 to 2004, followed by an increase of *** percent from 2004 to 2005.²⁷ The weighted-average annual price of product 2 imported from Brazil remained virtually unchanged from 2003 to 2005, with a decrease of *** percent from 2003 to 2004 offset by an increase from 2004 to 2005.

The annual quantity-weighted average sales price of U.S.-produced product 3 decreased steadily by *** percent from 2003 to 2005.²⁸ The weighted-average annual sales price of product 3 imported from China increased steadily by *** percent from 2003 to 2005, with most of the increase occurring in 2005. The weighted-average annual price of the product from India remained virtually flat from 2003 to 2005, with a decrease of *** percent from 2003 to 2004 offset by an increase of *** percent from 2004 to 2005. The weighted-average annual price of the product from Indonesia decreased by *** percent from 2003 to 2004, and there were *** reported sales of the product from Indonesia in 2005. The weighted-average annual price of product 3 imported from Brazil increased by *** percent from 2003 to 2005, with most of the increase occurring in 2005.

The annual quantity-weighted average sales price of U.S.-produced product 4 *** increased by *** percent from 2003 to 2005, with a decrease of *** percent from 2003 to 2004 offset by an increase of *** percent from 2004 to 2005.²⁹ The weighted-average annual sales price of product 4 imported from China decreased by *** percent from 2003 to 2005, with most of the decrease occurring in ***. The weighted-average annual sales price of product 4 imported from India decreased by *** percent from 2003 to 2005.³⁰ The weighted-average annual sales price of the product from Indonesia increased by *** percent from 2003 to 2005, with the increase occurring from 2004 to 2005. The weighted-average annual price of product 4 imported from Brazil increased overall by *** percent from 2003 to 2005, decreasing by *** percent from 2003 to 2004, followed by an increase of *** percent from 2004 to 2005.

The annual quantity-weighted average sales price of U.S.-produced product 5 increased by *** percent from 2003 to 2005, with most of the increase occurring in 2005. The weighted-average annual sales price of product 5 imported from China increased by *** percent from 2003 to 2005, with nearly all

²⁵ Staff excluded *** value for sales of product 1 imported from India as reported by *** as it was deemed to be an outlier.

²⁶ Pricing data for domestic sales prices of product 2 as reported by U.S. producer *** were only reported on an annual basis. Staff converted the annual data into quarterly averages.

²⁷ Staff excluded *** negative net value for sales of product 1 imported from Indonesia as reported by ***.

²⁸ Pricing data for domestic sales prices of product 3 as reported by U.S. producer *** were only reported on an annual basis. Staff converted the annual data into quarterly averages.

²⁹ Pricing data for domestic sales prices of product 4 as reported by U.S. producer *** were only reported on an annual basis. Staff converted the annual data into quarterly averages.

³⁰ Staff excluded *** value of sales of product 4 imported by India as reported by *** because it was deemed to be an outlier.

of the increase occurring in 2005.³¹ The weighted-average annual sales price of product 5 from India increased *** by *** percent over the same period. The weighted-average annual sales price of the product from Indonesia decreased steadily by *** percent from 2003 to 2005, with nearly all of the decrease occurring in 2005. There were *** reported sales of product 5 from Brazil.

The annual quantity-weighted average sales price of U.S.-produced product 6 increased by *** percent from 2003 to 2004 and was followed by an increase of *** percent from 2004 to 2005.³² The weighted-average annual sales prices of the product from China decreased by *** percent from 2003 to 2005, with most of the decrease occurring in 2004.³³ There were *** reported quarters of sales of product imported from India and the sales price was virtually unchanged. The weighted-average annual sales price of the product from Indonesia increased by *** percent from 2003 to 2005, with the increase occurring in 2005. There were *** reported sales of product 6 from Brazil.

Table V-1

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 1 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table V-2

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 2 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table V-3

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 3 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table V-4

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 4 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

³¹ Pricing data for domestic sales prices of product 5 as reported by U.S. producer *** were only reported on an annual basis. Staff converted the annual data into quarterly averages. Pricing data for sales of product 5 imported from China in *** as reported by *** were excluded as staff deemed them to be outliers.

³² The *** increase in the weighted-average sales price of U.S.-produced product 6 from 2004 to 2005 reflects the fact that *** was the *** firm that reported data for this product in 2005.

³³ Pricing data for sales prices of product 6 imported from China as reported by *** were only reported on an annual basis. Staff converted the annual data into quarterly averages.

Table V-5

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported OLPP product 5 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table V-6

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 6 and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Figure V-2

LPP: Weighted-average f.o.b prices of domestic and imported CLPSS product 1, by quarters, January 2003-December 2005

* * * * *

Figure V-3

LPP: Weighted-average f.o.b prices of domestic and imported CLPSS product 2, by quarters, January 2003-December 2005

* * * * *

Figure V-4

LPP: Weighted-average f.o.b prices of domestic and imported CLPSS product 3, by quarters, January 2003-December 2005

* * * * *

Figure V-5

LPP: Weighted-average f.o.b prices of domestic and imported CLPSS product 4, by quarters, January 2003-December 2005

* * * * *

Figure V-6

LPP: Weighted-average f.o.b prices of domestic and imported OLPP product 5, by quarters, January 2003-December 2005

* * * * *

Figure V-7

LPP: Weighted-average f.o.b prices of domestic and imported CLPSS product 6, by quarters, January 2003-December 2005

* * * * *

Price Comparisons

Margins of underselling for the period are presented in tables V-7 and V-8.³⁴ The data show that prices of imports from China were lower than U.S. producer prices in 22 out of 54 quarterly comparisons for CLPSS (products 1-4 and 6) by margins of 0.5 percent to 49.7 percent. In the remaining 32 instances, the imported product from China was priced above the comparable domestic product; margins of overselling ranged from 0.5 percent to 533.0 percent. For OLPP product 5, prices of imports from China were lower than U.S. producer prices in all 12 quarterly comparisons. Prices of imports from India were lower than U.S. producer prices for CLPSS in 21 out of 50 quarterly comparisons by margins of 0.5 percent to 22.7 percent. In the remaining 29 instances, the imported product from India was priced above the comparable domestic product; margins of overselling ranged from 0.3 percent to 54.7 percent. For OLPP product 5, prices of imports from India were lower than U.S. producer prices in all 12 quarterly comparisons. Prices of imports from Indonesia were lower than U.S. producer prices in all 39 quarterly comparisons for CLPSS by margins of 2.0 percent to 67.5 percent. For OLPP product 5, prices of imports from Indonesia were lower than U.S. producer prices in all 12 quarterly comparisons. Prices of imports from Brazil were lower than U.S. producer prices in 30 out of 39 quarterly comparisons for CLPSS by margins of 1.3 percent to 56.2 percent. In the remaining 9 instances, the imported product from Brazil was priced above the comparable domestic product; margins of overselling ranged from 1.5 percent to 18.5 percent.

Table V-7

LPP: Margins of underselling/(overselling) by product, by quarters, January 2003-December 2005

* * * * *

Table V-8

LPP: Instances of underselling/overselling and the range and average of margins, January 2003-December 2005

* * * * *

BID DATA

When asked to describe the types of auctions or bids held, 11 of 32 purchasers reported that they provide specifications to manufacturers and request bids. Six purchasers specifically reported that the lowest bidder wins the contract. One purchaser reported that it typically relies on one to two traditional

³⁴ Margins of underselling and overselling for products 1-6, produced and imported by U.S. producers only, are presented in appendix F. The overall margin analysis is not substantially different than the analysis presented here. In both cases, instances of underselling accounted for 61-62 percent of all quarterly comparisons and average margins were very similar. Appendix F also presents data on reported sales prices of products 1-6 imported by firms that exclusively import. In those comparisons, instances of underselling accounted for approximately 61 percent of all quarterly comparisons and average margins of overselling for each country were higher than those presented here. Moreover, the comparisons of sales prices reported by firms that exclusively import exhibit a higher percentage of instances where underselling occurred relative to overselling for India than the comparisons presented here, whereas there was a higher percentage of overselling relative to underselling for Brazil. Also, there were more instances of underselling for products 3 and 4 and more instances of overselling for products 1 and 2 than in the margins presented here. In terms of quantity, in the comparisons of sales prices reported by firms that exclusively import, the majority of the quantity involving China and Brazil was accounted for by instances of overselling, as opposed to the majority being accounted for by instances of underselling as in the comparisons shown here.

suppliers rather than switch suppliers based on price. Four purchasers reported the use of reverse auctions; two of these purchasers reported that reverse auctions occur every two to three years. Three purchasers reported the use of trade shows or on-site meetings to negotiate prices, quantities, and product mix issues. Six purchasers reported that the quality of the product or a sample is an important factor in the bid process, while five reported that reliability of the supplier is important. Of 14 responding purchasers, most firms reported that spot purchases are made when inventory levels drop and they have an immediate need for product to be delivered. Three purchasers reported that they tend to use their traditional suppliers; two reported that they use brokers or buying agents; and two reported that they attend trade shows. One purchaser reported that for large volume spot orders it may purchase from several suppliers, while another purchaser reported that it has pre-established agreements with its suppliers and it places orders several times a year as needed. One U.S. producer reported that most retailers bid each item (or SKU number) separately and request individual quotes for each item.³⁵ Based on questionnaire responses, fourteen of 27 responding purchasers reported that they buy CLPSS as part of the same bid or contract as OLPP and OSLPP. Thirteen purchasers reported that they did not purchase these product categories as part of the same bid or contract.

The Commission requested U.S. purchasers of LPP to provide data on the price negotiation process. LPP are often purchased in an auction or a standard bid process, with suppliers participating in several rounds of bidding, either on-line or in “shoot-outs” conducted in person.³⁶ Auctions are typically held in the fourth quarter for the following year’s back-to-school season and suppliers are usually bound by the contract price for the remainder of the year.³⁷ According to their questionnaire responses, purchasers may also make spot purchases to supplement greater-than-expected back-to-school sales or to restock inventories throughout the year as needed.

Nineteen of 26 responding purchasers reported that none or nearly none of their purchases since January 2003 were via auction or bid. One purchaser reported that all of its purchases were via a bid process;³⁸ four reported that approximately 70 percent or more of their purchases in 2005 were via bid,³⁹ and two reported that approximately 40 to 50 percent of their purchases were via bid.⁴⁰

Bid data were requested for the three largest purchases based on dollar value each year since January 2003. Ten purchasers provided usable bid data for sales of the requested products, although not all firms reported pricing for all years (see table V-9). Bid data were grouped by purchaser and year. Initial and awarded bids are provided when they were reported. A total of 136 awarded bid contracts for domestically produced LPP and imports of CLPSS were reported for the period examined, involving *** million pieces of domestically produced LPP and imports of CLPSS valued at \$*** (in winning bid values). Of these contracts, *** percent of the value of the contracts was awarded to U.S. producers, *** percent of the value was awarded to Chinese suppliers, *** percent was awarded to Indian suppliers, *** percent was awarded to Indonesian suppliers, *** percent was awarded to nonsubject suppliers, and the

³⁵ Hearing transcript, p. 118 (Robinson).

³⁶ Conference transcript, pp. 42, 44 (Kaplan) and 101 (Robinson, McLachlan). Staples reportedly used an auction for its 2004 back-to-school season and has subsequently reverted to a standard bid process in order to pre-qualify suppliers for its quality standards. Conference transcript, p. 230 (Ciulla).

³⁷ Conference transcript, p. 112 (Kaplan, Price). One U.S. producer, Top Flight, reported that there are three trade shows held annually in September at which suppliers will discuss pricing and product requirements with retailers, after which this producer forecasts production models and then enters into the bid process. Hearing transcript, pp. 108-109 (Robinson).

³⁸ ***’s purchaser questionnaire response, section III-19.

³⁹ ***’s, ***’s, ***’s and ***’s purchaser questionnaire responses, section III-19.

⁴⁰ ***’s and ***’s purchaser questionnaire responses, section III-19.

remaining *** percent was awarded to suppliers from unknown origins.⁴¹ However, based on the bid data reported, *** percent of the value of the contracts that were awarded to foreign suppliers were actually arranged through U.S. producers with foreign suppliers. In particular, *** accounted for *** percent of the value of contracts awarded to nonsubject suppliers; *** accounted for *** percent of the value awarded to Chinese suppliers and *** percent of the value awarded to nonsubject suppliers; *** accounted for *** percent of the value awarded to nonsubject suppliers; and *** accounted for *** percent of the value of contracts awarded to nonsubject suppliers.

More specifically, ***, one of the purchasers that supplied bid information, reported that it purchased CLPSS from China in the *** bid for the *** back-to-school season at ***.⁴² One U.S. producer, Norcom, reported that, beginning in 2001, CLPSS producers in China, India, and Indonesia contacted U.S. producers to serve as distributors of their product in the United States because they had not established a sales or marketing presence in the United States.⁴³ One purchaser reported that it did not award its 2006 purchases to a Chinese producer due to the antidumping duty petition.

Moreover, four purchasers, ***, ***,⁴⁴ ***, and ***, noted that even when they purchase CLPSS directly from a domestic supplier, they do not always necessarily know in which country the product will be manufactured, as the domestic producer may be importing some of the product from foreign sources, including the subject countries.⁴⁵ U.S. producers also report that accounting for their imports can be complicated because sometimes they arrange the imports but do not always act as the importer of record.⁴⁶ However, another purchaser, ***, reported that it always knows where the product is manufactured because it specifically requests that information from the U.S. producer.⁴⁷

Table V-9
CLPSS: Bid information and sales to purchasers, January 2003-June 2006

* * * * *

LOST SALES AND LOST REVENUES

In the preliminary phase of these investigations, the Commission requested U.S. producers of LPP to report any instances of lost sales or revenues they experienced due to competition from imports of CLPSS from China, India, and/or Indonesia from January 2002 to June 2005. *** U.S. producers reported that they had to either reduce prices or roll back announced price increases and they provided 23 lost sales allegations and 18 lost revenue allegations. *** U.S. producer made a general comment that often the competitor that is forcing it to lower prices is not a producer from the subject countries, but rather a U.S. producer who imports. *** producer reported that it was unable to record all instances of lost sales and lost revenues, but it estimated that there were “thousands upon thousands of transactions”

⁴¹ Staff classified *** as being a supplier from ***. The *** contracts for which the purchaser did not know the country of origin were awarded to ***. Also, although *** cited *** as a supplier from ***, staff classified *** as a nonsubject supplier because *** reported that it only purchased imported CLPSS from nonsubject sources during the period of investigation. ***’s producer questionnaire, section II-17.

⁴² ***.

⁴³ Conference transcript, p. 22 (Rahn).

⁴⁴ *** specifically reported that it did not necessarily know where CLPSS supplied by *** was produced. ***.

⁴⁵ Chinese respondents estimate that more than *** percent of Chinese exports of CLPSS are sold to or through *** and *** (Chinese respondents’ postconference brief, p. 36).

⁴⁶ Conference transcript, p. 138 (McLachlan).

⁴⁷ Staff telephone interview with ***.

involved. *** U.S. producer, ***, reported that once imports from China, India, and Indonesia began entering the U.S. market in 2001, U.S. producers felt pricing pressure to source from lower-priced foreign suppliers rather than to continue to invest in domestic production. Moreover, Norcom stated that if U.S. producers do not provide pricing competitive with sourcing from foreign suppliers, their customers bypass them and purchase directly from the foreign manufacturers.⁴⁸ MeadWestvaco reported that it often offers import sourcing to its customers in order to maintain a relationship with that customer with the possibility of making off-season sales.⁴⁹

The 23 lost sales allegations totaled at least \$95.4 million and the 18 lost revenue allegations totaled at least \$23.7 million. Staff contacted the 22 purchasers cited in the allegations; 10 responded. The results are summarized in tables V-10 and V-11 and are discussed below.

Table V-10
LPP: U.S. producers' lost sales allegations

* * * * *

Table V-11
LPP: U.S. producers' lost revenue allegations

* * * * *

*** was named in *** lost sale allegation involving CLPSS valued at \$*** allegedly occurring in ***. It agreed with \$*** worth of the allegation and disagreed with the remainder, stating that it did not order the specified product.

*** was named in a lost sales allegation but no specific quantities or values were cited. *** did not respond to the allegation; however, in its questionnaire, it listed *** and *** as its only suppliers.⁵⁰ Moreover, it reported that price is not its only consideration when making purchases and that it needs a reliable domestic supplier to back up “basic, every day orders.”⁵¹

*** was named in a lost sales allegation valued at \$*** allegedly occurring in ***. It disagreed, stating that it purchased volumes from two domestic producers, *** and ***, that were higher than those cited.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in ***. *** did not respond to this allegation. However, in its questionnaire, *** reported that the relative share of its purchases from the United States has decreased since 2003, while the relative share of its purchases from China has increased; it attributed this shift to price.⁵²

*** was cited in *** lost sale *** involving CLPSS valued at \$*** allegedly occurring in ***. It disagreed with the *** and reported buying some *** products at the time specified as well as purchasing from another domestic producer, ***. In addition, *** explained that, for years, it has contacted domestic suppliers for price quotes but these domestic producers were always late in responding, costing *** business with customers at the busy back-to-school season. *** then decided to source directly from Chinese producers, who responded quickly with price quotes. It also stated that it tries to buy as much as possible from U.S. sources, but claims they are not always reliable. In particular, in *** scheduled *** new items with ***, in particular the ***, but ***. *** also reported that it has had many delivery

⁴⁸ Hearing transcript, pp. 43-44 (Rahn).

⁴⁹ Hearing transcript, p. 69 (McLachlan) and 85-86 (Price).

⁵⁰ ***'s purchaser questionnaire response, section VI.

⁵¹ ***'s purchaser questionnaire response, section IV-5.

⁵² ***'s purchaser questionnaire response, section II-2.

problems with U.S. sources and that Chinese sources are more reliable. In its questionnaire, *** reported that the relative share of its purchases from the United States has decreased since 2003, while the relative share of its purchases from China has increased; it attributed this shift to price.⁵³

*** was named in a lost sales allegation involving CLPSS valued at \$*** allegedly occurring in ***. It disagreed, stating that the products cited were all imported by *** through ***. Moreover, it reported that *** had transportation problems, so *** eventually had purchased products from a variety of sources, both foreign and domestic. In its questionnaire, *** reported that its purchases from the United States and India were flat in 2003 and 2004, and that the relative shares of its purchases from the United States and China decreased in 2005.⁵⁴

*** was named in *** lost sales *** involving CLPSS valued at \$*** allegedly occurring in ***. It disagreed, stating that it has no record of a domestic bid that matches the price quotes cited in the ***. *** also reported that U.S. suppliers often did not qualify for further participation in the bid due to quality issues. Specifically, *** reportedly stopped purchasing from domestic sources in *** in order to obtain ***. In addition, *** notes that the price quotes from U.S. suppliers may or may not have been for product produced in the United States, but rather for product that a U.S. producer imported from another country, including the subject countries.

***.⁵⁵ ***.⁵⁶ ***.⁵⁷

*** was named in *** lost sales *** involving CLPSS valued at \$*** allegedly occurring in ***. It disagreed, stating that it purchased some of the product from domestic companies, including *** and *** , but that these producers determined the source of supply, not ***. Moreover, in its questionnaire, *** reported that it typically purchases from domestic sources due to favorable minimum order requirements.⁵⁸

*** was named in a lost sale allegation involving *** valued at \$*** allegedly occurring in ***. It stated that it could not substantiate the allegation, stating that it does not choose one paper supplier over another as its role in the supply chain is to respond to vendor requests.

*** was named in *** lost sales *** valued at \$*** allegedly occurring in ***. It did not respond to the ***. However, in its questionnaire, *** reported that the relative share of its purchases from the United States has decreased since 2003, while the relative share of its purchases from China, Vietnam, and Taiwan has increased; it attributed this shift partly to price, as well as China's capability for custom manufacturing.⁵⁹ Moreover, *** reported that *** began supplying it with CLPSS produced in China beginning in *** and continuing through ***.⁶⁰ *** also reported that its purchases in *** from import sources reflected several factors, including late price quotes from *** during the *** back-to-school bidding season and favorable payment and delivery terms offered by Chinese supplier ***, which *** considered to be a reliable source.⁶¹

*** was named in *** lost revenue *** valued at \$*** allegedly occurring in ***. It agreed with all but *** percent of the volume cited. It reported that U.S. producers reduced their prices to compete with imports from China and India, but that their prices were still not competitive.

⁵³ ***'s purchaser questionnaire response, section II-2.

⁵⁴ ***'s purchaser questionnaire response, section II-2.

⁵⁵ ***.

⁵⁶ ***.

⁵⁷ ***.

⁵⁸ ***'s purchaser questionnaire response, section IV-5.

⁵⁹ ***'s purchaser questionnaire response, section II-2.

⁶⁰ ***.

⁶¹ ***.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It did not respond to the allegation. However, in its questionnaire, *** reported that the relative shares of its purchases from China decreased since 2003, while the relative share of its purchases from India increased.⁶² It also reported purchase price data of domestic products in ***.⁶³

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It agreed with the allegation.

*** was named in *** lost revenue *** valued at \$*** allegedly occurring in ***. It agreed with the ***.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It disagreed, stating that it did not require either of its domestic suppliers, *** or ***, to reduce their prices in order to compete with imports from China, India, or Indonesia.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It did not respond to the allegation. However, in its questionnaire, *** reported that the relative shares of its purchases from India and China have increased since 2003, while the relative share of its purchases from the United States has decreased, citing price and availability.⁶⁴

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It disagreed, stating that while it has a record of receiving a price quote from a U.S. supplier close to the “accepted price” cited in the allegation, U.S. suppliers often did not qualify for further participation in the bid due to quality issues. *** also reported that it never placed orders at the price cited. Moreover, it reported that it has primarily purchased the products cited from *** until ***.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. *** disagreed, stating that it purchased a higher volume of one of the products cited from a domestic producer, ***. Moreover, *** reported that since 2002, it has shifted only one product from a U.S. source to a foreign one and it was not necessarily because of price. *** stated that this purchase was a test shipment from a Chinese source in conjunction with ***. In its questionnaire, *** reported that *** is its largest supplier, but that it does not know the country of origin of these purchases.⁶⁵

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in ***. It did not respond to the allegation. However, in its questionnaire response, *** reported that it usually or always purchases from domestic sources due to reliability, short lead times, quality, fair pricing, favorable minimum order requirements, prepaid shipments, and service.⁶⁶

⁶² ***’s purchaser questionnaire response, section II-2.

⁶³ ***’s purchaser questionnaire response, section V-2.

⁶⁴ ***’s purchaser questionnaire response, section II-2.

⁶⁵ ***’s purchaser questionnaire response, sections II-1 and II-2.

⁶⁶ ***’s purchaser questionnaire response, section IV-5.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Eight firms provided financial results on their domestic operations producing LPP.^{1 2} These firms are believed to account for the vast majority of the domestic production volume of LPP during 2005. *** reported a small amount of affiliated party transactions, accounting for less than *** percent of total sales (quantity and value) from 2003 through 2005. Accordingly, these data are not presented separately. Financial data on CLPSS, all lined paper products, and fashion notebooks are presented in appendix C. Financial data on the total (domestic and import) LPP operations of the domestic industry, as well as operations on the resale of imported LPP, are presented in appendix G.

OPERATIONS ON LPP

Income-and-loss data for U.S. producers on their LPP operations are presented in table VI-1. Selected company-specific financial data are presented in table VI-2. The reported net sales quantity and value declined from 2003 to 2005 by *** and *** percent, respectively, while the cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses declined by approximately *** and *** percent, respectively, by value. In combination, these declines in net sales quantity, net sales value, COGS, and SG&A resulted in per-unit revenues, gross profit, and operating income that declined from 2003 to 2004 and increased from 2004 to 2005. Because different products have varying per-unit measures and reporting firms differ in terms of product mix, per-unit data should be used with caution.³

Table VI-1

LPP: Results of operations of U.S. producers, 2003-05

* * * * *

Table VI-2

LPP: Selected results of operations of U.S. producers, by firm, 2003-05

* * * * *

¹ The U.S. producers and their fiscal-year ends if other than December 31 are: ***. Commission staff verified the U.S. producers’ questionnaire response of ***, and the results of the verification are incorporated in this report.

² CPP provided financial results on its domestic operations producing LPP. The Commission excluded CPP from the domestic industry during the preliminary phase of these investigations; therefore, these data are not presented in this section of the report. *** provided sales data but no related cost and expense data on its LPP operations. If this firm were included in the overall financial data on domestic operations, it would account for *** percent of total LPP sales quantity and value in 2003-05. *** provided financial data only for 2004 and 2005. If this firm were included in the overall financial data on domestic operations, it would account for *** percent of total LPP sales quantity and *** percent of total LPP sales value in 2005.

³ For example, in 2005, per-unit revenue for total net sales of LPP for all reporting firms was \$***, whereas ***, ***, and *** reported \$***, \$***, and \$***, respectively, for per-unit revenue for total net sales of LPP. Due to the variability of product mix during the period examined, a variance analysis is not presented in this report.

An analysis of the data as a percentage of net sales value reveals somewhat different trends in the data. In absolute terms, COGS declined less than net sales value from 2003 to 2004; therefore, as a ratio to net sales, COGS increased, which led to reduced gross profit and operating income in both absolute terms and as a percentage of sales. The gross profit margin and operating income margin both improved somewhat from 2004 to 2005 as the percentage decline in COGS was slightly greater than the percentage decline in net sales value. SG&A expenses as a percent of net sales declined from 2003 to 2004, then increased from 2004 to 2005 despite an absolute decline in SG&A expenses during the period for which data were requested. While the gross profit margin and operating income margin had similar trends, SG&A expenses moderated the decline in the operating income margin in 2004 and the increase in the operating income margin in 2005.

U.S. producers were asked to list the main cost components for raw material costs for each of the three years for which data were requested. All responding firms reported that paper costs were the major component of LPP raw material costs, with compiled responses indicating that paper accounted for a weighted-average *** percent of LPP raw material costs during the period for which data were requested. While the absolute value of paper costs declined from 2003 to 2005, on a per-unit basis paper increased from \$*** to \$*** and also increased as a percentage of LPP sales from *** to *** percent during this time frame.

Data on U.S. producers' total (domestic and import) LPP operations, as well operations on domestic producers' resale of imported LPP, are presented in appendix G. As compared to the reported domestic operations, aggregate U.S. producer data reveal a similar operating income margin on the resale of imported LPP in 2003, a higher operating income margin on the resale of imported LPP in 2004, and a lower operating income margin on the resale of imported LPP in 2005. The data on U.S. producers' resale of imported LPP include sales and cost data for all imports, including nonsubject imports. In general, both the reported domestic operations and import operations show a decline in operating income from 2003 to 2005 in absolute terms and as a percentage of sales.⁴

*** U.S. producers (***) provided additional financial information on their import transactions of CLPSS for which they act as a middleman or otherwise derive a financial benefit. These data are presented in appendix H. ***. In general, these data show that ***.⁵

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Capital expenditures and research and development (R&D) expenses are shown in table VI-3. Seven firms reported capital expenditures, and one firm (***) reported R&D expenses during the period for which data were requested. ***,⁶ and *** stated that R&D expenses during this period were for ***.⁷

⁴According to petitioners, ***. An examination of the costs reported for domestic LPP operations versus operations on the resale of imported LPP reveals that fewer direct labor and other factory costs were applied to reporting firms' import operations. For 2003-05, direct labor as a ratio to sales was 7.3 to 8.2 percent for domestic LPP operations, while this ratio for operations on the resale of imported LPP was 1.2 to 2.7 percent. Other factory costs as a ratio to sales were 20.8 to 23.5 percent for domestic LPP operations, while this ratio for operations on the resale of imported LPP was 5.1 to 7.5 percent. Further, SG&A expenses as a ratio to sales were 10.5 to 11.1 percent for domestic LPP operations, while this ratio for operations on the resale of imported product was 9.2 to 10.7 percent.

⁵ ***.

⁶ E-mail response from ***, June 7, 2006.

⁷ E-mail response from ***, June 8, 2006.

Table VI-3**LPP: Capital expenditures and research and development expenses of U.S. producers, 2003-05**

Item	Fiscal year		
	2003	2004	2005
	Value (1,000 dollars)		
Capital expenditures	646	***	1,004
R&D expenses	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of CLPSS 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 CLPSS. While the data requested were for assets related to CLPSS only, the ROI calculations are indicative of the more broadly defined LPP product group, as CLPSS represents more than *** percent of the reported LPP net sales value during the period for which data were requested.

Data on the U.S. CLPSS producers' assets and their ROI are presented in table VI-4. The assets used in the production and sale of CLPSS decreased from \$129 million in 2003 to \$94 million in 2005. The ROI declined from 14.4 percent in 2003 to 8.7 percent in 2005.

Table VI-4**CLPSS: U.S. producers' assets and return on investment, fiscal years 2003-05**

Item	Fiscal year		
	2003	2004	2005
	Value (1,000 dollars)		
Assets:			
Cash	229	839	2,091
Accounts receivable	19,708	16,650	17,784
Inventories	61,989	38,205	40,255
Original cost, fixed assets	62,402	57,269	47,658
Less: accumulated depreciation	19,336	20,321	16,637
Equals: Book value	43,066	36,949	31,021
All other assets	3,594	3,463	3,008
Total assets	128,585	96,106	94,159
Operating income	18,504	8,121	8,203
	Return on investment (percent)		
Return on investment	14.4	8.5	8.7
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

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

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN CHINA

There are estimated to be more than 4,000 paper mills presently in China, although a great number of these mills are very small.¹ Much of the papermaking capacity in China is still government-owned, but foreign and private companies are beginning to play a larger role.² Publicly available information suggests substantial investments are presently being made in the Chinese pulp and paper industry. It is estimated, for instance, that 90 percent of new capacity in the global paper industry is being built in China.³ Industry analysts expect that China's small mills will gradually be displaced,⁴ and that Chinese paper imports will decline⁵ as larger, more modern mills are constructed.⁶ In 2002, China produced 11 million metric tons of printing and writing paper of the kind typically used to manufacture CLPSS, having increased production of such paper by over 9 million metric tons in the previous 10 years.⁷

Because China's domestic supply of wood pulp is limited, nonwood fiber (e.g., reed, straw, bagasse, and bamboo) has traditionally been an important raw material⁸ although it has declined as a percentage of total consumption.⁹ The country has seen steadily increasing imports of waste paper,¹⁰ which in 2004 accounted for 52 percent of total pulp consumption.¹¹ Market pulp is a globally traded

¹ Rodden, Graeme, "Chinese Board Set to Boom," *Pulp & Paper International*, Vol. 45, No. 7 (July 2003), p. 30.

² Rooks, Alan, "China: Beyond the Boom," *Tappi and Pima Solutions*, Vol. 88, No. 9 (September 2005), p. 26.

³ Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, No. 3 (March 2004), pp. 24-27.

⁴ Rodden, Graeme, "Chinese Board Set to Boom," *Pulp & Paper International*, Vol. 45, No. 7 (July 2003), p. 30.

⁵ Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, No. 3 (March 2004), pp. 24-27.

⁶ Kelly, Joe, "China: Massive Investment in Pipeline," *Pulp & Paper International*, Vol. 44, No. 7 (July 2002), p. 45.

⁷ 2003 PPI Annual Review, retrieved at www.paperloop.com (September 3, 2003) and "China: More Capacity Under Construction as New Lines Start Up," *Pulp & Paper International*, Vol. 36, No. 7 (July 1994), p. 62.

⁸ Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, No. 3 (March 2004), pp. 24-27.

⁹ Rooks, Alan, "China: Beyond the Boom," *Tappi and Pima Solutions*, Vol. 88, No. 9 (September 2005), p. 26.

¹⁰ Kelly, Joe, "China: Massive Investment in Pipeline," *Pulp & Paper International*, Vol. 44, No. 7 (July 2002), p. 45.

¹¹ Rooks, Alan, "China: Beyond the Boom," *Tappi and Pima Solutions*, Vol. 88, No. 9 (September 2005), p. 26.

commodity which is readily available, but Chinese manufacturers are reportedly trying to reduce their dependence on imports by efforts to encourage and develop plantation forests.¹²

Chinese Producers' Capacity, Production, Shipments, and Inventories

Commission foreign producer/exporter questionnaires were sent to 20 firms identified in the petition as producers and/or exporters of merchandise subject to these investigations for which contact information was publicly available. Only three Chinese firms provided responses to the Commission's questionnaires in these final-phase investigations, compared to 18 in the preliminary phase. Data submitted by these three firms are presented in table VII-1.¹³

Table VII-1
CLPSS: Reported Chinese production, shipments, and inventories, 2003-05, and 2006-07 projections

* * * * *

As indicated in table VII-1, Chinese firms' reported capacity and production of CLPSS increased throughout the period examined. Capacity utilization ranged from *** to *** percent. Responding Chinese firms' capacity is projected to increase by *** percent between 2006 and 2007, while production is projected to decrease by *** percent.¹⁴ ***, the largest of the three responding Chinese firms (based on reported production), estimated that it accounted for *** percent of total production of subject merchandise in China in 2005, suggesting total Chinese production of CLPSS in 2005 in the range of 300 million to 400 million units. None of the three Chinese producers that responded to the Commission's questionnaires reported ***.

Exports accounted for *** percent of responding Chinese producers' total shipments in 2005, compared to *** percent in 2003. The share of reporting producers' shipments going into the home market is projected to increase between 2006 and 2007. Exports to the United States accounted for *** of responding producers' total shipments throughout the period examined, but are projected to decrease to *** percent of shipments in 2006 and 2007.

Respondents in these investigations argue that Chinese producers' capacity to produce subject merchandise will be constrained owing to an inadequate supply of paper due to the closure of mills, and to increasingly stringent Government of China environmental regulations.¹⁵ They further argue that shipments to the United States will be limited due to rising demand in the Chinese home market, diversification into third-country markets, and the quality demands of U.S. customers.¹⁶ Petitioner observes that Chinese production capacity continues to increase, notwithstanding the constraints

¹² Oinonen, Hannu and Nie Xiaorong, "Zhongzhu Group and YueYang Group: Building for the Future," *Tappi and Pima Solutions*, Vol. 87, No. 7 (July 2004), pp. 39-41; and Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, No. 3 (March 2004), pp. 24-27.

¹³ Questionnaire data in these final-phase investigations were submitted by ***. Firms not responding to the Commission's questionnaire in the final phase of these investigations accounted for *** percent of reported Chinese production of CLPSS in 2004 and *** percent of reported exports of CLPSS from China to the United States, based on data collected in the preliminary-phase investigations. ***, the largest producer of subject merchandise identified in the preliminary-phase investigations, did submit a questionnaire response in this final phase.

¹⁴ As indicated in table VII-1, one of the three responding Chinese firms did not submit 2006 and 2007 projections. Neither of the two remaining firms indicated the basis for their 2006-07 projections.

¹⁵ Target's posthearing brief, pp. 12-13; Target's prehearing brief, p. 21.

¹⁶ Target's posthearing brief, pp. 12-13.

identified by respondents, and argue that, absent relief, the United States will continue to be the predominant market for Chinese shipments.¹⁷

THE INDUSTRY IN INDIA

There are presently approximately 540 paper mills in India.¹⁸ In 2002, the last year for which specific data are available, India produced 2.0 million metric tons of uncoated printing and writing paper of the type used in the production of CLPSS.¹⁹ Reportedly, the primary end uses for printing and writing grade paper in India are in stationery, scholastic applications, and business/communications.²⁰

The Indian paper industry remains highly fragmented, with the top 10 producers accounting for just 40 percent of installed capacity.²¹ The majority of Indian paper companies are locally owned.²² Total paper production in India is expected to double in the next 10 years.²³ Several companies have recently announced new projects relating to the acquisition of new machines, upgrades, or conversions.²⁴

Indian Producers' Capacity, Production, Shipments, and Inventories

Commission questionnaires were sent to all 20 firms identified in the petition as producers and/or exporters of CLPSS in India. Only eight firms responded to the Commission's questionnaire (one of which reported that it had never exported merchandise to the United States), compared to 17 firms that responded in the preliminary phase.²⁵ Data for the seven firms that submitted completed questionnaire responses in this phase of the investigations are presented in table VII-2.²⁶ It is not known what percentage of CLPSS production in India, or exports of CLPSS from India, is accounted for by the seven responding firms.²⁷

¹⁷ Petitioner's posthearing brief, "Answers to Commissioner Questions," pp. 52-55.

¹⁸ *2003 PPI Annual Review*, retrieved at www.paperloop.com (September 3, 2003).

¹⁹ *Ibid.*

²⁰ "The Forecast for India: Continued Growth in Pulp and Paper," *Tappi and Pima Solutions*, Vol. 88, No. 1 (January 2005), p. 88.

²¹ *Ibid.* ***.

²² *Ibid.*

²³ "Metso Paper Establishes Sales Company in India," *2003 PPI Annual Review*, retrieved at www.paperloop.com (October 4, 2005).

²⁴ "The Forecast for India: Continued Growth in Pulp and Paper," *Tappi and Pima Solutions*, Vol. 88, No. 1 (January 2005), p. 88.

²⁵ Firms not responding to the Commission's questionnaire in these final phase investigations accounted for 53 percent of total reported Indian production of CLPSS in 2004 and *** percent of total reported exports of CLPSS to the United States, based on data collected in the preliminary-phase investigations. Among the firms not responding to the Commission's questionnaire in this final phase was ***.

²⁶ Foreign producer/exporter questionnaire data were submitted by ***. As indicated in Part I, ***.

²⁷ Most of responding Indian firms were not able to estimate their firm's share of total production or exports of CLPSS from India in 2005. One firm, ***, accounted for *** of Indian firms' total reported CLPSS capacity and production in 2005. According to its president, ***. On the basis of this estimate (and ***), Indian firms responding to the Commission's questionnaire account for *** percent of total CLPSS exports from India to the United States.

Table VII-2
CLPSS: Reported Indian production, shipments, and inventories, 2003-05, and 2006-07 projections

Item	Actual experience			Projections	
	2003	2004	2005	2006	2007
Quantity (1,000 pieces)					
Capacity	55,378	57,378	65,378	67,078	67,278
Production	56,198	39,164	50,893	47,450	54,335
Shipments:					
Internal consumption/transfers	***	***	***	***	***
Home market sales	16,727	15,489	18,139	24,201	29,550
Exports to--					
United States	30,742	26,337	22,308	12,800	14,000
All other markets	3,088	6,343	10,192	10,000	10,875
Total exports	33,830	32,680	32,500	22,800	24,875
Total shipments	***	***	***	***	***
End-of-period inventories	11,519	2,485	2,542	2,390	2,050
Ratios and shares (percent)					
Capacity utilization ¹	101.5	68.3	77.8	70.7	80.8
Share of shipments:					
Internal consumption/transfers	***	***	***	***	***
Home market sales	***	***	***	***	***
Exports to--					
United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	***	***	***	***	***
Inventories to production	20.5	6.3	5.0	5.0	3.8
Inventories to total shipments	***	***	***	***	***
¹ One Indian firm, ***, reported higher production than capacity in 2003 (capacity utilization for this firm was *** percent in 2003).					
Source: Compiled from data submitted in response to Commission questionnaires by seven firms in India.					

Based on the data in table VII-2, the production capacity of Indian producers of CLPSS increased by 18 percent during the period examined. Reported production of CLPSS fluctuated during this period, and was lower in 2005 than in 2003. Capacity utilization for responding Indian producers ranged from 68 to 102 percent.²⁸ Responding Indian firms' production quantity is projected to decrease between 2005 and 2006, then increase in 2007 to 7 percent above the 2005 level.²⁹ *** Indian producers responding to the Commission's questionnaires reported any plans to expand or curtail their capacity or production of CLPSS.

Exports accounted for approximately *** of responding Indian firms' total shipments throughout the period examined, with the United States accounting for the majority of exports. Exports to the United States decreased as a share of total shipments during the period examined, however.³⁰ Exports to the United States are projected to decrease further in 2006 and 2007.

THE INDUSTRY IN INDONESIA

There are currently 67 pulp and paper mills operating in Indonesia, a result of rapid industry expansion.³¹ In 2002, production of uncoated printing and writing paper in Indonesia totaled 3.0 million metric tons.³²

Indonesian Producer's Capacity, Production, Shipments, and Inventories

Commission foreign producer/exporter questionnaires were sent to three firms identified in the petition for these investigations as producers or exporters of subject merchandise in Indonesia. Only one firm, Tjiwi Kimia, provided data in response to the Commission's questionnaires. The company estimated that it accounted for *** percent of total production of CLPSS in Indonesia, and *** percent of exports of CLPSS from Indonesia to the United States in 2005.³³ Production, shipments, and inventory data for Indonesia, based on Tjiwi Kimia's questionnaire response, are presented in table VII-3.

Table VII-3
CLPSS: Reported Indonesian production, shipments, and inventories, 2003-05, and 2006-07 projections

* * * * * * *

As indicated in table VII-3, Tjiwi Kimia's capacity for production of CLPSS remained stable at approximately *** metric tons³⁴ throughout the period examined in these investigations. The firm's capacity ***. Tjiwi Kimia's capacity utilization during the period examined ranged from *** to ***

²⁸ As noted in table VII-2, one Indian firm reported higher production than capacity in 2003.

²⁹ Indian firms based their 2006-07 projections on past experience, current market trends (including reported growth of the home market), and the impact of these investigations. Indian firms' responses to the foreign producers'/exporters' questionnaire (supplemental responses).

³⁰ Indian firms most often identified *** as their principal other (non-U.S.) export market. Other markets identified included *** countries. Indian firms' responses to the foreign producers'/exporters' questionnaire, p. 6.

³¹ *Ibid.*, and "Indonesia: New Capacity Mushrooms to Meet Potential Growth," *Pulp & Paper International*, Vol. 36, No. 7 (July 1994), p. 67.

³² 2003 PPI Annual Review, retrieved at www.paperloop.com (September 3, 2003).

³³ In its prehearing brief (p. 34), counsel to Tjiwi Kimia identified the company as "the sole exporter to the United States of subject 'school' lined paper (CLPSS)."

³⁴ Tjiwi Kimia was not able to provide ***.

percent, and production exhibited a mixed pattern, decreasing by *** percent between 2003 and 2004, then increasing by *** percent between 2004 and 2005. The company projects ***.³⁵

Exports to the United States accounted for a *** of Tjiwi Kimia's total shipments between 2003 and 2004, and although shipments to the United States increased between 2004 and 2005, they remained below the 2003 level. Tjiwi Kimia's questionnaire response projected *** exports to the United States in 2006 and *** exports in 2007.³⁶ Based on the data in table VII-3, Tjiwi Kimia produces CLPSS ***; home market shipments accounted for *** percent of the company's total reported shipments throughout the period investigated.

According to Tjiwi Kimia's questionnaire response, CLPSS account for *** percent of the company's total sales. The company reported ***.³⁷

NONSUBJECT COUNTRIES

According to official import statistics, Canada is the largest nonsubject supplier of CLPSS to the United States by value, while Brazil is the largest nonsubject supplier in terms of quantity. Imports from these two countries, combined with imports from subject countries, accounted for over 80 percent of U.S. imports of CLPSS (by value) during the period examined in these investigations. Parties to these investigations were requested at the Commission's hearing to address the issue of CLPSS production capacity in nonsubject countries. Information submitted in response to this request is summarized below.

According to publicly available industry data, Brazil is the world's leading producer of bleached hardwood market pulp, and the world's eleventh largest producer of paper.³⁸ Information published by the Brazilian Pulp and Paper Association (Bracelpa) suggests Brazilian printing and writing paper production capacity of 2.481 million metric tons in 2005 (from 2.319 million in 2003), of which 922,000 metric tons (or 37 percent) is exported.³⁹ With respect to writing paper, *** estimates that Brazilian firms have the capacity to produce 205,000 metric tons of subject merchandise, of which 65,000 (or 32 percent) is available for export.⁴⁰ Evidence submitted by Petitioner suggests that Brazilian producers face significant capacity restraints and have "limited incentives" to export additional subject merchandise to the United States,⁴¹ while public information submitted by respondents suggests that certain of these

³⁵ Tjiwi Kimia's response to the foreign producers'/exporters' questionnaire (supplemental projections data).

³⁶ According to its response, Tjiwi Kimia ***. Were the investigations to result in negative determinations, Tjiwi Kimia reports that "****." Tjiwi Kimia's response to the foreign producers'/exporters' questionnaire (supplemental projections data); Tjiwi Kimia's interim-periods data submission, July 31, 2006.

³⁷ Tjiwi Kimia's response to the foreign producers'/exporters' questionnaire, p. 3.

³⁸ Brazilian Pulp and Paper Association (Bracelpa) Annual Report, available at <http://www.bracelpa.org.br/en/anual/perfil2006.pdf> (retrieved on August 7, 2006). See also Target's posthearing brief, exh. 1, p. 18.

³⁹ Bracelpa statistics, available at: <http://www.bracelpa.org.br/en/numeros/papel/04ies.pdf> (retrieved on August 7, 2006). See also Staples' posthearing brief, exh. 6.

⁴⁰ Affidavit of ****, included at exh. 1 of Petitioner's posthearing brief.

⁴¹ Petitioner's posthearing brief, "Answers to Commissioner Questions," pp. 25-31 and exh. 4. In the affidavit of **** notes that pricing for subject merchandise is generally higher in Brazil than in the United States, that the Brazilian market demands products of a different size than those in the United States, and that—because of differences in school seasons—exports to the United States are not a primary focus of producers in Brazil. (****.) Ibid., exh. 4.

producers would expect to increase exports to the United States in the event of an affirmative determination in these investigations.⁴²

The record in these investigations with respect to producers in other nonsubject countries is limited. One respondent that addressed the issue noted that “Mexico has tremendous capacity, {and} there are many other countries with the machinery, know-how, and capacity to produce CLPSS.”⁴³ Petitioner, meanwhile, argues that producers in other nonsubject countries “face capacity limitations or are unable to price competitively with domestic producers.”⁴⁴ According to Petitioner, the industries in Canada and Mexico are both dominated by single firms. Petitioner estimates the export capacity for the main Mexican producer of LPP to be *** metric tons, and notes that the largest Canadian producer of LPP (a MeadWestvaco subsidiary) “is focused on the Canadian market.”⁴⁵ Petitioner contends that limited capacity in other nonsubject countries is exemplified by evidence on the record in these investigations illustrating U.S. producers’ and importers’ frustrated attempts to source subject merchandise from other nonsubject sources.⁴⁶

U.S. INVENTORIES OF SUBJECT IMPORTS

Table VII-4 presents U.S. inventories of subject imports, as reported by firms responding to the Commission’s importers’ questionnaire.

Table VII-4
CLPSS: U.S. importers’ end-of-period inventories, 2003-05

* * * * *

PRODUCT SHIFTING AND DUMPING IN THIRD-COUNTRY MARKETS

Two out of the three Chinese firms that responded to the Commission’s questionnaire reported that they manufacture other products on the equipment used in the production of subject merchandise. *** reported that CLPSS accounted for *** percent of its sales of products manufactured on equipment and machinery used in the production of CLPSS, while *** reported that CLPSS accounted for *** percent of its production on such equipment. *** Indian firms that provided data in response to the Commission’s questionnaire reported that they manufacture products other than CLPSS on the equipment used to produce subject merchandise. CLPSS’ share of total production on these machines ranged from *** to *** percent for these firms.⁴⁷ Indonesian producer Tjiwi Kimia reported that the machinery used in its production of CLPSS is ***.⁴⁸

Publicly available information indicates that Indonesian producers of CLPSS have previously been subject to trade remedy investigations in at least one other WTO member-country. In September 1996, the Canadian International Trade Tribunal (“CITT”) completed an antidumping investigation

⁴² CPP International and Firstline Canada’s posthearing brief, atch. 1; Staples’ posthearing brief, exh. 6; Target’s posthearing brief, exh. 3.

⁴³ Indian respondents’ posthearing brief, exh. 6, p. 5.

⁴⁴ Petitioner’s posthearing brief, “Answers to Commissioner Questions,” p. 21 and 32-34.

⁴⁵ Ibid., p. 32. See also hearing transcript, p. 379 (Price).

⁴⁶ Petitioner’s posthearing brief, “Answers to Commissioner Questions,” pp. 33-34 and exh. 6.

⁴⁷ Responses to the foreign producers’/exporters’ questionnaire, p. 4.

⁴⁸ According to Tjiwi Kimia’s questionnaire response, ***. Tjiwi Kimia’s response to the foreign producers’/exporters questionnaire, p. 4.

concerning “refill paper, also known as filler paper or looseleaf paper” originating in or exported from Indonesia, and “notebooks with a coiled or spiral binding” originating in or exported from Indonesia and Brazil.⁴⁹ The CITT determined that a domestic industry in Canada had not been materially injured, and was not threatened by material injury, as a result of exports subject to that investigation.⁵⁰

U.S. IMPORTS AFTER DECEMBER 31, 2005

Recipients of the Commission’s importers’ questionnaire were asked to provide information relating to their imports of CLPSS from subject countries that were delivered or scheduled for delivery after December 31, 2005. Nineteen out of the 37 firms that provided data in response to the Commission’s questionnaire, including ***, responded affirmatively. The aggregated quantity and value of these firms’ reported post-period-of-investigation imports are presented in table VII-5.

Table VII-5
CLPSS: Reported subject imports after December 31, 2005

Period	Quantity (1,000 pieces)	Value (\$1,000)
2006: January-March	35,840	14,456
April-June	24,146	15,083
July-September	2,408	1,016
October-December (or beyond)	0	0
Source: Compiled from data submitted in response to Commission questionnaires.		

⁴⁹ CITT Findings and Reasons, Inquiry No. NQ-96-001, September 27, 1996 (available at <http://www.citt-tcce.gc.ca/>).

⁵⁰ The CITT had previously made an affirmative injury finding, and imposed an antidumping duty order, with respect to refill paper originating in or exported from Brazil. CITT Findings and Reasons, Inquiry No. NQ-89-004, July 6, 1990. This order was continued once, in 1995, and expired without review in 1999. CITT Orders and Reasons, Expiry No. LE-99-005, November 16, 1999. See also NuCarta’s prehearing brief, pp. 12-13 and attch. 1.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**
**Investigation Nos. 701–TA–442–443
(Final) and 731–TA–1095–1097 (Final)
Certain Lined Paper School Supplies
From China, India, and Indonesia**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation Nos. 701–TA–442–443 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731–TA–1095–1097 (Final) under section 735(b) of the Act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports from India and Indonesia of certain lined paper school supplies, and by reason of any less-than-fair-value (“LTFV”) imports from China, India, and Indonesia of certain lined paper school supplies, as provided for in statistical reporting numbers 4820.10.2050, 4810.22.5044, and 4811.90.9090 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 27, 2006.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202–205–3176), 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

¹ The scope of the subject merchandise for purposes of these investigations is defined by the Department of Commerce in the notice of its preliminary LTFV determination for Indonesia. 71 FR 15162, March 27, 2006 (“Scope of Investigation”).

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. § 1671b) are being provided to manufacturers, producers, or exporters of certain lined paper school supplies in India and Indonesia, and that such products from Indonesia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b).² The investigations were requested in a petition filed on September 9, 2005, by MeadWestvaco Corp., Dayton, OH; Norcom, Inc., Norcross, GA; and Top Flight, Inc., Chattanooga, TN (collectively, the Association of American School Paper Suppliers).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission’s rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to

² The Department of Commerce has aligned its final countervailing duty determinations for India and Indonesia with its final antidumping determinations for these two countries, respectively (see 71 FR 11379, March 7, 2006). The Department is scheduled to make its preliminary antidumping determinations for China and India on April 7, 2006 (see 71 FR 13090, March 14, 2006). The Commission will conduct its final phase countervailing duty and antidumping investigations for China, India, and Indonesia concurrently.

section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 30, 2006, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on June 13, 2006, 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 June 7, 2006. 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 may be required to attend a prehearing conference to be held at 9:30 a.m. on June 9, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 6, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 20, 2006; witness testimony must be filed

no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before June 20, 2006. On July 7, 2006, 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 July 11, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 3, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-5101 Filed 4-06-06; 8:45 am]

BILLING CODE 7020-02-P

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0133 or (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Final Determination

The Department of Commerce (“the Department”) is postponing the final determination in the antidumping and countervailing duty investigations of certain lined paper products (“CLPP”) from Indonesia. On October 6, 2005, the Department initiated the antidumping duty investigation of CLPP from Indonesia. *See Initiation of Antidumping Duty Investigation: Certain Lined Paper Products from India, Indonesia, and the People’s Republic of China*, 70 FR 58374 (October 6, 2005). On October 7, 2005, the Department initiated the countervailing duty investigation of CLPP from Indonesia. *See Initiation of Countervailing Duty Investigation: Certain Lined Paper Products from India (C-533-844) and Indonesia (C- 560-819)*, 70 FR 58690 (October 7, 2005).

On February 13, 2006, the Department published its affirmative countervailing duty determination. *See Notice of Preliminary Affirmative Countervailing Duty Determination: Certain Lined Paper Products from Indonesia*, 71 FR 7524 (February 13, 2006). On February 17, 2006, Petitioner submitted a letter requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping investigation. On March 7, 2006, the Department published notification of alignment for the final determinations in the antidumping and countervailing duty investigations of CLPP from Indonesia. *See Certain Lined Paper Products From India and Indonesia: Alignment of First Countervailing Duty Determination With Antidumping Duty Determination*, 71 FR 11379 (March 7, 2006). On March 27, 2006, the Department published its affirmative preliminary antidumping duty determination. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia*, 71 FR 15162 (March 27, 2006). This notice states that the Department will issue its final determination no later than 75 days after the date of the preliminary determination.

Section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.210(b)(2)(ii) provide that a final determination in an antidumping duty investigation may be postponed until no later than 135 days after the date of the

DEPARTMENT OF COMMERCE

International Trade Administration

[A-560-818 and C-560-819]

Notice of Postponement of Final Determination of Antidumping and Countervailing Duty Investigations and Extension of Provisional Measures: Certain Lined Paper Products from Indonesia

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

EFFECTIVE DATE: May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Damian Felton or Brandon Farlander,

publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Additionally, the Department's regulations, at 19 CFR 351.210(e)(2)(ii), require that requests by a respondent for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On April 24, 2006, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), PT. Pabrik Kertas Tjiwi Kimia Tbk., which is the only mandatory respondent in the antidumping investigation and which accounts for a significant portion of exports of CLPP from Indonesia (see the Memorandum from Natalie Kempkey to Susan Kuhbach entitled "Antidumping Investigation of Certain Lined Paper Products from Indonesia: Selection of Respondents"), requested that the Department: (1) Postpone the final determination; and (2) extend the provisional measures period from four months to a period not longer than six months. Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise in this investigation; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (i.e., until no later than August 9, 2006). Suspension of liquidation will be extended accordingly.

In addition, because the countervailing duty investigation of CLPP from Indonesia has been aligned with the concurrent antidumping duty investigation under section 705(a)(1) of the Act, the time limit for completion of the final determination in the countervailing duty investigation will be the same date, August 9, 2006, as the final determination of the concurrent antidumping duty investigation. See *Postponement of Final Determination of Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel From Brazil*, 64 FR 24321 (May 6, 1999).

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: May 3, 2006.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E6-7041 Filed 5-8-06; 8:45 am]

BILLING CODE 3510-DS-S

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-442-443 and
731-TA-1095-1097 (Final)]

**Certain Lined Paper School Supplies
From China, India, and Indonesia**

AGENCY: United States International
Trade Commission.

ACTION: Revised schedule for the subject
investigations.

DATES: *Effective Date:* May 22, 2006.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On March 27, 2006, the Commission established a schedule for the conduct of the final phase of the subject investigations (71 FR 17914, April 7, 2006). Subsequently, the Department of Commerce extended the date for its final determinations with respect to Indonesia from June 5, 2006 to August 9, 2006 (71 FR 26925, May 9, 2006). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 14, 2006; the prehearing conference, if necessary, will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 18, 2006; the prehearing staff report will be placed in the nonpublic record on June 27, 2006; the deadline for filing prehearing briefs is July 12, 2006; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 25, 2006; the deadline for filing posthearing briefs is August 2, 2006; the Commission will make its final release of information on August 25, 2006; and final party comments are due on August 29, 2006.¹

For further information concerning these investigations 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 investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published

pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 23, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-8194 Filed 5-26-06; 8:45 am]

BILLING CODE 7020-02-P

¹ Parties will be permitted to submit additional comments of no more than five double-spaced pages on August 31, 2006 pertaining only to the results of Commerce's final less-than-fair-value determination with respect to China.

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-533-843)

Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India

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

EFFECTIVE DATE: August 8, 2006.

SUMMARY: We determine that imports of certain lined paper products ("CLPP") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice. Moreover, we determine that critical circumstances do not exist with regard to exports of CLPP from India. See the "Critical Circumstances" section below.

FOR FURTHER INFORMATION CONTACT:

Christopher Hargett, or Joy Zhang, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4161 or (202) 482-1168, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On April 17, 2006, the Department of Commerce ("the Department") published the preliminary determination of sales at LTFV in the antidumping investigation of CLPP from India. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products from India*, 71 FR 19706 (April 17, 2006) ("*Preliminary Determination*"). From May 19 through May 26, 2006, we verified the sales and cost questionnaire responses of Kejriwal Paper Ltd. ("Kejriwal"). We requested that parties comment on the *Preliminary Determination*.

We received comments from petitioner¹ and each of the respondents, Aero Exports ("Aero"), Kejriwal, and Navneet Publications (India) Ltd.

¹ The petitioner in this investigation is the Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation, Norcom, Inc., and Top Flight, Inc.) ("petitioner").

("Navneet"). On May 17, 2006, respondents, Aero, Kejriwal, and Navneet, requested a hearing to discuss issues addressed by the interested parties in their case or rebuttal briefs. The Department held the hearing on July 6, 2006. We did not receive any comments regarding the scope of the investigation.

Period of Investigation

The period of investigation is July 1, 2004, through June 30, 2005.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated July 31, 2006 ("Issues and Decision Memorandum"), which is adopted by this notice. A list of issues that parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix II. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit ("CRU"), room B-099 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the world wide web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For scope information, see Appendix I.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for the only company for which we are calculating a margin, Kejriwal. For a discussion of these changes, see the "Analysis Memorandum for Kejriwal Paper" from Christopher Hargett, International Trade Compliance Analyst, to James Terpstra, Program Manager, Office of AD/CVD Operations, Office 3, dated July 31, 2006.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by Kejriwal for

use in our final determination from May 19 through May 26, 2006. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the respondent.

Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we continue to base Kejriwal's normal value ("NV") on constructed value ("CV"). In accordance with section 773(e) of the Act, we calculated CV based on the sum of Kejriwal's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses ("SG&A"), profit, and packing costs for exportation to the United States. For changes made to Kejriwal's CV since the preliminary determination, see the "Constructed Value Calculation Adjustments for the Final Determination - Kejriwal Paper Limited" memorandum from Laurens van Houten, Senior Accountant, through Peter S. Scholl, Lead Accountant, to Neal M. Halper, Director, Office of Accounting, dated July 31, 2006.

Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it

acted to the best of its ability; and (5) the information can be used without undue difficulties.

As discussed in the *Preliminary Determination*, the cost of production (“COP”) questionnaire responses submitted by Aero and Navneet were not useable for purposes of calculating accurate LTFV margins. Since the issuance of the initial questionnaire to Aero and Navneet, the Department granted both parties numerous extensions up to and including the submission of the third supplemental questionnaire responses, which were received on March 29, 2006. Over a five-month period, the Department carefully and repeatedly identified the numerous significant deficiencies and errors where we needed more complete information in order to understand the reported information. Throughout this process, there was a consistent pattern of non-responsiveness and confusing, incomplete, and inconsistent information provided by Aero and Navneet.

As discussed in the *Preliminary Determination*, the Department provided several opportunities for Aero to submit information critical to the Department’s analysis, and the Department extended deadlines to allow Aero the time to respond completely to the Department’s questionnaire and supplemental questionnaires. The Department issued three sets of supplemental questionnaires, repeatedly asking the same detailed questions that remained unanswered from the previous supplemental questionnaire. After the issuance of the three supplemental questionnaires, the Department is left with critical information absent from the record. In addition, questions still remain unanswered as to the accuracy and reliability of the reported cost information. Because Aero withheld requested information, failed to provide such information by the deadlines in the form and manner required, impeded this investigation, and reported information that could not be verified, the Department may resort to facts otherwise available, in reaching its final determination, pursuant to sections 776(a)(2)(A),(B),(C) and (D) of the Act. Due to the fact that most of the reasons regarding the use of facts available for Aero are considered business proprietary information, please see the Memorandum from Sheikh M. Hannan to Neal Halper entitled “Use of Adverse Facts Available for the Final Determination – Aero Exports,” dated July 31, 2006, on file in the CRU.

As discussed in the *Preliminary Determination*, Navneet failed to provide: 1) various reconciliation

schedules (*i.e.*, the overall cost reconciliation, the overall quantity reconciliation, and the overall purchased paper reconciliation) and explanations of reconciling amounts; 2) a consistent explanation for its product cost calculation methodology that demonstrates the link between its reported costs and its normal books and records; and 3) complete supporting documentation for the matching product control number (“CONNUM”) cost build-up schedules. Without this information, the Department is unable to determine whether Navneet accounted for all its production costs relating to the merchandise under investigation. Therefore, the Department was unable to rely on Navneet’s submitted costs. Moreover, based on the statements made by Navneet and the exhibits provided in its questionnaire responses, it is apparent that Navneet departed from the product costs recorded in its normal books and records when calculating its reported product costs to the Department. Thus, the costs the Department should be using, the per-unit costs from its normal books and records, are not on the record of this proceeding. Section 773(f)(1)(A) of the Act requires that companies normally use their normal books and records in reporting costs for an antidumping investigation. Finally, we note that Navneet failed to provide the POI job order worksheet reconciliation, which the Department requested to determine whether Navneet relied on its normal books and records and whether its reported costs reconciled to those records. See the Issues and Decisions Memorandum, at Comment 14.

As a result of the numerous, serious deficiencies, we were unable to adequately determine whether the cost information contained in Aero and Navneet’s responses reasonably and accurately reflects the costs incurred by these companies to produce the subject merchandise. Without this information, we cannot accurately calculate LTFV margins for these companies.

Therefore we continue to find that, by failing to provide the required information in the manner requested, Aero and Navneet did not act to the best of their ability. Consequently, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. Thus, the Department finds that the use of adverse facts available (“AFA”) is warranted under section 776(a)(2) of the Act.

Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent

practicable, secondary information used as facts available. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See 19 CFR 351.308(c) and (d); see also the Statement of Administrative Action (SAA) at 870.

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. In order to determine the probative value of the margins in the petition for use as AFA for purposes of this final determination, we relied on our analysis from the preliminary determination. See *Preliminary Determination*, 71 FR at 19710. See also, “Preliminary Determination in the Antidumping Duty Investigation of Certain Lined Paper Products (“CLPP”) from India: Selection of Total Adverse Facts–Available Rate” from the Team to James Terpstra, Program Manager Office III, dated April 7, 2006. Based on this analysis, we determined that the price and cost information contained in the petition do not have probative value. Therefore, we have relied on the information reported by Kejriwal which has probative value, as confirmed by verification. Accordingly, we find that the second highest individual margin calculated in this proceeding based on the data reported by a respondent, Kejriwal, in this investigation, 23.17 percent, is corroborated within the meaning of section 776(c) of the Act. See Issues and Decision Memorandum, at Comment 15.

All Others Rate

Section 735(c)(5)(A) of the Act provides that, the estimated “All Others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Kejriwal is the only respondent in this investigation for

which the Department has calculated a company-specific rate. Therefore, for purposes of determining the “All Others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Kejriwal, as referenced in the “Final Determination” section below.

Critical Circumstances

In our *Preliminary Determination*, we found that critical circumstances did not exist for Kejriwal or any company subject to the “All Others” rate. See *Preliminary Determination*, 71 FR at 19712. However, we found that critical circumstances did exist for Aero and Navneet. *Id.* We received no comments on our critical circumstances determination. Considering the changes made to Kejriwal’s margin calculation, we continue to find that critical circumstances do not exist for imports of subject merchandise for Kejriwal or any company subject to the “All Others” rate, as there is no evidence that importers knew, or should have known, that the exporter was selling subject merchandise at LTFV. See 735(a)(3)(A)(ii) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value, in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price sales, or 15 percent or more for constructed export price transactions, sufficient to impute knowledge of dumping. We find that critical circumstances does not exist for Kejriwal or any company subject to the “All Others” rate. In addition, we find that critical circumstances does not exist for both Aero and Navneet, because the assigned AFA rate of 23.17 percent is less than the 25 percent sufficient to impute knowledge of dumping. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (April 16, 2004).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after April 17, 2006,

the date of publication of the preliminary determination in the **Federal Register**. Because we did not find critical circumstances in this final determination, we will instruct CBP to terminate suspension of liquidation, and release any cash deposits or bonds, on imports during the 90 day period prior to the date of publication of the *Preliminary Determination*. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination

We determine that the following weighted-average dumping margins exist for the period July 1, 2004, through June 30, 2005:

Manufacturer/Exporter	Weighted Average Margin (percent)
Aero Exports	23.17
Kejriwal Paper Limited ..	3.91
Navneet Publications (India) Ltd.	23.17
All Others	3.91

In accordance with section 735(c)(5)(A) of the Act, we have based the “All Others” rate on the weighted average of the dumping margins calculated for the exporter/manufacturer investigated in this proceeding. The “All Others” rate is calculated exclusive of all de minimis margins and margins based entirely on AFA.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder

to parties subject to administrative protective order (“APO”) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: July 31, 2006.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The scope of this investigation includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined

paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this investigation are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1” wide elastic fabric band. This band is located 2–3/8” from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or

used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope). Merchandise subject to this investigation is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States (“HTSUS”). During the investigation additional HTS codes may be identified. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation is dispositive.

Appendix II –

Issues and Decision Memorandum

- Comment 1: Calculation of CVD offset to the AD Cash Deposit Rate
- Comment 2: Financial Expense Ratio
- Comment 3: General and Administrative Expense Ratio
- Comment 4: Scrap Offset
- Comment 5: Depreciation Expense
- Comment 6: Kejriwal’s “Flexi Com Books” and “Personal Note Books”:
- Scope Issue
- Comment 7: Excise Tax Rebated and Duty Free Replenishment Certificates (“DFRC”)
- Comment 8: Kejriwal’s Packing Ministerial Error in Preliminary Determination

Comment 9: Kejriwal's Imputed U.S.
Credit Expense

Comment 10: Kejriwal's Minor
Correction Regarding USDUTYU Field

Comment 11: Decision not to Verify the
Sales and Critical Circumstances
Responses of Aero and Navneet

Comment 12: Decision not to Fully
Extend the Final Determination

Comment 13: Whether the Cost
Investigation was Unlawful and Not
Based on Substantial Evidence

Comment 14: Whether Adverse
Inferences were Warranted for Aero and
Navneet

Comment 15: Legality of Methodology
and Adverse Rates Applied to Aero and
Navneet

Comment 16: Treatment of Negative
Margins

[FR Doc. E6-12811 Filed 8-7-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE
International Trade Administration
 (C-533-844)

**Notice of Final Affirmative
 Countervailing Duty Determination and
 Final Negative Critical Circumstances
 Determination: Certain Lined Paper
 Products from India**

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

SUMMARY: We determine that countervailable subsidies are being provided to producers and exporters of certain lined paper products from India. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice. Moreover, we determine that critical circumstances do not exist with regard to exports of CLPP from India. See the "Critical Circumstances" section below.

EFFECTIVE DATE: August 8, 2006.

FOR FURTHER INFORMATION CONTACT:
 Robert Copyak, AC/CVD Operations,
 Office 3, Import Administration,
 International Trade Administration,
 U.S. Department of Commerce, Room
 4012, 14th Street and Constitution
 Avenue, N.W., Washington, D.C. 20230;
 Telephone: 202-482-2209.

SUPPLEMENTARY INFORMATION:
Background

This investigation covers 12 programs and the following manufacturer/exporters: Aero Exports (Aero), Kejriwal Exports, a division of Kejriwal Paper Limited (Kejriwal), and Navneet Publications India Ltd. (Navneet).

On February 15, 2006, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain lined paper products from India. See *Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 7196 (February 15, 2006) (*Preliminary Determination*).

We invited interested parties to comment on the *Preliminary Determination*. On June 14, 2006, we received comments from petitioners and

respondents.¹ On June 19, 2006, we received rebuttal comments from petitioners and respondents.

Period of Investigation

The period of investigation (POI) is April 1, 2004, through March 31, 2005.

Critical Circumstances

As explained in the *Preliminary Determination*, petitioners requested that, pursuant to 19 CFR 351.206, the Department make an expedited finding that critical circumstances exist with respect to imports of lined paper products from India. In the *Preliminary Determination*, we determined that critical circumstances did not exist. See *Preliminary Determination*, 71 FR at 7917. For purposes of this final determination, we continue to find that critical circumstances do not exist as petitioners' allegation does not provide a sufficient factual basis for making an affirmative finding. See Memorandum to Stephen J. Claey's, Deputy Assistant Secretary for Import Administration, from: Melissa G. Skinner, Director, Operations, Office 3: Final Negative Critical Circumstances Determination, (July 31, 2006) (publicly on file in the Central Records Unit (CRU), Room B-099 of the main building of the Commerce Department).

Scope of the Investigation

For scope information, see Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) dated July 31, 2006, which is hereby adopted by this notice. A list of issues that parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix II. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930

¹ Petitioners are the Association of American School Paper Suppliers.

(as amended) (the Act), we have calculated individual rates for the companies under investigation. For the

period April 1, 2004, through March 31, 2005, we determine the net subsidy

rates for the investigated companies are as follows:

Producer/Exporter	Net Subsidy Rate
Aero Exports (Aero)	7.05 percent <i>ad valorem</i>
Kejriwal Exports, a division of Kejriwal Paper Limited (Kejriwal)	<i>de minimis</i>
Navneet Publications India Ltd. (Navneet)	10.24 percent <i>ad valorem</i>
All Others Rate	9.42 percent <i>ad valorem</i>

To calculate the "All Others" rate, we weight averaged the individual rates of Aero, Kejriwal, and Navneet by each company's respective sales of subject merchandise made to the United States during the POI, pursuant to section 705(c)(5)(A) of the Act.

In accordance with our preliminary affirmative determination, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain lined paper products from India, which were entered or withdrawn from warehouse, for consumption on or after February 15, 2006, the date of the publication of our *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the CBP to discontinue the suspension of liquidation for merchandise entered on or after June 15, 2006, but to continue the suspension of liquidation of entries made between February 15, 2006, and June 14, 2006.

With the exception of Kejriwal, we will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the International Trade Commission (ITC) issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. Because we have determined that Kejriwal's net subsidy rate is *de minimis*, we will direct CBP to terminate the suspension of liquidation for Kejriwal's shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 15, 2006, the publication date of the *Preliminary Determination*, and to release any bond or other security, and refund any cash deposit.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are

making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The scope of this investigation includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or

glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this investigation are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing

the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar® Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each

ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope). Merchandise subject to this investigation is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). During the investigation additional HTS codes may be identified. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation is dispositive.

Appendix II – Issues and Decision Memorandum

I. Summary

A. General Comments

Comment 1: Treatment of Contingent Liability Benefits Under the Export Promotion Capital Goods Scheme (EPCGS)

Comment 2: Valuation of DEPS Benefits

B. Navneet

Comment 3: Benchmark Used Under the EPCGS Program

Comment 4: Benchmark Used for Navneet Under the Pre-Shipment Export Financing Program

Comment 5: Navneet's Use of the 80 HHC Income Tax Exemption

Comment 6: Denominator Used to Calculate Navneet's Net Subsidy Rate Under the Pre-Shipment Export Financing Program

Comment 7: Denominator Used to Calculate Navneet's Net Subsidy Rate Under the Duty-Free Replenishment Certificate (DFRC) Scheme

C. Kejriwal

Comment 8: Benchmark Used to Calculate Countervailable Benefits Received by Kejriwal under the Post-Shipment Export Financing Program

Comment 9: Fulfillment of Export Obligation Under the EPCGS

D. Aero

Comment 10: Countervailability of the Advance License Program (ALP)

Comment 11: Program-Wide Changes With Respect to the ALP

Comment 12: Attribution of Subsidies
Aero Received under the Post-
Shipment Export Financing
Program

II. Subsidies Valuation Information

- A. Benchmark for Short-Term Loans
- B. Benchmark for Long-Term Loans
Issued

III. Critical Circumstances

IV. Analysis Of Programs

A. Programs Determined to Confer
Subsidies

1. *Pre- and Post-Shipment Export
Financing*
2. *Export Promotion Capital Goods
Scheme (EPCGS)*
3. *Duty Entitlement Passbook Scheme
(DEPS)*
4. *Duty Free Replenishment
Certificate (DFRC) Scheme*
5. *Advance License Program (ALP)*
6. *Income Tax Exemption Scheme
under 80HHC (80HHC)*

B. Programs Determined Not to be Used

1. Export Processing Zones (EPZ) and
Export Oriented Units (EOU)
2. Income Tax Exemption Scheme
(Sections 10A and 10B)
3. Market Development Assistance
(MDA)
4. Status Certificate Program
5. Market Access Initiative
6. State of Gujarat Sales Tax
Incentives
7. State of Maharashtra Sales Tax
Incentives

V. Total Ad Valorem Rates

VI. Analysis Of Comments

[FR Doc. E6-12809 Filed 8-7-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-560-818)

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia

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

SUMMARY: We determine that imports of certain lined paper products ("CLPP") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice. Moreover, we determine that critical circumstances exist with respect to PT. Pabrik Kertas Tjiwi Kimia Tbk ("TK"), but not with respect to all other Indonesian producer/exporters of CLPP from Indonesia. See the "Critical Circumstances" section below.

EFFECTIVE DATE: August 16, 2006.

FOR FURTHER INFORMATION CONTACT:

Brandon Farlander or Damian Felton, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0182 or (202) 482-0133, respectively.

SUPPLEMENTARY INFORMATION:**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). In addition, unless otherwise indicated, all citations to Department of Commerce ("the Department") regulations refer to the regulations codified at 19 CFR part 351 (2004).

Case History

The preliminary determination in this investigation was published on March 27, 2006. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia*, 71 FR 15162 (March 27, 2006) ("*Preliminary Determination*"). Since the publication of the *Preliminary Determination*, the following events have occurred.

On March 27, 2006, the respondent, TK submitted a letter alleging ministerial errors in the *Preliminary*

Determination. On April 20, 2006, the Department issued a memorandum extending the deadline for case briefs, hearing request, and rebuttal briefs from April 26, 2006, and May 1, 2006, respectively, to May 1, 2006 (by noon), and May 8, 2006, respectively. On April 21, 2006, petitioner¹ filed a letter responding to TK's ministerial errors letter. Also on April 21, 2006, the Department issued a memorandum finding that TK's March 27, 2006 allegation did not constitute a ministerial error.

On April 24, 2006, TK requested that the Department postpone the final determination for sixty days. On April 26, 2006, the Department issued a letter responding to letters submitted by TK to the Department on March 22 and 27, 2006. The Department informed TK that the Department remained confident in the integrity of the administrative protective order ("APO") procedures. On May 1, 2006, TK submitted its case brief and submitted a request for a hearing. Also on May 1, 2006, the Department issued a memorandum describing the Assistant Secretary for Import Administration's tour of a petitioner's facility. On May 5, 2006, TK submitted a letter stating its dissatisfaction with the Department's April 26, 2006, letter.

On May 8, 2006 (officially received on May 9, 2006), petitioner submitted the final business proprietary version of the rebuttal brief for the antidumping duty investigation. On May 9, 2006, the Department issued a memorandum describing an *ex parte* meeting between the Assistant Secretary for Import Administration and the Government of Indonesia ("GOI") and TK for both the antidumping and countervailing duty investigations. Also on May 9, 2006, TK withdrew its May 1, 2006, request for a hearing in the antidumping duty investigation. Finally, on May 9, 2006, the Department published notification of the postponement of the final determination until no later than 135 days after the publication of the *Preliminary Determination*, (*i.e.*, August 9, 2006).

Period of Investigation

The period of investigation ("POI") is July 1, 2004, through June 30, 2005.

Scope of Investigation

The scope of this investigation includes certain lined paper products, typically school supplies (for purposes

¹ The petitioner in this investigation is the Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation; Norcom, Inc.; and Top Flight, Inc.) ("petitioner").

of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this investigation are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product

must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar@Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar@Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each

ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this investigation is typically imported under headings 4820.10.2010, 4820.102020, 4820.10.2050, 4810.22.5044, 4811.90.9090 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation is dispositive.

Scope Comments

Prior to the *Preliminary Determination*, Continental Accessory Corporation requested that "fashion stationery," a niche lined paper product, be excluded from the scope of the investigation. We preliminarily found that "fashion notebooks" fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that "fashion notebooks" fall within the scope of this investigation. Our analysis has not changed since our *Preliminary Determination*.

Facts Available

As stated in the *Preliminary Determination*, section 776(a)(2) of the Act provides that, when a respondent withholds information requested by the Department, fails to provide such information by the deadlines requested, impedes the proceeding, or submits unverifiable information, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. TK withheld information that was requested by the Department, thereby significantly impeding the proceeding. Further, the information that was provided could not be verified, as required by section 782(i) of the Act because TK withdrew from active participation in the review. TK's withdrawal from active participation in the proceeding precluded the Department from verifying TK's information. The Department warned TK of the consequences for failure to respond. See *Withdrawal Conversation Memorandum*; and see second supplemental questionnaire for Section

D (January 26, 2006), and third supplemental questionnaire on sections A–C (February 3, 2006). Because the Department was unable to verify TK's information, we cannot use TK's response to calculate a margin. Accordingly, the Department is forced to utilize facts otherwise available. See *Issues and Decision Memorandum* for the Final Results of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia; from Stephen J. Claeys, to Joseph A. Spetrini, at Comment 1 (August 9, 2006) ("Issues and Decision Memo").

Application of Adverse Inferences for Facts Available

The use of an adverse inference pursuant to section 776(b) is warranted in this investigation because TK has not cooperated to the best of its ability as it willfully chose not to respond to the Department's supplemental questionnaires and withdrew from active participation in the investigation. The statute authorizes the Department to use adverse inferences when the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." See section 776(c) of the Act. Here, TK failed to cooperate to the best of its ability to comply with the Department's January 2006, and February 2006 requests for information. Moreover, TK's withdrawal from active participation in the proceeding precluded the Department from verifying TK's information. Accordingly, the Department is justified in utilizing an adverse inference in this proceeding.

We have assigned TK the highest margin stated in the notice of initiation. See *Initiation of Antidumping Duty Investigation: Certain Lined Paper Products from Indonesia*, 70 FR 58374 (October 6, 2005) ("*Initiation Notice*"). A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the *Preliminary Determination*. See *Preliminary Determination*, 71 FR at 15164–66.

Since the publication of the *Preliminary Determination*, interested parties have commented on our application of adverse facts available with respect to the LTFV determination. All AFA issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum*, which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the *Issues and*

Decision Memo is attached to this notice as an Appendix. The *Decision Memo* is a public document and is on file in the Central Records Unit, Main Commerce Building, Room B–099, and is accessible on the Web at <http://ia.ita.doc.gov/frn/index/html>. Accordingly, for the final determination, we continue to use the highest margin stated in *Initiation Notice* for TK. The "All Others" rate remains unchanged as well. See *Decision Memo* at Comments 1–11.

Final Critical Circumstances Determination

On November 28, 2005, the petitioner in this investigation submitted an allegation of critical circumstances with respect to imports of CLPP from Indonesia. On March 27, 2006, the Department published its *Preliminary Determination* that it had reason to believe or suspect critical circumstances exist with respect to imports of CLPP from Indonesia. See *Preliminary Determination*, 71 FR at 15166–67. We now find that critical circumstances exist for imports of CLPP from Indonesia. See *Issues and Decision Memo* at Comment 12.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of subject merchandise from Indonesia, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* for "all other" Indonesian exporters. For PT. Pabrik Kertas Tjiwi Kimia Tbk, the Department will direct CBP to continue to suspend liquidation of all entries of subject merchandise that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

We determine that the following dumping margins exist for the POI:

Manufacturer or Exporter	Margin (percent)
PT. Pabrik Kertas Tjiwi Kimia Tbk	118.63
All Others	97.85

**International Trade Commission
Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Indonesia are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 9, 2006.

Joseph A Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6-13470 Filed 8-15-06; 8:45 am]

BILLING CODE 3510-DS-S

“Suspension of Liquidation” section, below.

EFFECTIVE DATE: August 16, 2006.

FOR FURTHER INFORMATION CONTACT: David Layton or David Neubacher, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0371 or (202) 482-5823, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is the Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation; Norcom, Inc.; and Top Flight, Inc.) (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2004 through December 31, 2004.

Case History

The following events have occurred since the announcement of the preliminary

determination on February 7, 2006, and subsequent publication in the **Federal Register** on February 13, 2006. See *Notice of Preliminary Affirmative Countervailing Duty Determination: Certain Lined Paper Products from Indonesia*, 71 FR 7524 (February 13, 2006) (*Preliminary Determination*).

Prior to the *Preliminary Determination*, the petitioner submitted comments alleging that the Government of Indonesia (GOI) provided partial forgiveness of the debt owed by the Sinar Mas Group (SMG)/Asia Pulp & Paper (APP) to the Indonesian Bank Restructuring Agency (IBRA) and entrusted and directed creditors of APP to agree to a Master Restructuring Agreement (MRA), which resulted in preferential repayment terms and possible debt forgiveness. The Department did not include these alleged subsidies in its investigation. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *New Subsidy Allegation*, dated February 10, 2006, which is on file in the Department's Central Records Unit in Room B-099 of the main Department building (CRU).

Also on February 10, 2006,¹ PT. Pabrik Kertas Tjiwi Kimia Tbk (TK) submitted comments on the

¹ Per the Department's request, the submission was refiled on March 22, 2006.

Department's release of proprietary information to the counsel of an ineligible interested party and TK withdrew from the investigation as an active participant, but reserved its right as an interested party² to participate in briefings or hearings. The Department spoke with TK's counsel and confirmed the company would not answer further questionnaires and did not expect verification of its information on the record.³ Following TK's withdrawal from the investigation, TK and the GOI submitted further comments on the record concerning the Department's APO procedures. The petitioner submitted comments on TK's and the GOI's filings on April 21, 2006. We addressed TK's and the GOI's concerns in a letter to the parties on April 26, 2006.⁴

On February 15, 2006, TK submitted ministerial error allegations relating to the *Preliminary Determination*. We addressed these ministerial error allegations in an March 8, 2006 memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *Ministerial Error Allegations*, which is on file in the CRU.

We issued a supplemental questionnaire to the GOI on February 16, 2006. On February 24, 2006,⁵ the GOI submitted a letter to the Department in which it stated that it would not provide a response to the Department's questionnaire. The GOI reiterated TK's concerns over the Department's APO procedures (see above) and stated that the GOI would not respond to any request from the Department that would involve the release of proprietary information. However, the GOI did state that it would respond to any requests by the Department for “understanding Indonesian government laws and regulations and policies on the broader

² Upon learning of this possibility, we immediately contacted counsel for the company to determine its status on the case. The law firm promptly withdrew its application under the Administrative Protective Order (APO) in the cases involving Indonesia and certified destruction of all APO material it had received related to the Indonesia cases. This was done before February 10, 2006. The respondents did not express concern about any other party with APO access.

³ See Memorandum from Susan Kubbach, Director, to the File regarding Conversation with Counsel for PT. Pabrik Kertas Tjiwi Kimia Tbk.: Respondent's Withdrawal from Active Participation (March 17, 2006, replacing memo placed on the record on February 17, 2006).

⁴ See Letter from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration to Claire Reade, Arnold & Porter LLP regarding Countervailing Duty Investigation: Certain Lined Paper Products from Indonesia (April 26, 2006).

⁵ Per the Department's request, the submission was refiled on March 27, 2006.

DEPARTMENT OF COMMERCE

International Trade Administration

(C-560-819)

Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indonesia

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

SUMMARY: The Department of Commerce (Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of certain lined paper products (CLPP) from Indonesia. For information on the estimated countervailing duty rates, please see the

level.”⁶ On March 28, 2006, we sent a letter to the GOI requesting that it clarify statements in its March 27, 2006 letter and also reissued the February 16, 2006 supplemental questionnaire to the government. We received a response to our clarification letter and partial response to our February 16, 2006 supplemental questionnaire on April 7, 2006. As the GOI refused to provide a complete response to our questionnaire and refused to allow the Department to conduct a comprehensive verification of its information on the record, we did not conduct verification.⁷

On March 7, 2006, the Department published notification of alignment of the final determinations in the antidumping and countervailing duty investigations of CLPP from Indonesia. See *Certain Lined Paper Products From India and Indonesia: Alignment of First Countervailing Duty Determination With Antidumping Duty Determination*, 71 FR 11379 (March 7, 2006). The Department subsequently postponed the final determinations for the antidumping and countervailing investigations of CLPP from Indonesia. See *Notice of Postponement of Final Determination of Antidumping and Countervailing Duty Investigations and Extension of Provisional Measures: Certain Lined Paper Products from Indonesia*, 71 FR 26925 (May 9, 2006).

On March 30, 2006, the GOI requested that the Department provide clarification on its possible use of adverse facts available. We addressed the GOI's concerns in a letter to the GOI on April 5, 2006.⁸

On April 19, 2006, we issued a deadline for the receipt of factual information. The GOI, TK and the petitioner submitted factual information on April 24, 2006. The GOI and TK filed responses to the petitioner's factual information on April 26 and 28, 2006, respectively.

We received case briefs from the GOI, TK, and the petitioner on May 1, 2006. The same parties submitted rebuttal briefs on May 8, 2006. No public hearing was held.

On August 4, 2006, we placed publicly available data on the record of the investigation and requested comments from parties on the information. The petitioner, TK and the

GOI provided comments and rebuttal comments to the information on August 7 and 8, 2006, respectively.

Scope of the Investigation

The scope of this investigation includes certain lined paper products, typically school supplies,⁹ composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets,¹⁰ including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8–3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this petition whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this petition are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly

known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled,¹¹ measuring 6 inches by 9 inches;

Also excluded from the scope of these investigations are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™.¹²
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen).

¹¹ “Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.

¹² Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

⁶ See *id.* at 6.

⁷ See Memorandum from Constance Handley, Program Manager, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding Verification of Government of Indonesia Information (April 19, 2006).

⁸ See Letter from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration to Claire Reade, Arnold & Porter LLP regarding Countervailing Duty Investigation: Certain Lined Paper Products from Indonesia (April 5, 2006).

⁹ For purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic.

¹⁰ There shall be no minimum page requirement for looseleaf filler paper.

This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™.¹³

- **FiveStar®Advance™**: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2–3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™.¹⁴

- **FiveStar Flex™**: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3–ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During

construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.¹⁵

Merchandise subject to this investigation is typically imported under headings 4820.10.2010, 4820.102020, 4820.10.2050, 4810.22.5044, 4811.90.9090 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classifications are provided for convenience and U.S. Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

Scope Comments

On October 25, 2005, Continental Accessory Corporation (Continental) filed a request to exclude its fashion notebooks from the scope of the investigation of CLPP from India, Indonesia and the People's Republic of China. The petitioner submitted comments on Continental's request on November 16, 2005.

The Department has analyzed both parties' comments and denied Continental's request to have its fashion notebooks excluded from the scope of the investigation. See Memorandum from Damian Felton, International Trade Compliance Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding Scope Exclusion/Clarification Request: Continental Accessory Corporation, dated March 20, 2006, which is on file in the CRU.

Injury Test

Because Indonesia is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended, (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a U.S. industry. On October 31, 2005, the ITC published its preliminary determination that there is

a reasonable indication that an industry in the United States is materially injured by reason of imports from China, India, and Indonesia. See *Certain Lined Paper School Supplies From China, India and Indonesia*, 70 FR 62329 (October 31, 2005).

Critical Circumstances

In the *Preliminary Determination*, the Department preliminary determined that critical circumstances did not exist with respect to imports of CLPP from Indonesia, in accordance with 703(e)(1) of the Act, because there was no indication that the respondent in this investigation received subsidies inconsistent with the WTO Subsidies Agreement, *i.e.*, export subsidies.

Since the *Preliminary Determination*, the Department has not received or found additional information on the record that would contradict our preliminary decision that TK does not receive subsidies inconsistent with the WTO Subsidies Agreement. Therefore, in accordance with 705(a)(2) of the Act, we continue to find that critical circumstances do not exist with respect to imports of subject merchandise from Indonesia.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 9, 2006 (*Decision Memorandum*), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the company under investigation, TK. With respect to the "all others" rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and

¹³ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹⁴ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹⁵ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an "all others" rate for exporters and producers not individually investigated. In this case, although the rate for the only investigated company is based entirely on facts available under section 776 of the Act, there is no other information on the record upon which we could determine an "all others" rate. As a result, we have used the rate for TK as the "all others" rate.

Exporter/Manufacturer	Net Subsidy Rate
PT. Pabrik Kertas Tjiwi Kimia Tbk	40.55 percent
All Others	40.55 percent

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the CBP to suspend liquidation of all entries of certain lined paper products from Indonesia which were entered or withdrawn from warehouse, for consumption on or after February 13, 2006, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for subject merchandise for countervailing duty purposes entered on or after June 13, 2006, but to continue the suspension of liquidation of entries made from February 13, 2006, through June 12, 2006.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective

Order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 9, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Application of Adverse Facts Available

Comment 2: Attribution of Subsidies Received by Cross-owned Companies on Input Products

Comment 3: Are Subsidized Logs "Primarily Dedicated" to Certain Lined Paper Products?

Comment 4: Provision of Standing Timber at Preferential Rates

Comment 5: Government Ban on Log Exports

Comment 6: Subsidized Funding of Reforestation (Hutan Tanaman Industria (HTI) Program)

Comment 7: Loan Guarantee

Comment 8: Calculation of Subsidy Denominator

[FR Doc. E6-13472 Filed 8-15-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE
International Trade Administration

[A-570-901]

Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China

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

DATES: *Effective Date:* September 8, 2006.

SUMMARY: We determine that imports of certain lined paper products ("CLPP") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice. Moreover, we determine that critical circumstances exist with regard to certain imports of CLPP from the PRC. See the "Critical Circumstances" section below.

FOR FURTHER INFORMATION CONTACT: Marin Weaver or Frances Veith, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2336 or 482-4295, respectively.

SUPPLEMENTARY INFORMATION:**Case History**

On April 17, 2006, the Department published in the **Federal Register** ("FR") the preliminary determination that CLPP from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Act, covering three exporters and producers as mandatory respondents ¹

¹ (1) Watanabe Paper Product (Shanghai) Co., Ltd. ("Watanabe Shanghai"); Hotrock Stationery (Shenzhen) Co. ("Watanabe Shenzhen"); and

and 27 separate-rate respondents.² See *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*. 71 FR 16965 (April 17, 2006) ("Preliminary Determination"). Since the publication of the *Preliminary Determination* the following events have occurred.

On April 13, 2006, we sent a separate-rate verification agenda to separate-rate applicants, Planet International. On April 18, 2006, Planet International notified the Department of its withdrawal from the verification. On May 4, 2006, we sent a separate-rate verification agenda to a separate-rate applicant, Lansheng, and on May 8, 2006, it notified the Department of its withdrawal from the verification. From May 8 through 18, 2006, the Department conducted a sales verification of Lian Li and a factors verification of its unaffiliated producers Shanghai Sentian Paper Products Co., Ltd. ("Sentian"),

Watanabe Paper Product (Linqing) Co., Ltd. ("Watanabe Linqing"), collectively (the "Watanabe Group"); (2) Atico International (HK) Ltd. & Atico Overseas Ltd. (collectively "Atico"); and (3) Shanghai Lian Li Paper Products Co., Ltd. ("Lian Li"). On January 26, 2006, Atico submitted a letter informing the Department that it was unable to participate further in this investigation. As in the *Preliminary Determination*, we find that Atico does not merit a separate rate and will be subject to the PRC-wide entity. See *The PRC-Wide Rate and Use of Adverse Facts Available* section for further discussion.

² Anhui Light Industries International Co., Ltd. ("Anhui Light"), Changshu Changjiang Printing Co., Ltd. ("Changjiang"), Chinapack Ningbo Paper Products Co., Ltd. ("Chinapack"), Dongguan Yizhi Gao Paper Products Ltd. ("Yizhi Gao"), Essential Industries Limited ("Essential"), Fujian Hengda Group Co., Ltd. ("Hengda"), Haijing Stationery (Shanghai) Co., Ltd. ("Haijing"), Excel Sheen Limited ("Excel"), Maxleaf Stationery Ltd. ("Maxleaf"), Jiaxing Te Gao Te Paper Products Co., Ltd. ("Te Gao Te"), Linqing Silver Star Paper Products Co., Ltd. ("Linqing Silver"), MGA Entertainment (H.K.) Limited ("MGA"), Ningbo Guangbo Imports and Exports Co. Ltd. ("Ningbo"), Orient International Holding Shanghai Foreign Trade Co., Ltd. ("Orient"), Paperline Limited ("Paperline"), Planet (Hong Kong) International Company Ltd. ("Planet HK"), Planet International Company Ltd. ("Planet"), Shanghai Pudong Wenbao Paper Products Factory ("Wenbao Paper"), Shanghai Foreign Trade Enterprise Co., Ltd. ("SFTE"), Sunshine International Group (HK) Ltd. ("Sunshine"), Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd. ("Suzhou"), Suzhou Industrial Park You-You Trading Co., Ltd. ("You You Trading"), Wah Kin Stationery and Paper Product Limited ("Wah Kin"), and Yalong Paper Products (Kunshan) Co., Ltd. ("Yalong"), Shanghai Lansheng Stationery & Sporting Goods Import & Export Co., Ltd. ("Lansheng"), Yantai License Printing & Making Co., Ltd. ("Yantai"), You-You Paper Products (Suzhou) Co., Ltd. ("You-You"), Paperline Limited ("Paperline"), and Shanghai Pudong Wenbao Paper Products Factory ("Wenbao Paper"). Also, Paperline and Wenbao Paper are collectively known as "Wenbao" and Planet and Planet Hong Kong are collectively known as "Planet International".

and Shanghai Miaopanfang Paper Products Co., Ltd. ("MPF"). From May 29 through June 9, 2006, the Department conducted a sales and factors verification of Watanabe Linqing and Watanabe Shenzhen. See "Verification" Section below for additional information.

On June 1, 2006, the Department published in the FR the notice of amended preliminary determination to correct a ministerial error discovered with respect to the antidumping duty margin calculation for Lian Li, which also affected all companies for which the Department granted separate-rate status. We also preliminarily granted separate-rate status for You-You. See *Notice of Amended Preliminary Determination of Sales at Less than Fair Value: Certain Lined Paper Products from the People's Republic of China*, 71 FR 31159 (June 1, 2006) ("Amended Preliminary Determination").

On June 13, 2006, Watanabe, Lian Li, and Petitioner³ filed surrogate value information. On June 23, 2006, Petitioner filed a rebuttal surrogate value submission.

We invited parties to comment on our *Preliminary Determination* and verification reports. Case briefs were filed with the Department on July 28, 2006, by Excel, a separate-rate respondent; on July 31, 2006, by the Watanabe Group, Lian Li, and by separate-rate respondents MGA, Maxleaf, Te Gao Te, and Wenbao; and on August 1, 2006, by Petitioner.⁴ On August 7, 2006, Watanabe and Lian Li filed rebuttal briefs responding to issues raised in the case briefs. On August 8, 2006, Petitioner filed a rebuttal brief.⁵ On August 9, 2006, we rejected Petitioner's rebuttal brief because it contained argument that did not constitute a rebuttal. (On August 10, 2006, Petitioner timely refiled its redacted rebuttal brief.) On August 9, 2006, Petitioner filed a rebuttal brief commenting only on issues raised in Maxleaf's brief.⁶

Period of Investigation

The period of investigation is January 1, 2005, through June 30, 2005.

³ The Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation; Norcom, Inc.; and Top Flight, Inc.).

⁴ This case brief was timely because one copy was originally filed on July 31, 2006, as "bracketing not final."

⁵ This rebuttal brief was timely because one copy was originally filed on August 7, 2006, as "bracketing not final."

⁶ On August 4, 2006, we extended the time in which to file rebuttal to the briefs filed by Maxleaf and MGA due to a delay in the receipt of these briefs by the other parties.

Non-Market Economy Status of the PRC

On December 22, 2005, the Watanabe Group submitted a request that the Department reevaluate the PRC's status as a non-market economy (NME) country under the U.S. antidumping law. On February 2, 2006, the Department received a submission from the PRC Ministry of Commerce ("MOFCOM") expressing support for the Watanabe Group's request.

The Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006); and *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005). A designation as an NME country remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Act.

The Department issued a memorandum to the file on May 15, 2006, determining that the Department shall continue to treat the PRC as an NME for purposes of the U.S. antidumping law. In the May 15 memorandum, the Department focused mainly on distortions in the banking sector. However, the Department also stated in that memorandum that it would issue a follow-up analysis concerning all six statutory factors that govern NME-country designation. Accordingly, the Department issued a memorandum to the file on August 30, 2006, providing the full underlying analysis of the May 15 decision to continue the PRC's NME designation.

Scope of Investigation⁷

The scope of this investigation includes certain lined paper products, typically school supplies,⁸ composed of or including paper that incorporates straight horizontal and/or vertical lines

⁷ The Department has received several requests for scope clarifications from SchoolMax LLC, GEM Group Incorporated, Avenues in Leather, Inc., and ACCO Brands Corporation. The department has not addressed these requests in this final determination. However, the Department will consider the issues raised in these requests as scope requests in the event this proceeding goes to order.

⁸ For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.

on ten or more paper sheets,⁹ including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise, is within the scope of this petition whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this investigation are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;

⁹ There shall be no minimum page requirement for looseleaf filler paper.

- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;

- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and

organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);

- Telephone logs;
- Address books;

- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;

- Lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;

- Lined continuous computer paper;
- Boxed or packaged writing

stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;

- Stenographic pads (“steno pads”), Gregg ruled,¹⁰ measuring 6 inches by 9 inches; Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™¹¹

- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™¹²

- FiveStar® Advance™: A notebook or notebook organizer bound by a

continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is caputred both ends of a 1” wide elastic fabric band. This band is located 2³/₈” from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™.¹³

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically

positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.¹⁴

Merchandise subject to this proceeding is typically imported under headings 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2050, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS).¹⁵ The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by two mandatory respondents: The Watanabe Group and Lian Li and two of Lian Li’s suppliers, Sentian and MPF, for use in our final determination. See the Department’s verification reports on the record of this investigation in the Central Records Unit (“CRU”), Room B-099 of the main Commerce Department building. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this investigation are addressed in the Issues and Decision Memorandum, dated August 30, 2006 (“Issues and Decision Memo”), which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the Issues and Decision Memo is attached to this notice as an Appendix. The Issues and Decision Memo is a public document which is on file in CRU in room B-099 in the main Department building, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Critical Circumstances

On November 29, 2005, Petitioner alleged that there was a reasonable basis to believe or suspect critical circumstances existed with respect to the antidumping investigation of CLPP from the PRC. In the *Preliminary Determination*, the Department found that critical circumstances existed for imports of CLPP from Changjiang,

¹⁴ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹⁵ During the investigation additional HTSUS headings were identified.

¹⁰ “Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.

¹¹ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹² Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹³ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

Hengda, Linqing Silver, SFTE, Wenbao Paper, Paperline, Wah Kin, and the PRC-wide entity. In addition, we found that critical circumstances did not exist for Anhui Light, Chinapack, Essential Industries Limited, Excel, Haijing, Te Gao Te, Lian Li, MGA, Ningbo, Orient, Planet International, Sunshine, Suzhou, You-You Trading, the Watanabe Group, and Yalong. See Memorandum to Stephen Claeys from Juanita Chen through Robert Bolling and Wendy Frankel: Lined Paper Products from the People's Republic of China: Preliminary Determination of Critical Circumstances, dated April 7, 2006 ("Prelim Critical Circumstances Memo").

Section 735(a)(3) of the Act provides that if the final determination of the Department is affirmative, then that finding shall also include a finding of whether: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales; and (B) There have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that in general, an increase in imports of at least 15 percent during the "relatively short period" over the imports during an immediately preceding period of comparable duration may be considered "massive."

Based on the changes made to both the comparison and base periods and as discussed further in the Issues and Decision Memo at Comment 26, the Department has re-examined its preliminary critical circumstances finding. For the final determination, we find critical circumstances exist for Changjiang, Hengda, Linqing Silver, SFTE, Wah Kin, Maxleaf, MGA, Yantai, and the PRC-wide entity. In addition, we find critical circumstances do not exist for Anhui Light, Chinapack, Essential, Excel, Haijing, Te Gao Te, Lian Li, Ningbo, Orient, Sunshine, Suzhou, You-You Trading, the Watanabe Group, Yalong, You-You,

Wenbao Paper, and Paperline. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary, through Wendy J. Frankel, Office Director, from Charles Riggle, Program Manager: Lined Paper Products from the People's Republic of China: Final Determination of Critical Circumstances, dated August 30, 2006.

Surrogate Country

In the Preliminary Determination, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (A) India is at a level of economic development comparable to that of the PRC, and (B) India is a significant producer of comparable merchandise. Furthermore, we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination* at 19699, 19700. For the final determination, we made no changes to our findings with respect to the selection of a surrogate country.

Affiliation

In the Preliminary Determination, based on the evidence on the record, we preliminarily found that members of the Watanabe Group are affiliated pursuant to section 771(33) of the Act. We are also treating them as a single entity for purposes of this investigation. See Memorandum to Wendy Frankel, Director, from Charles Riggle, Program Manager: Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China: Affiliation and Treatment of the Watanabe Group as a Single Entity, dated April 7, 2006. Since the *Preliminary Determination*, the Department has found no information that would rebut this determination. Therefore, the Department continues to find that members of the Watanabe Group are affiliated, pursuant to section 771(33) of the Act, for this final determination.

Separate Rates

Since the *Preliminary Determination* and the *Amended Preliminary Determination*, the Department has received additional information from Yantai, Maxleaf, and Excel, allowing the Department to determine these companies' eligibility for separate-rate status. Therefore, for purposes of this final determination, the Department is granting separate-rate status to the following companies: the Watanabe Group, Lian Li, Anhui Light, Changjiang, Chinapack, Essential, Excel, Hengda, Haijing, Te Gao Te, Linqing Silver, Maxleaf, MGA, Ningbo, Orient,

Paperline, Wenbao Paper, SFTE, Sunshine, Suzhou, You-You, You-You Trading, Wah Kin, Yalong, and Yantai. In addition, the Department attempted to conduct verifications of two separate-rate applicants, (i) Lansheng and (ii) Planet International,¹⁶ both of whom withdrew from participating in verification.¹⁷ For further discussion of these changes in separate rates, see Final Determination Separate Rates Memorandum: Certain Lined Paper Products from the People's Republic of China, dated August 30, 2006. Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., Final Determination of Sales at Less Than Fair Value: *Synthetic Indigo from the People's Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

Changes Since the Preliminary Determination

We have made the following changes since the *Preliminary Determination*:

Changes That Affect Both the Watanabe Group and Lian Li

- Where we used domestic prices as surrogate values we based freight for inputs on the actual distance from the input supplier to the site at which the input was used. See Issues and Decision Memo at Comment 2.
- We have used the year-ended March 31, 2005, financial statements of Sundaram Multi Pap Ltd. and Shiv Ganga Paper Converters Pvt. Ltd. to value factory overhead, selling, general and administrative expenses, and profit. See Issues and Decision Memo at Comment 1.

Changes for the Watanabe Group

- Based on the information in Watanabe Linqing's minor corrections at verification, we have recalculated the

¹⁶ The Department sent a verification agenda to Planet International.

¹⁷ Therefore, neither of these entities has demonstrated its eligibility for separate-rate status. Accordingly, Lansheng and Planet International will be considered part of the PRC-wide entity for purposes of this final determination.

zinc wire usage rates for the necessary control numbers ("CONNUM"s) and valued this input with Indian Harmonized Tarrif Schedule number 7217.20.00.¹⁸ See the Watanabe Group's May 31, 2006, submission ("Watanabe Linqing Minor Corrections").

- We determined that Watanabe Linqing had unreported U.S. sales. See Decision Memo at Comment 8. We have assigned as adverse facts available ("AFA") to the Watanabe Group the initiation rate of 258.21 percent for those unreported sales.

- Based on verification findings, we are not granting the Watanabe Group a by-product offset. See Issues and Decision Memo at Comment 11.

- In their verification minor corrections, both Watanabe Shenzhen and Watanabe Linqing identified certain observations for which they had misreported shipment dates. See Watanabe Linqing Minor Corrections and the Watanabe Group's June 7, 2006, submission containing Watanabe Shenzhen's minor corrections. During the course of verification, the Department identified additional observations for which shipment date and/or payment date had been misreported. See Memorandum to the File Re: Verification of the Sales and Factors Response of Watanabe Paper Product (Linqing) Co., Ltd. in the Antidumping Investigation of Certain Lined Paper from the People's Republic of China ("Watanabe Linqing Verification Report") (July 21, 2006) and Memorandum to the File Re: Verification of the Sales and Factors Response of Hotrock Stationery (Shenzhen) Co., Ltd. in the Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China ("Watanabe Shenzhen Verification Report") (July 21, 2006). We have corrected these dates for the final results.

- During the course of the Watanabe Shenzhen verification we found that a billing adjustment ("BILLADJU") was misreported and we have corrected this for this final determination. See Watanabe Shenzhen Verification Report at 19.

- In the Watanabe Linqing Minor Corrections, Watanabe Linqing stated that it had misreported indirect labor ("INDLAB") hours for January. This affected one matching CONNUM which

we have corrected for this final determination.

Changes for Lian Li

- We used the Indian domestic purchase prices for creamwove paper from *Indian Printer and Publisher* ("IPP") to calculate a simple average of the available POI IPP prices reflecting the GSM weights reported by Lian Li to value Lian Li's insert paper. See Issues and Decision Memo at Comment 4.

- For Lian Li's white paperboard, white/white paperboard, and grey/white board, we used the IPP paperboard price data to calculate a simple average of the available POI IPP prices reflecting the GSM weights used by Lian Li in its production of in-scope merchandise. See Issues and Decision Memo at Comment 4.

- We used the Indian domestic purchase prices for creamwove paper from IPP to calculate a simple average of the available POI IPP prices which reflect the GSM weights used by Lian Li to value Lian Li's recycled paper. See Issues and Decision Memo at Comment 5.

- We applied AFA to Lian Li's agency sales. See Issues and Decision Memo at Comment 15.

- Consistent with the Department's practice, for Lian Li's products that have a metal cover and back, we have included in the normal value of these products a value for the metal covers and backs. We also added to the U.S. price the same value for metal covers and backs. See Issues and Decision Memo at Comment 17.

- We applied AFA to Lian Li's paper consumption for its producers, Sentian and MPF. See Issues and Decision Memo at Comment 18.

- For Lian Li's producer, MPF, we corrected electricity consumption based on a minor correction found at verification. See Issues and Decision Memo at Comment 21.

- We found that it is not appropriate to grant a by-product offset for Lian Li's producers Sentian and MPF. See Issues and Decision Memo at Comment 23.

- In the preliminary determination's SAS calculation, we inadvertently truncated the reported thread consumption to four decimal places when we converted Lian Li's submitted factors of production ("FOP") Excel worksheet database, which had the effect of setting the values to zero. For the final determination, for those products using this material input, we have corrected the Department's error and have included Lian Li's reported consumption value for thread. See Issues and Decision Memo at Comment 24

- We have treated polyethylene film as a direct material input, where Lian Li sold filler paper bound by polyethylene film or where we were able to identify multi-pack notebooks bound in the same way. See Issues and Decision Memo at Comment 25.

- In the preliminary determination's SAS calculation, we inadvertently assigned an incorrect variable name to domestic freight. We have corrected this for the final determination. See Memorandum to The File, through Charles Riggle, Program Manager, from Frances Veith, International Trade Compliance Analyst: Final Determination in the Investigation of Certain Lined Paper Products from the People's Republic of China: Calculation Memorandum, Shanghai Lian Li Paper Products Co. Ltd.

The PRC-Wide Rate and Use of Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provided that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

¹⁸This surrogate value was used at the Preliminary Determination to value Lian Li's zinc wire. See memorandum to Wendy J. Frankel Re: Preliminary Determination of the Investigation of Certain Lined Paper Products from the People's Republic of China: Factors-of-Production Valuation for Preliminary Determination (April 7, 2006).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34600 (May 31, 2000), and accompanying Issues and Decision Memorandum, at “Facts Available.” We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. As in the Preliminary Determination, we have assigned to the PRC-wide entity a margin based on information in the petition because the margins derived from the petition are higher than the calculated margins for the selected respondents in this case.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. Vol. 1 at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869.

For the final determination, in accordance with section 776(c) of the Act, we corroborated our AFA margin using information submitted by the Watanabe Group and Lian Li. See Memorandum to the File from Marin Weaver, International Trade Compliance Analyst, through Charles Riggle, Program Manager, China/NME Group, Corroboration for the Final Determination of Certain Lined Paper Products from the People’s Republic of China, regarding the corroboration of the AFA rate. We found that the margin of 258.21 percent has probative value.

Accordingly, we find that the rate of 258.21 percent is corroborated within the meaning of section 776(c) of the Act.

In addition, because we have determined that Atico, Dongguan Yizhii Gao Paper Products Ltd. (“Dongguan”), Planet International, and Lansheng are not entitled to separate rates and are now part of the PRC-wide entity, the PRC-wide entity is now under investigation. Further, because the PRC-wide entity (including these entities) failed to provide the requested information in this investigation, the Department, pursuant to section 776(a) of the Act, has applied a dumping margin for the PRC-wide entity using the facts otherwise available on the record. Furthermore, because we have determined that the PRC-wide entity (including Atico, Dongguan, Planet International, and Lansheng) has failed to cooperate to the best of its ability, the Department has used an adverse inference in making its determination, pursuant to section 776(b) of the Act.

Combination Rates

In the Notice of Initiation, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products From India, Indonesia, and the People’s Republic of China*, 70 FR at 58379 (October 6, 2005). See Policy Bulletin 05.1.

Final Determination

The Department has determined that the following final percentage weighted-average dumping margins exist for the period January 1, 2005, through June 30, 2005:

CERTAIN LINED PAPER PRODUCTS FROM THE PRC-WEIGHTED-AVERAGE DUMPING MARGINS

Exporter	Producer	Weighted-average deposit rate
Watanabe Paper Product (Linqing) Co., Ltd	Watanabe Paper Product (Linqing) Co., Ltd	76.7
Watanabe Paper Product (Linqing) Co., Ltd	Hotrock Stationery (Shenzhen) Co., Ltd	76.7
Watanabe Paper Product (Linqing) Co., Ltd	Watanabe Paper Products (Shanghai) Co., Ltd	76.7
Hotrock Stationery (Shenzhen) Co., Ltd	Hotrock Stationery (Shenzhen) Co., Ltd	76.7
Hotrock Stationery (Shenzhen) Co., Ltd	Watanabe Paper Product (Linqing) Co., Ltd	76.7
Hotrock Stationery (Shenzhen) Co., Ltd	Watanabe Paper Products (Shanghai) Co., Ltd	76.7
Watanabe Paper Products (Shanghai) Co., Ltd	Watanabe Paper Products (Shanghai) Co., Ltd	76.7
Watanabe Paper Products (Shanghai) Co., Ltd	Hotrock Stationery (Shenzhen) Co., Ltd	76.7
Watanabe Paper Products (Shanghai) Co., Ltd	Watanabe Paper Product (Linqing) Co., Ltd	76.7
Shanghai Lian Li Paper Products Co., Ltd	Shanghai Lian Li Paper Products Co. Ltd	94.98
Shanghai Lian Li Paper Products Co., Ltd	Sentian Paper Products Co., Ltd	94.98
Shanghai Lian Li Paper Products Co., Ltd	Shanghai Miaopaofang Paper Products Co., Ltd	94.98
Shanghai Lian Li Paper Products Co., Ltd	Shanghai Pudong Wenbao Paper Products Co., Ltd	94.98
Shanghai Lian Li Paper Products Co., Ltd	Changshu Changjiang Printing Co., Ltd	94.98
Shanghai Lian Li Paper Products Co., Ltd	Shanghai Loutang Stationery Factory	94.98
Shanghai Lian Li Paper Products Co., Ltd	Shanghai Beijia Paper Products Co., Ltd	94.98
Ningbo Guangbo Imports and Exports Co., Ltd	Ningbo Guangbo Plastic Products Manufacture Co., Ltd	78.39

CERTAIN LINED PAPER PRODUCTS FROM THE PRC-WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-average deposit rate
Yalong Paper Products (Kunshan) Co., Ltd	Yalong Paper Products (Kunshan) Co., Ltd	78.39
Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd	Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd	78.39
Sunshine International Group (HK) Ltd	Dongguan Shipai Tonzex Electronics Plastic Stationery Factory;	78.39
Sunshine International Group (HK) Ltd	Dongguan Kwong Wo Stationery Co., Ltd	78.39
Sunshine International Group (HK) Ltd	Hua Lian Electronics Plastic Stationery Co., Ltd	78.39
Suzhou Industrial Park You-You Trading Co., Ltd	Linqing YinXing Paper Co., Ltd	78.39
Suzhou Industrial Park You-You Trading: Co., Ltd	Jiaxing Seagull Paper Products Co., Ltd	78.39
Suzhou Industrial Park You-You Trading Co., Ltd	Shenda Paper Product Factory	78.39
Suzhou Industrial Park You-You Trading Co., Ltd	Lianyi Paper Product Factory	78.39
Suzhou Industrial Park You-You Trading: Co., Ltd	Changhang Paper Product Factory	78.39
Suzhou Industrial Park You-You Trading Co., Ltd	Tianlong Paper Product Factory	78.39
Suzhou Industrial Park You-You Trading: Co., Ltd	Rugao PaDer Printer Co., Ltd	78.39
Suzhou Industrial Park You-You Trading Co., Ltd	Yinlong Paper Product Factory	78.39
You You Paper Products (Suzhou) Co., Ltd	You You Paper Products (Suzhou) Co., Ltd	78.39
Haijing Stationery (Shanghai) Co., Ltd	Haijing Stationery (Shanghai) Co., Ltd	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Yalong Paper Products Ltd (Kunshan) Co., Ltd	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Shanghai Cornwell Stationery Co., Ltd	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Yuezhou PaDer Co., Ltd	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Changshu Guangming Stationery Co., Ltd	78.39
Shanghai Foreign Trade Enterprise Co., Ltd	Shanghai Xin Zhi Liang Culture Products Co., Ltd	78.39
Shanghai Foreign Trade Enterprise Co., Ltd	Shangyu Zhongsheng Paper Products Co., Ltd	78.39
Shanghai Foreign Trade Enterprise Co., Ltd	Shanghai Miaoqi Paper Products Factory;	78.39
Shanghai Foreign Trade Enterprise Co., Ltd	Shanghai Xueya Stationery Co., Ltd	78.39
Anhui Light Industries International Co., Ltd	Shanghai Pudong Wenbao Paper Products Factory;	78.39
Anhui Light Industries International Co., Ltd	Foshan City Wenhai Paper Factory	78.39
Fujian Hengda Group Co., Ltd	Fujian Hengda Group Co., Ltd	78.39
Changshu Changjiang Printing Co., Ltd	Changshu Changjiang Paper Industry Co., Ltd	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd	Jiaxing Te Gao Te Paper Products Co., Ltd	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd	Jiaxing Seagull Paper Products Co., Ltd	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd	Jiaxing Boshi Paper Products Co., Ltd	78.39
Chinapack Ningbo Paper Products Co., Ltd	Jiaxing Te Gao Te Paper Products Co., Ltd	78.39
Linqing Silver Star Paper Products Co., Ltd	Linqing Silver Star Paper Products Co., Ltd	78.39
Wah Kin Stationery and Paper Product Limited	Shenzhen Baoan Waijing Development Company	78.39
Shanghai Pudong Wenbao Paper Products Factory	Shanghai Pudong Wenbao Paper Products Factory	78.39
Shanghai Pudong Wenbao Paper Products Factory	Linqing Glistar Paper Products Co., Ltd	78.39
Shanghai Pudong Wenbao Paper Products Factory	Changshu Changjiang Printing Co., Ltd	78.39
Paperline Limited	Linqing Silver Star Paper Products Co., Ltd	78.39
Paperline Limited	Shanghai Pudong Wenbao Paper Products Factory	78.39
Paperline Limited	Linqing Glistar Paper Products Co., Ltd	78.39
Paperline Limited	Changshu Changjiang Printing Co., Ltd	78.39
Paperline Limited	Linqing Silver Star Paper Products Co., Ltd	78.39
Paperline Limited	Jiaxing Te Gao Te Paper Products Co., Ltd	78.39
Paperline Limited	Yantai License Printing & Making Co., Ltd	78.39
Yantai License Printing & Making Co., Ltd	Yantai License Printing & Making Co., Ltd	78.39
Paperline Limited	Anhui Jinhua Import & Export Co., Ltd	78.39
Essential Industries Limited	Dongguan Yizhi Gao Paper Products Ltd	78.39
MGA Entertainment (H.K.) Limited	Kon Dai (Far East) Packaging Co., Ltd	78.39
MGA Entertainment (H.K.) Limited	Dong Guan Huang Giang Rong Da Printing Factory	78.39
MGA Entertainment (H.K.) Limited	Dong Guan Huang Giang Da Printing Co., Limited	78.39
Excel Sheen Limited	Dongguan Shipai Fuda Stationery Factory	78.39
Maxleaf Stationery Ltd	Maxleaf Stationery Ltd	78.39
PRC Entity*	258.21

*Including Atico, Planet International, and the companies that did not respond to the Q&V questionnaire.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and

Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after April 17, 2006, the date of publication of the *Preliminary Determination*. For those companies for which we found critical circumstances to exist, we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise

from the PRC entered, or withdrawn from warehouse, for consumption on or after January 17, 2006, which is 90 days prior to the date of publication of the preliminary determination. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

**International Trade Commission
Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of CLPP, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation. If the ITC determines that material injury, or threat of material injury does exist, but finds no critical circumstances, the Department will instruct CBP refund or cancel all securities posted prior to April 17, 2006.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: August 30, 2006.

David M. Spooner,

*Assistant Secretary, for Import
Administration.*

[FR Doc. 06-7538 Filed 9-7-06; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B
LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission’s hearing:

Subject: Certain Lined Paper School Supplies from China, India, and Indonesia
Inv. Nos.: 701-TA-442 and 443 (Final) and 731-TA-1095-1097 (Final)
Date and Time: July 25, 2006 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL WITNESSES:

The Honorable Zach Wamp, U.S. Congressman, U.S. House of Representatives, State of Tennessee, 3rd District

The Honorable Bill Shuster, U.S. Congressman, U.S. House of Representatives, Commonwealth of Pennsylvania, 9th District

The Honorable Lynn A. Westmoreland, U.S. Congressman, U.S. House Representatives, State of Georgia, 8th District

In Support of the Imposition of Antidumping and Countervailing Duties:

Wiley Rein & Fielding LLP
Washington, DC
on behalf of

The Association of American School Paper Suppliers

George Y. Robinson, Vice President, Sales, Retail Division, Top Flight, Inc.
Harold A. Rahn, President, Norcom, Inc.
Neil A. McLachlan, President, MeadWestvaco Consumer & Office Products Group
Holly Hart, Assistant Legislative Director, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC
Seth Kaplan, Vice President, CRA International, Inc.

Alan H. Price)
Timothy C. Brightbill) OF COUNSEL

In Opposition to the Imposition of Antidumping and Countervailing Duties:

Mayer, Brown, Rowe & Maw LLP
Washington, DC
on behalf of

Target Corp.
Hotrock Stationery (Shenzhen) Co., Ltd.;
Watanabe Paper Products (LinQing) Co., Ltd.; and
Watanabe Paper Products (Shanghai) Co., Ltd. (“Watanabe”)

Meghan Tucci, Senior Buyer, Target Corp.
Toni Dembski-Brandl, Senior Counsel, Target Corp.
He Zuoru, President, Watanabe
Grace Gao-Sheppard, Interpreter for Mr. He
Bruce Malashevich, President, Economic Consulting Services LLC

James J. Jochum)
Marguerite E. Trossevin) – OF COUNSEL

Kaye Scholer LLP
Washington, DC
on behalf of

Staples, Inc.

Susan Ciulla, Vice President, Divisional Merchandise Manager, Staples, Inc.
Kelly O’Brien, Buyer, Staples, Inc.

Julie C. Mendoza)
Donald B. Cameron) – OF COUNSEL
R. Will Planert)

Bryan Cave LLP
Washington, DC
on behalf of

NuCarta, LLC (“NuCarta”)

David Graham, President, NuCarta
David Hixon, Vice President, NuCarta

Lyle B. Vander Schaaf)
Joseph H. Heckendorn) – OF COUNSEL

In Opposition to the Imposition of Antidumping and Countervailing Duties:—Continued

deKieffer & Horgan
Washington, DC
on behalf of

Navneet Publications (India) Ltd.

Barry Rao, President, American Scholar

Gregory S. Menegaz – OF COUNSEL

Garvey Schubert Barer
Washington, DC
on behalf of

CPP International, LLC (“CPP”)
Firstline Canada Inc.

Clay Presley, President and CEO, CPP
Harvey Eiding, President, Firstline Canada

Ronald M. Wisla)
William E. Perry) – OF COUNSEL

Katten Muchin Rosenman LLP
Chicago, IL
on behalf of

Walgreen Co. (“Walgreens”)

Mark VanGuyse, Category Manager, Stationery, Walgreens

Mark S. Zolno – OF COUNSEL

Arnold & Porter LLP
Washington, DC
on behalf of

PT. Pabrik Kertas Tjiwi Kimia Tbk. (“Tjiwi Kimia”)

Michael T. Shor – OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1
Lined paper products (LPP): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share [CLPSS] (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
Importers' share [OLPP] (1)	***	***	***	***	***	***
Importers' share (total) (1)	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share [CLPSS] (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
Importers' share [OLPP] (1)	***	***	***	***	***	***
Importers' share (total) (1)	***	***	***	***	***	***
U.S. imports of CLPSS from:						
China:						
Quantity	186,278	220,744	345,897	85.7	18.5	56.7
Value	108,779	131,836	191,063	75.6	21.2	44.9
Unit value	\$0.58	\$0.60	\$0.55	-5.4	2.3	-7.5
Ending inventory quantity	***	***	***	***	***	***
India:						
Quantity	37,226	35,991	31,312	-15.9	-3.3	-13.0
Value	15,779	13,122	11,929	-24.4	-16.8	-9.1
Unit value	\$0.42	\$0.36	\$0.38	-10.1	-14.0	4.5
Ending inventory quantity	***	***	***	***	***	***
Indonesia:						
Quantity	38,998	34,985	39,305	0.8	-10.3	12.3
Value	15,477	12,603	14,804	-4.3	-18.6	17.5
Unit value	\$0.40	\$0.36	\$0.38	-5.1	-9.2	4.6
Ending inventory quantity	***	***	***	***	***	***
Subtotal (subject):						
Quantity	262,503	291,719	416,514	58.7	11.1	42.8
Value	140,035	157,561	217,797	55.5	12.5	38.2
Unit value	\$0.53	\$0.54	\$0.52	-2.0	1.2	-3.2
Ending inventory quantity	***	***	***	***	***	***
Brazil:						
Quantity	37,200	91,891	65,996	77.4	147.0	-28.2
Value	16,448	35,172	28,713	74.6	113.8	-18.4
Unit value	\$0.44	\$0.38	\$0.44	-1.6	-13.4	13.7
Ending inventory quantity	(2)	(2)	(2)	(3)	(3)	(3)
Other sources:						
Quantity	51,975	73,899	77,798	49.7	42.2	5.3
Value	59,307	98,418	109,528	84.7	65.9	11.3
Unit value	\$1.14	\$1.33	\$1.41	23.4	16.7	5.7
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports [CLPSS]:						
Quantity	351,678	457,509	560,308	59.3	30.1	22.5
Value	215,791	291,151	356,037	65.0	34.9	22.3
Unit value	\$0.61	\$0.64	\$0.64	3.6	3.7	-0.1
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports [OLPP]:						
Quantity	276,025	283,201	297,775	7.9	2.6	5.1
Value	128,851	148,124	165,348	28.3	15.0	11.6
Unit value	\$0.47	\$0.52	\$0.56	19.0	12.0	6.2
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports:						
Quantity	627,702	740,711	858,083	36.7	18.0	15.8
Value	344,642	439,275	521,386	51.3	27.5	18.7
Unit value	\$0.55	\$0.59	\$0.61	10.7	8.0	2.5
Ending inventory quantity	24,760	29,429	43,039	73.8	18.9	46.2

Table continued on next page.

Table C-1--Continued

Lined paper products (LPP): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. producers' (4):						
Average capacity quantity	994,544	968,949	898,352	-9.7	-2.6	-7.3
Production quantity	607,883	568,079	436,979	-28.1	-6.5	-23.1
Capacity utilization (1)	61.1	58.6	48.6	-12.5	-2.5	-10.0
U.S. shipments:						
Quantity	560,951	551,756	432,272	-22.9	-1.6	-21.7
Value	328,868	321,572	260,082	-20.9	-2.2	-19.1
Unit value	\$0.59	\$0.58	\$0.60	2.6	-0.6	3.2
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	116,926	124,097	118,683	1.5	6.1	-4.4
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	1,264	1,157	942	-25.5	-8.5	-18.6
Hours worked (1,000s)	2,540	2,266	1,610	-36.6	-10.8	-28.9
Wages paid (\$1,000)	44,669	40,870	29,319	-34.4	-8.5	-28.3
Hourly wages	\$17.58	\$18.03	\$18.21	3.5	2.6	1.0
Productivity (units per hour)	239.3	250.7	271.4	13.4	4.8	8.3
Unit labor costs	\$0.07	\$0.07	\$0.07	-8.7	-2.1	-6.7
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***
CPP's U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not available; inventories of imports from Brazil included within inventories of imports from other sources.
(3) Not applicable.
(4) Excluding data reported by CPP.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2
All lined paper products (LPP plus oversized lined paper products): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share [CLPSS] (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
Importers' share [OLPP] (1)	***	***	***	***	***	***
Importers' share (total) (1)	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share [CLPSS] (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
Importers' share [OLPP] (1)	***	***	***	***	***	***
Importers' share (total) (1)	***	***	***	***	***	***
U.S. imports of CLPSS from:						
China:						
Quantity	186,278	220,744	345,897	85.7	18.5	56.7
Value	108,779	131,836	191,063	75.6	21.2	44.9
Unit value	\$0.58	\$0.60	\$0.55	-5.4	2.3	-7.5
Ending inventory quantity	***	***	***	***	***	***
India:						
Quantity	37,226	35,991	31,312	-15.9	-3.3	-13.0
Value	15,779	13,122	11,929	-24.4	-16.8	-9.1
Unit value	\$0.42	\$0.36	\$0.38	-10.1	-14.0	4.5
Ending inventory quantity	***	***	***	***	***	***
Indonesia:						
Quantity	38,998	34,985	39,305	0.8	-10.3	12.3
Value	15,477	12,603	14,804	-4.3	-18.6	17.5
Unit value	\$0.40	\$0.36	\$0.38	-5.1	-9.2	4.6
Ending inventory quantity	***	***	***	***	***	***
Subtotal (subject):						
Quantity	262,503	291,719	416,514	58.7	11.1	42.8
Value	140,035	157,561	217,797	55.5	12.5	38.2
Unit value	\$0.53	\$0.54	\$0.52	-2.0	1.2	-3.2
Ending inventory quantity	***	***	***	***	***	***
Brazil:						
Quantity	37,200	91,891	65,996	77.4	147.0	-28.2
Value	16,448	35,172	28,713	74.6	113.8	-18.4
Unit value	\$0.44	\$0.38	\$0.44	-1.6	-13.4	13.7
Ending inventory quantity	(2)	(2)	(2)	(3)	(3)	(3)
Other sources:						
Quantity	51,975	73,899	77,798	49.7	42.2	5.3
Value	59,307	98,418	109,528	84.7	65.9	11.3
Unit value	\$1.14	\$1.33	\$1.41	23.4	16.7	5.7
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports [CLPSS]:						
Quantity	351,678	457,509	560,308	59.3	30.1	22.5
Value	215,791	291,151	356,037	65.0	34.9	22.3
Unit value	\$0.61	\$0.64	\$0.64	3.6	3.7	-0.1
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports of OLPP:						
Quantity	276,025	283,201	297,775	7.9	2.6	5.1
Value	128,851	148,124	165,348	28.3	15.0	11.6
Unit value	\$0.47	\$0.52	\$0.56	19.0	12.0	6.2
Ending inventory quantity	***	***	***	***	***	***
Total U.S. imports:						
Quantity	627,702	740,711	858,083	36.7	18.0	15.8
Value	344,642	439,275	521,386	51.3	27.5	18.7
Unit value	\$0.55	\$0.59	\$0.61	10.7	8.0	2.5
Ending inventory quantity	24,760	29,429	43,039	73.8	18.9	46.2

Table continued on next page.

Table C-2--Continued

All lined paper products (LPP plus outsized lined paper products): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. producers' (4):						
Average capacity quantity	1,077,224	1,047,120	977,936	-9.2	-2.8	-6.6
Production quantity	662,444	611,465	476,307	-28.1	-7.7	-22.1
Capacity utilization (1)	61.5	58.4	48.7	-12.8	-3.1	-9.7
U.S. shipments:						
Quantity	607,539	592,951	469,947	-22.6	-2.4	-20.7
Value	345,131	336,697	273,002	-20.9	-2.4	-18.9
Unit value	\$0.57	\$0.57	\$0.58	2.3	-0.0	2.3
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	127,466	133,155	125,524	-1.5	4.5	-5.7
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	1,344	1,224	1,007	-25.1	-8.9	-17.7
Hours worked (1,000s)	2,704	2,401	1,727	-36.1	-11.2	-28.1
Wages paid (\$1,000)	47,834	43,560	31,627	-33.9	-8.9	-27.4
Hourly wages	\$17.69	\$18.14	\$18.31	3.5	2.6	0.9
Productivity (units per hour)	243.6	253.0	275.6	13.1	3.9	8.9
Unit labor costs	\$0.07	\$0.07	\$0.07	-8.5	-1.3	-7.3
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***
CPP's U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not available; inventories of imports from Brazil included within inventories of imports from other sources.

(3) Not applicable.

(4) Excluding data reported by CPP.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Import data from table C-1 repeated here because imports of out-sized lined paper products are included in Commerce statistics.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-3
Certain lined paper school supplies (CLPSS): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
CPP's share	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
China:						
Quantity	186,278	220,744	345,897	85.7	18.5	56.7
Value	108,779	131,836	191,063	75.6	21.2	44.9
Unit value	\$0.58	\$0.60	\$0.55	-5.4	2.3	-7.5
Ending inventory quantity	***	***	***	***	***	***
India:						
Quantity	37,226	35,991	31,312	-15.9	-3.3	-13.0
Value	15,779	13,122	11,929	-24.4	-16.8	-9.1
Unit value	\$0.42	\$0.36	\$0.38	-10.1	-14.0	4.5
Ending inventory quantity	***	***	***	***	***	***
Indonesia:						
Quantity	38,998	34,985	39,305	0.8	-10.3	12.3
Value	15,477	12,603	14,804	-4.3	-18.6	17.5
Unit value	\$0.40	\$0.36	\$0.38	-5.1	-9.2	4.6
Ending inventory quantity	***	***	***	***	***	***
Subtotal (subject):						
Quantity	262,503	291,719	416,514	58.7	11.1	42.8
Value	140,035	157,561	217,797	55.5	12.5	38.2
Unit value	\$0.53	\$0.54	\$0.52	-2.0	1.2	-3.2
Ending inventory quantity	***	***	***	***	***	***
Brazil:						
Quantity	37,200	91,891	65,996	77.4	147.0	-28.2
Value	16,448	35,172	28,713	74.6	113.8	-18.4
Unit value	\$0.44	\$0.38	\$0.44	-1.6	-13.4	13.7
Ending inventory quantity	(2)	(2)	(2)	(3)	(3)	(3)
Other sources:						
Quantity	51,975	73,899	77,798	49.7	42.2	5.3
Value	59,307	98,418	109,528	84.7	65.9	11.3
Unit value	\$1.14	\$1.33	\$1.41	23.4	16.7	5.7
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	351,678	457,509	560,308	59.3	30.1	22.5
Value	215,791	291,151	356,037	65.0	34.9	22.3
Unit value	\$0.61	\$0.64	\$0.64	3.6	3.7	-0.1
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

Table C-3--Continued

Certain lined paper school supplies (CLPSS): Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit; period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. producers' (4):						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (units per hour) . .	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***
CPP's U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
 (2) Not available; inventories of imports from Brazil included within inventories of imports from other sources.
 (3) Not applicable.
 (4) Excluding data reported by CPP.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-4

Fashion notebooks: Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	0.0	0.0	0.0	(2)	(2)	(2)
Subtotal	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
India	***	***	***	***	***	***
Indonesia	0.0	0.0	0.0	(2)	(2)	(2)
Subtotal	***	***	***	***	***	***
Brazil	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
China:						
Quantity	***	17,453	15,652	***	***	-10.3
Value	***	13,444	14,738	***	***	9.6
Unit value	***	\$0.77	\$0.94	***	***	22.2
India:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Indonesia:						
Quantity	0	0	0	(2)	(2)	(2)
Value	0	0	0	(2)	(2)	(2)
Unit value	(2)	(2)	(2)	(2)	(2)	(2)
Subtotal:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Brazil:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

Table continued on next page.

Table C-4--Continued

Fashion notebooks: Summary data concerning the U.S. market, 2003-05

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit; period changes=percent, except where noted)

Item	Reported data			Period changes		
	2003	2004	2005	2003-05	2003-04	2004-05
U.S. producers':						
Average capacity quantity	14,400	19,150	15,350	6.6	33.0	-19.8
Production quantity	4,898	6,227	3,630	-25.9	27.1	-41.7
Capacity utilization (1)	34.0	32.5	23.6	-10.4	-1.5	-8.9
U.S. shipments:						
Quantity	5,148	5,225	3,699	-28.1	1.5	-29.2
Value	4,059	4,793	2,941	-27.5	18.1	-38.6
Unit value	\$0.79	\$0.92	\$0.80	0.8	16.3	-13.3
Export shipments:						
Quantity	75	509	35	-53.3	578.7	-93.1
Value	128	624	39	-69.5	387.5	-93.8
Unit value	\$1.71	\$1.23	\$1.11	-34.7	-28.2	-9.1
Ending inventory quantity	549	823	830	51.2	49.9	0.9
Inventories/total shipments (1)	10.5	14.4	22.2	11.7	3.8	7.9
Production workers	16	24	15	-2.7	50.8	-35.5
Hours worked (1,000s)	31	48	29	-7.6	54.2	-40.1
Wages paid (\$1,000)	532	849	488	-8.3	59.5	-42.5
Hourly wages	\$17.22	\$17.80	\$17.09	-0.7	3.4	-4.0
Productivity (units per hour) . .	158.4	130.6	127.1	-19.8	-17.6	-2.7
Unit labor costs	\$0.11	\$0.14	\$0.13	23.8	25.4	-1.3
Net sales:						
Quantity	5,223	5,734	3,734	-28.5	9.8	-34.9
Value	4,130	5,371	2,947	-28.6	30.0	-45.1
Unit value	\$0.79	\$0.94	\$0.79	-0.2	18.5	-15.7
Cost of goods sold (COGS)	3,188	3,870	2,559	-19.7	21.4	-33.9
Gross profit or (loss)	942	1,501	388	-58.8	59.3	-74.2
SG&A expenses	566	708	415	-26.7	25.1	-41.4
Operating income or (loss)	376	793	(27)	(3)	110.9	(3)
Capital expenditures	0	0	0	(2)	(2)	(2)
Unit COGS	\$0.61	\$0.67	\$0.69	12.3	10.6	1.5
Unit SG&A expenses	\$0.11	\$0.12	\$0.11	2.6	13.9	-10.0
Unit operating income or (loss)	\$0.07	\$0.14	(\$0.01)	(3)	92.1	(3)
COGS/sales (1)	77.2	72.1	86.8	9.6	-5.1	14.8
Operating income or (loss)/ sales (1)	9.1	14.8	(0.9)	-10.0	5.7	-15.7

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Importer inventories not available. ***.

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

APPENDIX D

**COMMENTS OF U.S. PRODUCERS, IMPORTERS, AND PURCHASERS ON
DOMESTIC LIKE PRODUCT FACTORS**

Please describe any similarities and/or differences in the physical characteristics of U.S.-produced CLPSS, OLPP, and OSLPP.

U.S. Producers

“Physical characteristic differences are related to the size (dimensions) of the product, sheet count and product components. In many cases, OLPP and OSLPP have less features than CLPSS items with examples being lack of pockets, dividers or other added value features. Ruling may also differ in size from CLPSS and in many cases, will have a “special” ruling, one that is not consistent with standard school “wide” or “college” rulings. Similarities will be in binding methods and basis weight of paper, cover and backs.”

“Very similar.”

“Products are similar as all have horizontal lines for writing. Differences include size, the use of a font color on bound products and the type of binding (i.e. Perf Pads are stitched).”

“There are many differences in physical characteristics, including size, color, lining possibilities, covers, pockets, and inserts. Specifically, other products are produced with the same type of paper as CLPSS but these other products are generally smaller sized notebooks and office legal pads. CLPSS are sized – generally around 8.5x11 – in such manner that teachers find them acceptable for schoolwork. Moreover, the office products are not intended to be as durable – for example, most legal pads do not have covers.”

“No significant difference other than size. The end user can write on all of them.”

“These products are similar only in that they are all made out of paper, generally of roughly the same brightness. However, the similarities end there. CLPSS is distinguished from OLPP and OSLPP by its size, ruling style, and holes. CLPSS is specifically made for use by school students, and conforms to the time-tested desires of teachers for a product that is uniform in size, can be easily collected and stored, and promotes neat, but not cramped writing. OLPP and OSLPP are often different in size, sometimes markedly so, and are ruled in different ways (such as tumblehead ruling for legal pads). CLPSS products have ruling patterns that are distinctly required by schools/teachers, namely blue ruling lines with a red vertical line to depict margin space. Moreover, while most CLPSS products are hole-punched, OLPP and OSLPP are far more rarely suited for recollections in binders. Finally, CLPSS products such as notebooks usually have both front and back covers meant to protect the students’ work and allow for the placement of identifying information (as with composition books). OLPP and OSLPP, not having been designed for the school environment, do not generally have such protective and identifying traits.”

“No difference.”

“CLPSS – OLPP are the same.”

“No response.”

“There are no differences between the 3 categories in the paper industry. The petitioners created these differences in order to manipulate the statistical data.”

Purchasers

“They are mostly similar. The major physical difference is the size.”

“Mostly similar.”

“Generally a more uniform and consistent quality per shipment on CLPSS and OLPP. OSLPP has similar consistency in quality but availability is not always consistent.”

“Unknown.”

“Similar core materials (paper) and the fact that they are ruled products and bound similarly; different physical size.”

“n/a.”

“For the products that *** carries, paper characteristics are similar.”

“CLPSS are educational activity tablets used by children to instruct them on writing letters and numbers. OLPP and OLSPP are not produced domestically.”

“Size, brightness, features, functionality.”

“n/a.”

“The essential physical characteristics of the 3 categories are the same - lined paper used for note taking, draft documents, worksheets, scrap paper, etc. The most common difference between CLPSS and OLPP is that the first tends to be a notebook with a side binding vs. the second category a pad with a top binding. All categories consist of products with both wire bound as well as glued bindings. Interestingly – if a top bound pad has any kind of cover, whether removable or permanent, it then moves from OLPP into CLPSS.”

“Coils, corners, backing, color of paper, thickness of paper, fashion or ornamentation, interior components.”

“They are usually all offered in basic, value attached, fashion and licensed forms. They are also offered in 1 subj., 3 subj., and 5 subj. formats. They are also offered with 15 lb., 18 lb., 20 lb. paper stock and can be bound with single wire.”

“No knowledge.”

“For differences other than branding.”

“The weight, size and ruling are all similar between suppliers.”

“Not sure.”

“Size of paper – 9x11 or 8.5x11 will offer different prices, brightness of paper, thickness of the back of the notebook.”

“Most of our OSLPP items are index cards, which are made of thicker paper than the CLPSS items. Most of our OLPP items are steno books which are made of the same material as the CLPSS items.”

“S: quality, price. D: Design.”

“No perceivable differences.”

“We do not buy domestic paper products.”

“Unknown.”

“n/a. No local Purchases.”

“This question is difficult to answer because of the broad range of lined paper products covered by these categories. OLPP includes some products that are identical to the CLPSS products, specifically the *** products. Other than the trademarks, the products have the exact same physical characteristics of many products included in the scope of this investigation (CLPSS).”

OLPP also includes pads of paper that are physically identical to CLPSS pads, except that the paper is hole-punched. On the other hand, there are products within the OLPP that are very different physically from CLPSS. For example, hardcover journals have different physical characteristics from loose leaf paper or spiral notebooks. Because the journals are merchandised primarily on their appearance, many of them are covered in special fabrics and have graphics embellishments on them. They have covers that are much more durable than those found on CLPSS. OLPP also includes lined stationery. Unlike CLPSS, this paper is often found in colors other than white, and is seldom found in size most common for CLPSS, 8.5x11. By definition, the primary physical distinction between OSLPP and CLPSS is the size of the paper. The dominant size for CLPSS is 8.5x11, which is most common for both school and office use for writing and note-taking.”

“n/a.”

“Unknown.”

“The only difference is the size as outlined in the definition portion of this survey.”

“None-the quality of domestic supplies are comparable.”

“CLPSS – notebooks have perforated pages; paper is about the same as OSLPP items.

OLPP – legal pads are made of different paper than CLPSS items.

OSLPP – the only item we use are memo books cover is thinner than other notebooks paper is about the same.”

“CLPSS – basic commodity goods, OLPP and OSLPP tend to be fashion oriented/value added.”

“None.”

“None.”

“Products purchased from vendors are very similar to each other in quality.”

“n/a.”

“We do not purchase notebooks made in the USA.”

“None.”

Importers

“Other than size, the characteristics are very similar. Most of the domestically produced products are commodity or standard grade products in each category. Given the wide variety of products excluded from the scope, it is difficult to generalize. Certain items, such as calendars and newspapers, obviously have different characteristics. Certain smaller size items that are outside the scope are similar to items within the scope in that they both use ruled tablet paper and are used to write on. However, the smaller sized items are typically used for business and home use as opposed to school use. Other items outside the scope, such as petitioners’ trademarked items, are identical in characteristics compared to certain items within the scope. In addition, certain fashion items, such as stylized notebooks, that are within the scope are have different characteristics from other items within the scope. These fashion items include higher cost components such as poly covers, special treatments such as glitter, flocking, 4 color process printed interior covers, front cover merchandisers, rounded corners, pearl poly wire, heavier weight paper, and higher quality back covers. These items are considered fashion accessories.”

“No response.”

“No response.”

“The physical characteristics of U.S.-produced CLPSS, OLPP and OSLPP differ in terms of page dimensions, binding style, cover material and organizational capabilities.”

“No response.”

“No difference.”

“Similarities - size. Differences – prices, paper, thickness, whiteness, brightness and different sizes.”

“No response.”

“None to my knowledge.”

“Quality of paper differs and type of paper differs.”

“n/a – only source foreign CLPSS, OLPP, OSLPP.”

“Products are similar. Binding is different. There is a multitude of other varying characteristics but there

is no clear dividing line of differentiation.”

“They all seem to be the same.”

“Unknown.”

“Don’t know.”

“CLPSS is the largest size compared to OLPP and OSLPP. The three products are similar in their brightness level.”

“None/differences. All goods have raw material and equipment base.”

Please describe any similarities and/or differences in the uses of U.S.-produced CLPSS, OLPP, and OSLPP in the United States; i.e., are they interchangeable in the home, college, high school, and business context.

U.S. Producers

“CLPSS are typically items used in a classroom environment for the task of note-taking and assignment submission. Many are required purchases by consumers via the use of school supply lists, which list specific requirements for each classroom. CLPSS differ from OLPP and OSLPP items in that OLPP and OSLPP are typically not required school list items and are used as personal accessories and are not acceptable for submission of homework assignments. CLPSS items are typically positioned as school-aged items while OLPP and OSLPP items are typically found more frequently in the work place. For example, a student cannot turn in an assignment on a legal pad, while this is a very common office item.”

“Interchangeable.”

“Some interchangeability between CLPSS and OLPP. The OSLPP size is different to make interchangeability.”

“Very limited interchangeability. CLPSS are generally used in a school/learning environment. Other lined products such as legal pads and steno pads are generally used in an office/commercial setting. Teachers, students, and other users do not perceive other lined products as interchangeable with CLPSS in that the other lined products are of unacceptable size and color for schoolwork, and lack of appropriate margins.”

“No significant difference other than size. The end user can write on all of them.”

“The users for these products are similar only in that they are used generally for writing. However, the products are distinctly different in that they are used by completely different consumers for markedly different writing purposes. Whereas OLPP and OSLPP are used in the business environment for quick notes that will be used as study aids, and assignments that will be turned in and graded. CLPSS are specified by back-to-school lists, which uniformly fail to include OLPP and OSLPP products.”

“They are interchangeable.”

“Interchangeable.”

“No response.”

“Absolutely interchangeable. Does not make material differences. Significant number of products outside the scopes have same end uses and end users.”

Purchasers

“CLPSS, OLPP and OSLPP are each designed for specific uses and functions. They are not interchangeable.”

“Mostly similar.”

“CLPSS and OLPP are interchangeable for home, college, school, and business context.”

“Unknown.”

“CLPSS products are typically prescribed on teacher/school lists for use by students in classrooms. OLPP and OSLPP products, due to their sizes, are not as functional for the general classroom setting. Therefore, they are not interchangeable in school settings.”

“n/a.”

“For the products that *** carries, the products are interchangeable.”

“CLPSS are used as educational activity tablets for children. OLPP and OSLPP are not produced domestically.”

“Note taking – similarity across age groups.”

“n/a.”

“In the home and business context, *** would consider the uses for CLPSS and OLPP to be similar, if not identical. Specifically for business use, *** sees a consumer migration from OLPP (or pads without covers) into CLPSS (notebooks), and sees them used for the same purpose. In the college and high school market, while the uses are similar, we believe the customer has a preference for side bound products. This is potentially because these products tend to be 3 hole punched and fit into a binder, making it easier for transportation vs. a non-punched pad that may go into a file folder for office use. Additionally, the use of a cover may make it easier for transport, i.e. – in and out of backpack.”

“Commodity items are interchangeable to the consumer. Fashion or business type products are not interchangeable based on desired inner components cover design desired or coil requirement – based on school districts.”

“Most CLPSS, OLPP and OSLPP could be interchanged with home, school, college and business environment. However, the packaging and covers are developed to appeal to each different segment of the market.”

“They are interchangeable.”

“They are interchangeable.”

“They all are interchangeable between grade levels within schools.”

“Yes, they are interchangeable in all/end use.”

“Width of the ruling of the paper – college ruled for us is the most important while wide rule is more important to younger students. Home and businesses are interchangeable.”

“No difference.”

“n/a.”

“Yes. While CLPSS are more likely used in the school context and OLPP and OSLPP are more likely used in the business and home context, all of the above-referenced products are interchangeable in any of these contexts.”

“We do not buy domestic paper products.”

“Unknown.”

“n/a. No local Purchases.”

“Again, it is hard to answer this question given the variety of products involved. Generally, however, size is one of the most important characteristics that determine the use and interchangeability of lined paper products. As noted above, the dominant size for CLPSS is 8.5x11. Significant differences in size may operate to limit interchangeability. Generally, however, any 8.5x11 lined paper, whether it is on a writing pad (with or without holes) or in a notebook (regardless of the binding type or trademark) or loose-leaf, can be used for the same purpose, i.e., for note-taking and writing. These products are all interchangeable to a significant degree and the customer’s selection of a particular product may simply be a matter of preference, or it may be based on the desire for a particular feature (e.g., holes to enable storage in a three-ring binder, or a protective cover). These specific features, however, do not alter the use of the products, and have only a limited impact on interchangeability. In addition, while certain features, such as hole-punched paper, are more commonly associated with school uses, they are suitable for business and home use as well. Thus, the OLPP products that are comprised of 8.5x11 lined paper (e.g., legal pads without holes; *** notebooks) can be used interchangeably with 8.5x11 CLPSS products, either at school, at home, or in the office. OLPP, however, include other products that are very dissimilar from the CLPSS, such as hardcover journals. Unlike CLPSS, these products are appropriate for gift giving, are intended for long term use and may even be kept for a lifetime. The journals are normally smaller than 8.5x11 and individual sheets of paper are not intended to be removed, therefore they do not usually have features such as perforated pages. There are no hole-punches in hardcover journals. The decorative nature of the cover is designed to inspire creative types of products also limits their interchangeability with CLPSS, which is generally intended for everyday use in school or at the office. As noted above, the primary distinction between OSLPP and CLPSS is size, which can be associated with a more specialized use. Thus, there is likely to be less interchangeability between OSLPP and CLPSS.”

“n/a.”

“Unknown.”

“We sell only to college bookstores – college students, faculty and staff as our primary customers.”

“None-the uses are comparable.”

“CLPSS, OLPP, and OSLPP items are interchangeable. Some items are used for note taking, some for reports, some for letter writing.”

“All products CLPSS, OLPP and OSLPP are interchangeable. They are used for any context. Specific schools may call for certain standards.”

“The differences for our purposes are in the grade level appropriateness, otherwise they are similar.”

“None.”

“Used in school classrooms.”

“n/a.”

“n/a.”

“Interchangeable.”

Importers

“It is difficult to generalize. Certain items excluded from the scope, such as petitioners’ trademark products are completely interchangeable with certain items included in the scope. Certain fashion items meanwhile are distinct from other in-scope merchandise, in that they are discretionary purchases driven by the design appeal; other items within the scope are classroom supplies that are “must-have” items on a school supply list.”

“No response.”

“No response.”

“Difference in the uses of CLPSS, OLPP, and OSLPP in the U.S. are based on the product’s features. For example, OLPP such as calendars are not interchangeable with CLPSS.

“No response.”

“Yes, to some degree.”

“Differences: the products for business use are very different from product for school. Not only because the external use of the product, but also because of the sizes.”

“No response.”

“The products are interchangeable as described.”

“College, high school, and office uses require better quality paper than home and school use.”

“n/a – only source foreign CLPSS, OLPP, OSLPP.”

“U.S. products are interchangeable in the home, college, high school and business context.”

“They are all interchangeable.”

“Unknown.”

“Don’t know.”

“CLPSS is the first priority in terms of necessity. OLPP and OSLPP can be interchangeable while CLPSS is hardly interchangeable especially for school use.”

“Mostly interchangeable 100%.”

Please describe any similarities and/or differences in the U.S. channels of distribution (e.g., distributors to schools, distributors to offices, retailers/end users, etc.) for CLPSS, OLPP, and OSLPP.

U.S. Producers

“CLPSS is typically distributed through all classes of trade. As shelf space expands, retailers begin with CLPSS and increase their assortment with additional items from OLPP and OSLPP. Contract stationers *** typically have a limited core selection of CLPSS and have extensive listings of items within OLPP and OSLPP office superstores *** have a broad selection of OLPP and OSLPP items on a everyday basis and expand their distribution of CLPSS during the Back-to-School period. Also, the office superstores usually have an “office” aisle, in which OLPP and OSLPP are more likely to be found, and a “school supplies” aisle, in which CLPSS is more likely to be found. There are also different seasonal sales patterns.”

“Distribution similar except where purchase off a website is mandatory.”

“All US channels of distribution are managed in the same manner. Purchaser order cut by customer, product manufactured, product shipped or picked up by customer depending on transportation terms.”

“There is a limited overlap in the channels of distribution. Other lined products, such as legal pads, are often purchased by separate buyers. Other lined products are sold primarily to business and office professionals, not school students, who are the primary customers for CLPSS. In addition, the distributors of other lined products are generally wholesalers rather than retailers. The major purchasers of CLPSS tend to be grocery stores, drug stores, dollar stores, superstores, and other mass merchants. The major purchasers of other lined products tend to be office specialists. But, even when other products are sold in the same stores as CLPSS, they are typically sold in different sections.”

“No significant difference other than size. The end user can write on all of them.”

“CLPSS are overwhelmingly sold within the back-to-school season. These products are stocked heavily by stores such as mass-market retailers, rug stores and grocery stores in advance of each new school year, and with a second, smaller sales spike before the second semester. OLPP and OSLPP, on the other hand, are not seasonal. These products tend to be broadly stocked throughout the year by office supply houses such as *** and by business-oriented stationers such as ***, and are also available via catalog, internet ordering, and distributors. However, mass market, drug, and grocery stores only a tiny amount of such products.”

“Do not know.”

“None.”

“No response.”

“CLPSS-school focused; OLPP-office focused.”

Purchasers

“Our knowledge is limited to retail.”

“Mostly similar.”

“Distributors selling to schools use a different grading/supply of paper than that sold to retailers to achieve lowest costs. Retailers have more restrictive packaging and delivery requirements.”

“Unknown.”

“CLPSS products are usually used in schools and at homes; OLPP and OSLPP products may be used to a lesser extent in schools and homes, but more likely in business applications and special applications – not as functional for school/student use.”

“n/a.”

“No difference, save in geographical area covered and prices charged.”

“Retail customers would be similar, although the buyers may be different.”

“Products offering differs, percent strategy, depth of assortment.”

“n/a.”

“At ***, the categories are sold in the same channels of distribution, whether retail stores, mail order catalog, e-commerce or contract businesses servicing consumers or businesses from home-based businesses to Fortune 500 companies.”

“n/a.”

“We are retailer buying direct and selling to end users for school, home office, small office end usage. Superstores sell to the same market but target businesses. They generally have higher volume than our firm in stationery because they specialize in this market. Distributors resell product directly to businesses and smaller retailers.”

“Distributors tend to carry a different mix of merchandise to service their customers. A distributor to a grocery store would stock different items than a distributor to an office supply store.”

“Not aware of differences in the channels of distribution.”

“We only distribute direct to schools.”

“Product is similar in all channels. Differences in size, pack counts between schools. Retail fashion sells in retail more than direct to schools.”

“Not sure.”

“No difference.”

“n/a.”

“n/a.”

“We do not buy domestic paper products.”

“Unknown.”

“n/a. No local Purchases.”

“*** purchases all of these items from the same sources, most commonly U.S. producers.”

“We distribute to all categories in the same manner.”

“We are a retailer that operates collegiate bookstores with only one channel of distribution which is the collegiate student and faculty (students are the end users).”

“None.”

“Since we only sell to retailers, I do not know the distribution methods of the other channels.”

“Do not understand the question.”

“None.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“None.”

Importers

“The channels are the same. The products are sold to mass market, drug stores, grocery stores, dollar stores, office superstores and other customers and commercial distribution.”

“No response.”

“No response.”

“The channels of distribution for OSLPP are the same and typically shipments are to distributors, retailers, and end-users.”

“No response.”

“No difference.”

“Sales of CLPSS are similar that the sales of the other paper products.”

“No response.”

“None to my knowledge.”

“We have no experience with distribution to schools, offices or end users, only retailers.”

“n/a – only source foreign CLPSS, OLPP, OSLPP.”

“All products travel through the same channels of distribution. Can be manufacturer to distributor to retailer to end user. Can be manufacturer to mass retailer to end user (most common).”

“Most distributors use *** or ***, or their own vehicles to deliver the product.”

“Unknown.”

“Don’t know.”

“CLPSS is mostly channeled to schools and end users like students. OLPP and OSLPP are usually for offices and some end users like working people.”

“All similar. Some OLPP (legal pads/stenos) distribute to non retail predominantly.”

Please describe, to the best of your knowledge, any similarities and/or differences in customer perceptions of U.S.-produced CLPSS, OLSPP, and OLPP in the U.S. market.

U.S. Producers

“While consumers and producers will classify CLPSS, OLSPP, and OLPP under the broad definition of “paper products,” there are differences in perceptions between the three classifications. CLPSS items are typically perceived as core school items. OLSPP and OLPP items can be considered home or office products. Also, OLSPP and OLPP items are often considered “accessory” or “secondary” items, as it relates to usage and are not perceived to be “required” items for school use. Stores also put CLPSS in a different sections (i.e., school supplies) from OLSPP and OLPP (i.e., office supply), and promote these products differently to customers.”

“U.S. products are priced higher.”

“All products are basically perceived by both producers and customer in the same way. Only difference would be manufacturing process vs. end users only seeing finished product without background of the process.”

“Other lined products are perceived to be part of the office or business market while CLPSS are generally perceived as educational items. Legal pads, steno pads, and line business forms would not be purchased by school students because they are not acceptable for turned-in homework as a matter of size and color, and the pages would not necessarily be easily collectable in binders. Students and teachers do not perceive these as similar products.”

“No significant difference other than size. The end user can write on all of them.”

“Both consumers and producers think of CLPSS and OLPP/OLPP as separate types of merchandise. CLPSS are perceived as school items, whereas the other products are thought of as business/office supplies. A school student will gravitate to CLPSS, which is specifically designed for school needs, and which is usually the only type of product acceptable to teachers. Office workers and other adult consumers will gravitate to OLPP/OLPP, which are more suited to the taking of temporary notes either meant to be retyped or else discarded. The products are generally not advertised together, as indicated by the sampling of back-to-school advertisements attached to this questionnaire. Moreover, even where the same store stocks both goods (as office stores will sometimes do during the back-to-school selling period), the goods are stocked in different parts of the store.”

“No difference.”

“None.”

“No response.”

“Nothing unique about it.”

Purchasers

“No such knowledge.”

“Mostly similar.”

“Customers shop on price first. Quality does not factor into purchase decision.”

“Unknown.”

“Customers are aware of and conditioned to CLPSS products because of the predominant use in schools and the specification of these items on school/teacher lists. The OLSP and OLPP items are not as well known.”

“n/a.”

“No opinion here.”

“Company’s CLPSS are used as educational activity tablets for children. OLSPP and OLPP are not produced domestically.”

“They are different items in consumer’s eye.”

“n/a.”

“In general, I would say that a customer has a personal preference for a top bound vs. a side bound products or a preference for a 3 hole punched products to fit into a binder vs. a non punched product to file. This does not fit neatly into the buckets that have been created for CLPSS, OLSPP and OLPP, so I do not feel that the customer has a perception of these categories as they have been defined. That having been stated, we believe that a great deal of the perception of all of these products is scrap paper or general note taking and very interchangeable. In general, the demand for 3 hole punched product is more seasonal, peaking during the back-to-school season. There is significant and increasing overlap, particularly from the perspective of ***, which is an office supply superstore. *** sells a significant number of composition books to businesses, and is ***. In addition, smaller size wire notebooks (OLSPP and OLPP) may be used for note taking and other school applications in higher grades. CLPSS, OLSPP and OLPP are sold in our stores and through mail order, and contract business year round. n/a on producer perception.”

“End consumer does not care or notice where this product is made.”

“Customer perceptions of U.S. domestic made product is higher quality at a higher price.”

“I have no knowledge of any pre-conceived perception.”

“I don’t think there are perceived differences.”

“None that I am aware of.”

“Not sure.”

“Customer perception is that U.S. produced is more desirable product. It may be more expensive but customers recognize U.S. production and sweat shop labor is not an issue. That said, our customers want the best price.”

“No difference.”

“Cannot respond regarding customer or producers “perceptions.”

“There may be differences by brand.”

“n/a”

“Unknown.”

“n/a. No local Purchases.”

“Again, it is hard to answer this question given the variety of products involved. Generally, however, size is one of the most important characteristics that determine the use and interchangeability of lined paper products. As noted above, the dominant size for CLPSS is 8.5x11. Significant differences in size may operate to limit interchangeability. Generally, however, any 8.5x11 lined paper, whether it is on a writing pad (with or without holes) or in a notebook (regardless of the binding type or trademark) or loose-leaf, can be used for the same purpose, i.e., for note-taking and writing. These products are all interchangeable to a significant degree and the customer’s selection of a particular product may simply be a matter of preference, or it may be based on the desire for a particular feature (e.g., holes to enable storage in a three-ring binder, or a protective cover). These specific features, however, do not alter the use of the products, and have only a limited impact on interchangeability. In addition, while certain features, such as hole-punched paper, are more commonly associated with school uses, they are suitable for business and home use as well. Thus, the OLSPP products that are comprised of 8.5x11 lined paper (e.g., legal pads without holes; *** notebooks) can be used interchangeably with 8.5x11 CLPSS products, either at school, at home, or in the office. OLSPP, however, include other products that are very dissimilar from the CLPSS, such as hardcover journals. Unlike CLPSS, these products are appropriate for gift giving, are intended for long term use and may even be kept for a lifetime. The journals are normally smaller than 8.5x11 and individual sheets of paper are not intended to be removed, therefore they do not usually have features such as perforated pages. There are no hole-punches in hardcover journals. The decorative nature of the cover designed to inspire creative types of products also limits their interchangeability with CLPSS, which is generally intended for everyday use in school or at the office. As noted above, the primary distinction between OLPP and CLPSS is size, which can be associated with a more specialized use. Thus, there is likely to be less interchangeability between OLPP and CLPSS.”

“Not known.”

“Unknown.”

“Most of our customers prefer US sourced products.”

“None.”

“n/a.”

“I don’t know if customers notice differences in USA made product except for brand recognition.”

“None.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“None.”

Importers

“Customer perceptions of U.S. produced product in each category is similar because they are standard grade product. The fashion items differ from other merchandise within the scope in that they are perceived as discretionary purchases driven by design appeal and quality that ties to personal image projection.”

“No response.”

“No response.”

“Customer and producer perceptions of domestically produced CLPSS, OLSPP and OLPP are different as the products have different uses and physical characteristics.”

“No response.”

“No difference.”

“We haven’t had any market research about U.S. customer in regard of their perception of U.S. product but by our experience in *** we know that the market values well constructed notebooks perfectly binded with good paper.”

“No response.”

“*** is the brand name to the consumer. *** is the largest producer.”

“I believe the normal perception is that U.S. produced products are better quality than import product.”

“n/a – only source foreign CLPSS, OLSPP, OLPP.”

“Producers market these interchangeably; there are perceived as similar. Purchasing groups are the same; products are purchased by the same buyer.”

“I’ve heard that it was expensive and some craftsmanship issues, i.e. fair ruling.”

“Unknown.”

“Don’t know.”

“They are similar in terms of quality and availability.”

“No differences.”

Please explain whether U.S.-produced CLPSS, OLSPP, and OLPP are made in common (i.e., the same or shared) U.S. manufacturing facilities, using common producing processes, and production employees.

U.S. Producers

“Typically, there are different producers and machines used to make the different merchandise. Legal pads are predominantly made by a different set of machines. Where common machines are used for subject and non-subject products, the overlapping volume is small.”

“Similar equipment in concept but major difference as to speed of production.”

“For the most part all three products are manufactured on common equipment, utilities, common employees.”

“There is some potential overlap in the manufacture of notebooks of various sizes, but legal pads have their own special piece of automatic equipment which is specific to pads. Machinery and employees are generally dedicated to one or the other.”

“Yes.”

“Production facilities and machinery have some, limited overlap, but production is typically distinct. While some types of OLSPP and OLPP may be produced in the same factories as CLPSS, the same machines are not typically used. While some machinery is able to produce a wide variety of rulings, the various sizes need to produce OLSPP and OLPP requires some dedicated machinery. For example, *** currently has *** machines dedicated only to OLPP production because of the variety of sizes. Moreover, the companies that specialize in OLSPP and OLPP are different from those companies that specialize in CLPSS.”

“No knowledge.”

“Only if the right equipment is in place.”

“No response.”

“They all are produced in the exact same manner. To a manufacturer CLPSS, OLSPP, and OLPP are all the same category.”

Purchasers

“No such knowledge.”

“Unknown.”

“Perception is that all paper is made from same mills and, in some cases, made from the same lines.”

“Unknown.”

“n/a”

“n/a”

“I don’t have knowledge of production process outside the common beginning of starting with a roll of tablet or bond paper.”

“For ***, only CLPSS were made in U.S. manufacturing facilities.”

“Yes. Most U.S. producers of CLPSS also offer items classified as OLSPP and OLPP.”

“n/a”

“In my experience in U.S. factory visits, I have seen CLPSS and OLSPP produced in the same manufacturing facilities, using the same or similar production process and, to the best of my knowledge, the same production employees. I have seen a piece of equipment that produces spiral bindings, regardless of whether the item is a CLPSS notebook or a OLSPP steno book. Note- specific workers may be trained on one machine vs. another, but to the best of my knowledge the employee skill set is the same. Although not requested, I have seen a machine in another country that can produce both spiral bound notebooks and legal pads, with the same employees.”

“To the best of our knowledge, yes.”

“All three categories are generally produced in common for domestic factories.”

“I am not familiar with the manufacturing process of our suppliers.”

“Don’t understand the question.”

“As far as I know they use common production process.”

“Converting is common. Difference is whether the paper manufacturing is owned and works in conjunction to the converting facility.”

“I don’t know.”

“I think that they are all made in common facilities, using common processes and employees, but I have not been to a U.S. facility to confirm this.”

“Don’t know.”

“Unknown.”

“n/a.”

“Unknown.”

“n/a. No local purchases.”

“As a retailer we lack the information necessary to respond.”

“Don’t know.”

“Unknown.”

“n/a”

“Not aware of any differences.”

“n/a”

“Unknown.”

“n/a.”

“n/a.”

“n/a.”

“n/a.”

“n/a.”

“I believe so.”

Importers

“Depending on the out-of-scope merchandise at issue, the manufacturing process for in-scope and out-of-scope merchandise might be the same. Obviously, there may be certain differences in manufacturing process for certain items, such as newspaper, calendars and photographs.”

“No response.”

“No response.”

“The manufacturing processes for domestically produced CLPSS, OLSPP, and OLPP differ based on differences in physical characteristics.”

“No response.”

“Don’t know.”

“Some of products are manufactured using similar production processes, however the binding technology is what will make the difference and also the employee cost and training.”

“No response.”

“I have no knowledge of their manufacturing facilities and processes.”

“I have no idea.”

“n/a– only source foreign CLPSS, OLSPP, OLPP.”

“Yes, shared facilities and employees. Production processes are also similar.”

“n/a.”

“Unknown.”

“Don’t know.”

“No clear understanding in this issue.”

“Almost or 100% in common.”

Please describe any similarities and/or differences in the prices of U.S.-produced CLPSS, OLSPP, and OLPP in the U.S. market.

U.S. Producers

“***.”

“Volume.”

“Pricing for all products is the same but is predicated on products specifications required by customer.”

“The prices of notebooks vary significantly, depending on the features (pockets, dividers, handovers, fashion designs, etc.). Covered legal pads that contain 50 sheets of paper may sell for \$*** each. 150 sheets packs of filler may sell for \$*** each. “

“Price is a function of size, sheet count, type of cover and/or back, type of binding, special inserts (tags/dividers/pockets), and packaging.”

“Price differences between these three products hinge largely on their perception by retailers. The majority of CLPSS is sold all at once, during the back-to-school buying season, and presents an opportunity for retailers to draw in large numbers of consumers making back-to-school purchases of a variety of sorts (clothes, backpacks, etc., in addition to CLPSS). Thus, CLPSS tends to be priced as a “loss leader” far more frequently than OLPP/OLPP. This in turn leads to pressure to lower prices from producers/suppliers to retailers as the retailers attempt to “cut” their losses on such goods.”

“No difference.”

“CLPSS – low commodity based; OLPP somewhat commodity, but more ... Not usually automated.”

“No response.”

“Prices are largely dictated by paper content, quality of paper.”

Purchasers

“It is not possible to compare prices of CLPSS, OLSPP or OLPP as each is designed for a specific purpose.”

“General price range similar.”

“Very similar pricing.”

“Unknown.”

“Based on sizes and relative volumes of use, CLPSS products are typically less expensive than OLSPP or OLPP products.”

“n/a.”

“Market shifts occur monthly on the price of these products. Most suppliers institute similar price changes at the same time as their costs for rolls change and the cost of fuel changes.”

“For ***, only CLPSS were made in U.S. manufacturing facilities.”

“Pricing varies based on end product. Similarities exist based on grade of products (commodity vs. value add).”

“n/a.”

“It is not possible to make product comparisons since all notebooks and pads in CLPSS have covers in addition to the paper and backing, while all pads in OLSPP have no covers, so the components are different (note – all pads with a cover are included in CLPSS), and sheet counts of paper generally differ from notebooks to pads. Additionally, we do not have current prices from U.S. manufacturers for many U.S. produced CLPSS items – in the bid for *** 2006 business *** did not quote a single item produced in the U.S. (***), *** only provide a quote to *** for 1 item that they would produce in the U.S. (***) and *** declined to provide quotes for any products to be produced in the U.S. However, in *** opinion, a direct match would be *** poly covered wirebound perf pad 100 sheets at \$*** compared to *** poly covered wirebound 100 sheet 1 subject notebook at \$***.”

“Commodity products would be similar. Fashion, value added or office items could be higher and differ by design material or inner components.”

“Domestic products usually are offered in good, better, best tiers and within those tiers offering exists such as basic, step-up basic, value added, premium, fashion licensed.”

“Most all of the offerings made to us by a number of products are very close price wise.”

“Prices are similar.”

“They seem to be prices in the same range within 2-5% of each other.”

“Similar pricing in U.S. market.”

“No response.”

“The pricing seems to be similar as far as the price vs. my perception of the cost each item (even within the same category) is different so the prices vary from item to item.”

“S: similar; D: n/a.”

“Pricing differences between brands.”

“U.S. produced products are too expensive for our price point.”

“Unknown.”

“n/a. No local Purchases.”

“Given the overlap, discussed above, between CLPSS and OLSPP, similar price points may be observed across those categories. Given the broad range of products encompassed by the three products, however, different price points may exist both within and between categories.”

“Don’t know.”

“Unknown.”

“n/a.”

“Not aware of any major differences as it relates to ***.”

“I don’t know understand the question. All the items are different. Filler paper costs more than legal pads or 70ct notebooks. Letter tablets cost more than memo books.”

“CLPSS tends to be lower cost and low retail OLSPP and OLPP are more expensive (both cost and retail). Pricing between companies in the U.S. market tends to be similar except for brands which are higher.”

“Pricing varies for all depending on the vendor.”

“None.”

“Pricing is very similar between the several suppliers.”

“n/a.”

“n/a.”

“Very competitive.”

Importers

“Products are typically priced based on size of the product. Certain excluded items, such as calendars and newspapers, are distinct. Other items, such as petitioners’ trademarked items, which have been excluded from the scope, are identical to products within the scope and their prices likewise be similar. As noted, petitioners have included certain fashion items within the scope that are distinct from other standard items within the scope. These items are typically priced 2 to 3 times higher than the other products included in the scope.”

“No response.”

“No response.”

“The prices for domestically produced CLPSS, OLSPP and OLPP differ based on product’s characteristics and uses.”

“No response.”

“U.S. is slightly higher.”

“The prices of the product are directly related to size, paper quality, binding technology and labor cost. As smaller the notebook, smaller the price of manufacturing (cost).”

“No response.”

“I have no knowledge of their prices so I cannot make a comparison.”

“There are quality differences in the paper used in the 3 categories.”

“n/a – only source foreign CLPSS, OLSPP, OLPP.”

“Multitude of different prices but all within the same range.”

“All similarly priced.”

“Unknown.”

“Don’t know.”

“They are priced differently. However, during back to school season, CLPSS are sold in relatively low prices compared to OLSPP and OLPP.”

“All are similarly market driven.”

Please describe any similarities and/or differences in the (1) physical characteristics, (2) interchangeability, (3) U.S. channels of distribution, (4) customer and producer perceptions, (5) manufacturing facilities and production processes, and (6) prices for any lined paper or lined paper products with dimensions smaller than 5 x 7 inches and lined paper or lined paper products with the smaller dimension measuring 5 to 15 inches (inclusive) and the larger dimension measuring 7 to 15 inches (inclusive).

U.S. Producers

a). Physical Characteristics:

“Physical characteristic differences are related to the size of the product, sheet count and product components. In many cases, the smaller sized items have less features, such as lack of pockets, dividers, etc. Ruling may also differ in size from large to smaller items. In many cases, smaller items will have a “special” ruling that is not consistent with standard “wide” or “college” ruling. Similarities between the products will be in binding methods and basis weight of paper covers and backs.”

“Quite similar.”

“The two sizes are similar in that they both have horizontal lines for writing. The major difference is the size.”

“The primary difference in physical characteristic is size. Sheet count, product components and ruling may also differ between sizes.”

“Same.”

“CLPSS and small-sized OLPP are both paper products, but are distinctly different from a physical perspective. The products are differentiated by size, ruling style, and sheet count. Small OLPP, such as memo books, tend to consist only of one section, whereas CLPSS may include multi-subject notebooks, and have other features, such as pockets.”

“n/a.”

“Smaller than 5x7 maybe , but not always.”

“No response.”

“Negligible differences.”

Purchasers

“They are mostly similar. The major physical difference is size.”

“Mostly similar.”

“Definition above describes the differences.”

“We do not have sufficient information to respond to this question.”

“Filler paper, wire bound notebooks and composition books are specifically used in schools by students. ‘Other lined paper products’ typically are utilized in business applications.”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“Smaller products are smaller in size and used as everyday home products.”

“Size, page count.”

“None.”

“The physical characteristics are the size differences.”

“Coils, corners, backing, color of paper, thickness of paper, fashion or ornamentation, interior components.”

“Physical characteristics are all generally alike.”

“I perceive them to be very similar in appearance and quality.”

“Differences are not apparent.”

“None.”

“Same paper – not much difference.”

“Quality of paper, brightness, size.”

“The smaller items are index cards and are made of heavier paper.”

“Similar.”

“No perceivable differences.”

“No response.”

“No response.”

“n/a. No local U.S. produced products purchased.”

“By definition, the primary physical difference is size. Otherwise, for example, 4x6 lined paper and 8.5x11 lined paper that is spiral bound or on a pad would be identical.”

“n/a.”

“No response.”

“These are similar in that these are memo size notebooks. Differences are sheet count.”

“Interchangeable - the quality of the product is comparable.”

“Memo books are 3x5 and 4x6, some writing tablets are 5x7. Writing tablets are better quality paper. Memo books are wire bound. We do not use anything 7 to 15 inches.”

“No response.”

“None.”

“Products purchased from vendors are similar in quality.”

“n/a.”

“n/a.”

“Mostly similar.”

Importers

“Other than size, the characteristics are very similar. Most of the domestically produced products are commodity or standard grade products in each category. Given the wide variety of products excluded from the scope, it is difficult to generalize. Certain items, such as calendars and newspapers, obviously have different characteristics. Certain smaller size items that are outside the scope are similar to items within the scope in that they both use ruled tablet paper and are used to write on. However, the smaller sized items are typically used for business and home use as opposed to school use. Other items outside the scope, such as petitioners’ trademarked items, are identical in characteristics compared to certain items within the scope. In addition, certain fashion items, such as stylized notebooks, that are within the scope have different characteristics from other items within the scope. These fashion items include higher cost components such as poly covers, special treatments such as glitter, flocking, 4 color process printed interior covers, front cover merchandisers, rounded corners, pearl poly wire, heavier weight paper, and higher quality back covers. These items are considered fashion accessories.”

“No response.”

“No response.”

“OLPP differs in physical dimensions from CLPSS and may differ in size from OLSPP. There may also be different bindings. The intended uses may also create physical differences.”

“No response.”

“Difference is size. Similarities on lined paper, printed colors.”

“Similarities – size of the product and line printed over the sheet of the notebooks. Differences – binding technologies.”

“No response.”

“None to my knowledge.”

“Different types of paper used to produce these three.”

“n/a.”

“Physical characteristics are the same except size. Multitude of binding. Can have other varying characteristics but there is no clear dividing line of differentiation.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

b). Interchangeability:

U.S. Producers

“These products are not typically considered to be interchangeable outside the fact that they are paper products and are used for writing things down. Especially in the case of school children, requirements are noted for the size of paper that needs to be turned in. Also, there is functionality consideration as larger sheets can hold more writing, requiring the use of less sheets of paper.”

“Very much so.”

“Not interchangeable because the size variance is too large.”

“There is little interchangeability. Small-sized merchandise is not used for the same uses as CLPSS: homework and note-taking.”

“Same.”

“These goods are largely used for different purposes by completely different consumers. Whereas CLPSS is used by school students for note-taking and completion of homework and assignments, small-sized OLPP is mostly used to jot down addresses or as diaries. OSLPP’s size prohibits it from being acceptable for school uses other than listing of assignments, both because teachers will not accept it for work to be turned in, and because it would required too many pages for most school assignments to be practical.”

“n/a.”

“Usually interchangeable.”

“No response.”

“Extremely interchangeable.”

Purchasers

“CLPSS, OLSPP and OLPP are each designed for specific uses and functions. They are not interchangeable.”

“Mostly similar.”

“More frequently interchangeable.”

“We do not have sufficient information to respond to this question.”

“Filler paper, wire bound notebooks and composition books are specified on supply lists that students are given by schools and teachers. There is no interchangeability with these products and ‘other lined paper products.’ ”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“No interchangeability exists.”

“Limited.”

“None.”

“The interchangeability would probably be high between a 4x6” notebook and a 5x7”, a 5.5x7.55”, gradually getting lower as the size increases. Would not consider 4x6”, 5x7”, or 5.5x7.75” generally interchangeable with a full size (letter or legal size) product.”

“Commodity items are interchangeable to the consumer. Fashion or business type products are not based on desired inner components, cover style or coil requirement.”

“Can be interchanged, however, normally the different offerings are not based on end use need.”

“I believe one could substitute one brand for another brand.”

“Product is essentially interchangeable.”

“All products interchangeable.”

“Highly interchangeable.”

“Not sure.”

“These are not interchangeable.”

“Similar.”

“Yes.”

“No response.”

“No response.”

“n/a. No local US produced products purchased.”

“The dominant size for lined paper used for writing and note-taking in school or in the office is 8.5x11. Some smaller size products, such as small pads, may have the same general use, but be less suitable for specific tasks, such as writing a school assignment or a business report. Thus, size may have some impact on interchangeability.”

“n/a.”

“No response.”

“We don’t offer a wide range of products in this category as volume is limited.”

“Interchangeable – the quality of the product is comparable.”

“Legal pads, note books and steno books used for notes sometimes are interchangeable.”

“When discussing differences in imported US domestic product we would need to do a side by side item comparison to give a physical difference explanation.”

“No response.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“Mostly.”

Importers

“It is difficult to generalize. Certain items excluded from the scope, such as petitioners’ trademark products, are completely interchangeable with certain items included in the scope. Certain fashion items meanwhile are distinct from other in-scope merchandise, in that they are discretionary purchases driven by the design appeal; other items within the scope are classroom supplies that are ‘must-have’ items on a school supply list.”

“No response.”

“No response.”

“As long as the page dimensions and other physical aspects of OSLPP meet the customers’ specifications, *** believes that OLPP are interchangeable with CLPSS and OLSPP.”

“No response.”

“Not.”

“Differences – the binding technology will avoid the interchangeability of the product.”

“No response.”

“The products are interchangeable as described.”

“I suppose some are interchangeable but it’s not correct to do it.”

“n/a.”

“U.S. products are interchangeable in the home, college, high school and business context.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

c). Channels of Distribution:

U.S. Producers

“Lined paper school supplies are typically distributed through all classes of trade. As shelf space expands, retailers begin with CLPSS and increase their assortment with additional items from OLSPP and OLPP. Contract stationers *** typically have a limited core selection of CLPSS and have extensive listings of items within OLSPP and OLPP office superstores *** have a broad selection of OLSPP and OLPP items on an everyday basis and expand their distribution of CLPSS during Back-to-School period. Also, the office superstores usually have an “office” aisle, in which OLSPP and OLPP are more likely to be found, and a “school supplies” aisle, in which CLPSS is more likely to be found. There are also different seasonal sales patterns.”

“Vary as to distributors and or large retailers.”

“Mass Market, Superstores, Food & Drug, Education, Commercial/Catalog. All similar, sell the same product. Differences are in packaging quantity, specifications and transportation.”

“Channels of distribution will vary depending on whether the use is for school supplies or office/commercial use:

There is a limited overlap in the channels of distribution. Other lined products, such as legal pads, are often purchased by separate buyers. Other lined products are sold primarily to business and office professionals, not school students, who are the primary customers for CLPSS. In addition, the distributors of other lined products are generally wholesalers rather than retailers. The major purchasers of CLPSS tend to be grocery stores, drug stores, dollar stores, superstores, and other mass merchants. The major purchasers of other lined products tend to be office specialists. But, even when other products are sold in the same stores as CLPSS, they are typically sold in different sections.”

“Same.”

“CLPSS tends to be sold during the back-to-school season, for use by school students. Smaller-sized OLPP, on the other hand, are largely considered office or novelty items (a memo pad vs. a diary). They will mostly be supplied by stationers, such as ***, and by office superstores, such as ***, although some small assignment books may be stocked during the back-to-school season by other retailers. While superstores will also stock CLPSS items during the back-to-school period, these items are not typically sold together on the shelves, and are additionally advertised to different consumers.”

“n/a.”

“Same.”

“No response.”

“Same.”

Purchasers

“Our knowledge is limited to retail.”

“Mostly similar.”

“Available everywhere – drug stores, food stores, big box stores, convenience stores, etc.”

“We do not have sufficient information to respond to this question.”

“The end-user of filler paper, wire bound notebooks and composition books are predominantly K-12 students and schools. The channels of distribution are retail, web, catalog and contract components to office superstores, mass merchants, food and drug chains. The end-user of OLSP is typically businesses and individuals involved in business. The channels of distribution are the same as for school paper.”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“Retail customers would be similar, although the buyers may be different.”

“Same.”

“None.”

“No differences in channels of distribution.”

“n/a.”

“Food, drug, mass merchandisers, dollar store, super store, and internet available.”

“Most all items are available within a common distribution channel. (A purchaser could move from one vendor to another and get the same mix of items.)”

“Products use the same channels.”

“n/a.”

“Size, type may vary, product is fairly standard.”

“Not sure.”

“They use the same channels of distribution.”

“n/a – one channel.”

“n/a.”

“No response.”

“No response.”

“n/a. No local U.S. produced products purchased.”

“We purchase products of all sizes from the same sources.”

“n/a.”

“No response.”

“*** Customer primarily Collegiate Students, Faculty and Staff.”

“Comparable – no major differences.”

“The channels of distribution are similar for all items.”

“Import and domestic items are used interchangeably at the commodity levels. However both are different at the fashion level.”

“No response.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“Contract stationers. Office supply superstore - ***. Office products independent dealers and wholesalers.”

Importers

“The channels are the same. The products are sold to mass market, drug stores, grocery stores, dollar stores, office superstores and other customers and commercial distribution.”

“No response.”

“No response.”

“The channels of distribution for OLPP are the same and typically shipments are to distributors, retailers and end-users.”

“No response.”

“Same.”

“They are similar.”

“No response.”

“None to my knowledge.”

“I guess some of the larger items would be sold to art supply stores.”

“n/a.”

“All products travel through the same channels of distribution can be manufacturer to distributor to small retailer to end user. Can be manufacturer to mass retailer to end user. Can be manufacturer to end user.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

d). Customer and producer perceptions:

U.S. Producers

“Perception is usually based on the item itself (e.g., diary, pad), rather than size. While consumers and producers will classify CLPSS, OLSP and OLPP under the broad definition of “paper products,” there are many differences in perceptions between the classifications. CLPSS items will be typically perceived as core school items. OLSP items can be considered home or office products. Thus, there may be a perception that OLSP and OLPP are different from CLPSS.”

“Sometimes feel larger in both categories is better.”

“Same. There are no differences.”

“These products will be perceived differently. Teachers and students do not perceive small-sized merchandise as usable in the same way as CLPSS.”

“Same.”

“Both customers and producers view these products as suitable for different classes of end-users. Whereas CLPSS is geared towards the needs of the school age population, smaller-sized OLPP is perceived product-by-product. For example, memo pads will be used by office workers to make ephemeral notes. Dayplanners and diaries will be used to track schedules. Even where stocked in the same store, CLPSS and OLPP are stocked in different parts of the store, and advertisements that feature one type of item will rarely, if ever, feature the other.”

“n/a.”

“Both low perceived value—throw away paper after end use.”

“No response.”

“Same.”

Purchasers

“No such knowledge.”

“Unknown.”

“n/a.”

“We do not have sufficient information to respond to this question.”

“School paper is intended for use in schools; legal/letter pads are intended for use in business. School paper products are marked aggressively in the Back-to-School selling season (July-September). Legal/letter pads are sold year-round at a relatively equal rate of sale.”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“Smaller products are perceived as everyday stationery items for home use.”

“Smaller items either juvenile in nature or scratch pad.”

“None.”

“Customer perception is that the smaller size (5x7” over and under) are ideal for portability, while larger sizes are generally good for desktop use. “n/a” on producer perception.”

“End consumer does not care or notice where this product is made.”

“Domestic product is more dependable, higher quality, higher price.”

“Our retail customers do not exhibit preferences for one brand over another. I have no knowledge of producer perceptions.”

“No perceived differences.”

“Customer perception of product is they believe the ruling could be darker.”

“Not sure.”

“Not sure.”

“The perceptions seem to be similar.”

“Cannot respond.”

“There may be differences by brand.”

“No response.”

“No response.”

“n/a. No local U.S. produced products purchased.”

“The dominant size for lined paper used for writing and note-taking in school or in the office is 8.5x11. Some smaller size products, such as small pads, may have the same general use, but be less suitable for specific tasks, such as writing a school assignment or a business report. Thus, size may have some impact on interchangeability.”

“n/a.”

“No response.”

“Items would fit in a back pack, each has a different type of use, i.e., memo book, reporter’s notebook, personal notebook.”

“Comparable – no major differences.”

“Customers and producers believe that trademark products have more value.”

“Customers have not communicated any opinions on this subject.”

“No response.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“Same.”

Importers

“Customer perceptions of US produced product in each category is similar because they are standard grade product. The fashion items differ from other merchandise within the scope in that they are perceived as discretionary purchases driven by design appeal and quality that ties to personal image projection.”

“No response.”

“No response.”

“Customer and producer perceptions of domestically produced OLPP differ from OLSPP and CLPSS as they are different products.”

“No response.”

“Larger sizes have a greater volume and are used more for day to day whereas smaller sizes are more novel or used for special assignments, etc.”

“For customer the quality of the paper is very important and also the lining of the paper and cover.”

“No response.”

“*** is the brand name to the consumer. *** is the largest producer.”

“I don’t know.”

“n/a.”

“Producers market these products as interchangeable. Perception is that products are similar. Products are sold to the same buying groups as purchasers.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

e). Manufacturing processing:

U.S. Producers

“Typically, there are different producers and machines used to make the different merchandise. Some machinery has the ability to produce items in both sizes while some machinery is unable to do this. Where common machines are used for subject and non-subject products, the overlapping volume is small. Also, smaller books may be more work-intensive because more cutting is involved.”

“Similar but vary as to speed of equipment.”

“Both sizes go through similar manufacturing which includes: ruling, sheeting, cutting, and binding.”

“The manufacturing process is somewhat more labor intensive the smaller the product, because smaller products generally require additional cuts.”

“Same.”

“While both CLPSS and small OLPP may be produced in the same factories, the same machines may not be used. The unusual sizes of OLPP require some dedicated machinery. For example, *** currently has four machines dedicated only to OLPP production *** because of sizes cannot *** CLPSS.”

“n/a.”

“Smaller less ***.”

“No response.”

“Same.”

Purchasers

“No such knowledge.”

“Unknown.”

“Unaware of similarities/differences.”

“We do not have sufficient information to respond to this question.”

“n/a – *** is not a manufacturer and does not have access to the manufacturing process.”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“Manufacturing process is similar.”

“Similar.”

“None.”

“I believe the manufacturing processes are the same.”

“To the best of our knowledge, yes.”

“Manufacturing processes are shared and in common.”

“I believe that most vendors use the same process.”

“Question not clear.”

“n/a.”

“Similar for converting. Is the manufacturing downward integrated? Do they own the paper manufacturing? Only difference.”

“Not sure.”

“The manufacturing process is probably similar, but we do not make them.”

“Similar.”

“n/a.”

“No response.”

“No response.”

“n/a. No local U.S. produced products purchased.”

“As a retailer, we do not have knowledge of manufacturing.”

“n/a.”

“No response.”

“Top bound and side bound.”

“Comparable – no major differences.”

“n/a”

“Unknown without direct factory information to compare.”

“No response.”

“None.”

“n/a.”

“n/a.”

“n/a.”

“Same-Converting prices.”

Importers

“Depending on the out-of-scope merchandise at issue, the manufacturing process for in-scope and out-of-scope merchandise might be the same. Obviously, there may be certain differences in manufacturing process for certain items, such as newspaper, calendars and photographs.”

“No response.”

“No response.”

“The manufacturing processes for domestically produced OLPP differ based on the physical characteristics.”

“No response.”

“Same.”

“The manufacturing processes are very similar in the world when you compare the same binding technology. However, quality control and productivity are quite different and will depend on manufacturing facilities.”

“No response.”

“I have no knowledge of their manufacturing facilities and processes.”

“I don’t know.”

“n/a.”

“Manufacturing uses shared facilities and employees.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

f). Price:

U.S. Producers

“***.”

“Varies due to production processes and volume.”

“All prices are based on bid process, prices are predicated on quantity, specifications, transportation requirements – these specifications determine price points.”

“Because the manufacturing process is generally more labor intensive for smaller paper products, the cost per unit is likely to be somewhat greater for the smaller paper products.”

“Price is a function of size, sheet count, type of cover and/or back, type of binding, special inserts (tags/dividers/pockets), and packaging.”

“Smaller products can be more labor intensive, requiring, as noted above, dedicated machinery. Moreover, OLPP is not considered a school item, and is not sold specifically for the back-to-school season. Thus, these products are not subject to the loss-leader mentality that dominates the CLPSS market.”

“n/a.”

“Smaller slightly higher price.”

“No response.”

“Similar.”

Purchasers

“It is not possible to compare prices of CLPSS, OLSPP, or OLPP as each is designed for a specific purpose.”

“General price range similar.”

“Low price and trends sell this segment.”

“We do not have sufficient information to respond to this question.”

“School paper products prices range from *** cents to *** dollars during the primary selling season of Back-to-School; in the off-season, selling prices are usually *** dollar to *** dollars. Legal/letter pads do not have the same seasonality or price volatility and typically sell for *** each pad.”

“n/a.”

“We don’t purchase products with 5x7 dimensions, so can’t make comparisons.”

“Company products are manufactured and sold to retail at \$*** through \$***. Price points based on size, quality and design of the products.”

“Depends on quality.”

“None.”

“n/a.”

“Commodity products would be similar. Fashion, value added or office items could be higher and differ by design material or inner components.”

“Price is higher, generally, and so is quality dependability and programming.”

“The price for the lower volume items 5x7, etc. is higher.”

“Prices are similar.”

“The schools are looking for the least expensive thing they can buy.”

“Similar.”

“Varies depending on other factors.”

“The pricing seems to be similar as explained previously: The pricing seems to be similar as far as the price vs. my perception of the cost of each item (even within the same category) is different so the prices vary from item to item.”

“Similar.”

“Pricing differences between brands.”

“U.S. produced products are too expensive for our price point.”

“No response.”

“n/a. No local U.S. produced products purchased.”

“There is no direct correlation between size and price. For example, a small journal may be more expensive than a package of 8.5x11 loose-leaf paper.”

“n/a.”

“No response.”

“Price range at retail is *** cents – \$***.”

“Not aware of any major differences.”

“Price is affected by the competitiveness of the marketplace on key items like notebooks and filler paper and legal pads.”

“Domestic pricing tends to be higher than import pricing.”

“No response.”

“Varies by vendor.”

“n/a.”

“n/a.”

“n/a.”

“Mostly similar.”

Importers

“Products are typically priced based on size of the product. Certain excluded items, such as calendars and newspapers, are distinct. Other items, such as petitioners’ trademarked items, which have been excluded from the scope, are identical to products within the scope and their prices likewise be similar. As noted, petitioners have included certain fashion items within the scope that are distinct from other standard items within the scope. These items are typically priced 2 to 3 times higher than the other products included in the scope.”

“No response.”

“No response.”

“The price for domestically produced OLPP will differ from OLSPP and CLPSS as they are dissimilar.”

“No response.”

“Smaller sizes are only slightly less expensive than larger sizes, but the pricing difference is purely based on volume.”

“The price will be set up by the market.”

“No response.”

“I have no knowledge of their prices so I cannot make a comparison.”

“Don’t know - we don’t use all of the categories.”

“n/a.”

“Multitude of different prices but all within the same range.”

“Does not apply to the product we brought in.”

“n/a.”

“Don’t know.”

“No response.”

“We see no differences.”

APPENDIX E

**WEIGHTED-AVERAGE DELIVERED PURCHASE PRICES AND QUANTITIES OF
DOMESTIC PRODUCTS, IMPORTS SOLD BY IMPORTERS, AND IMPORTS
DIRECTLY IMPORTED**

Table E-1

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported CLPSS product 1, by quarters, January 2003-June 2006

* * * * *

Table E-2

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported CLPSS product 2, by quarters, January 2003-June 2006

* * * * *

Table E-3

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported CLPSS product 3, by quarters, January 2003-June 2006

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Table E-4

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported CLPSS product 4, by quarters, January 2003-June 2006

* * * * *

Table E-5

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported OLPP product 5, by quarters, January 2003-June 2006

* * * * *

Table E-6

LPP: Weighted-average delivered purchase prices and quantities of domestic, imported, and directly imported CLPSS product 6, by quarters, January 2003-June 2006

* * * * *

Table E-7

LPP: Weighted-average delivered purchase prices and quantities of CLPSS product 1 of unknown country of origin, purchased from domestic producers (as reported by *, ***, and ***), by quarters, January 2003-June 2006**

* * * * *

Table E-8

LPP: Weighted-average delivered purchase prices and quantities of CLPSS product 2 of unknown country of origin, purchased from domestic producers (as reported by *, ***, and ***), by quarters, January 2003-June 2006**

* * * * *

Table E-9

LPP: Weighted-average delivered purchase prices and quantities of CLPSS product 3 of unknown country of origin, purchased from domestic producers (as reported by * and ***), by quarters, January 2003-June 2006**

* * * * *

Table E-10

LPP: Weighted-average delivered purchase prices and quantities of CLPSS product 4 of unknown country of origin, purchased from domestic producers (as reported by * and ***), by quarters, January 2003-June 2006**

* * * * *

Table E-11

LPP: Weighted-average delivered purchase prices and quantities of OLPP product 5 and CLPSS product 6 of unknown country of origin, purchased from domestic producers (as reported by *), by quarters, January 2003-June 2006**

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APPENDIX F

**WEIGHTED-AVERAGE PRICES AND QUANTITIES OF PRODUCTS 1-6, PRODUCED
AND IMPORTED BY *DOMESTIC PRODUCERS ONLY*, AND
WEIGHTED-AVERAGE PRICES AND QUANTITIES OF PRODUCTS 1-6 IMPORTED
BY *NON-PRODUCER IMPORTERS ONLY*, AND MARGINS OF
UNDERSELLING/(OVERSELLING)**

Table F-1

LPP: Weighted-average prices and quantities of CLPSS product 1, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

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Table F-2

LPP: Weighted-average prices and quantities of CLPSS product 2, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-3

LPP: Weighted-average prices and quantities of CLPSS product 3, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-4

LPP: Weighted-average prices and quantities of CLPSS product 4, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-5

LPP: Weighted-average prices and quantities of OLPP product 5, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-6

LPP: Weighted-average prices and quantities of CLPSS product 6, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-7

LPP: Instances of underselling/overselling and the range and average of margins for products 1-6, produced and imported by *domestic producers only*, January 2003-December 2005

* * * * *

Table F-8

LPP: Weighted-average prices and quantities of CLPSS product 1, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-9

LPP: Weighted-average prices and quantities of CLPSS product 2, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-10

LPP: Weighted-average prices and quantities of CLPSS product 3, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-11

LPP: Weighted-average prices and quantities of CLPSS product 4, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-12

LPP: Weighted-average prices and quantities of OLPP product 5, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-13

LPP: Weighted-average prices and quantities of CLPSS product 6, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2003-December 2005

* * * * *

Table F-14

LPP: Instances of underselling/overselling and the range and average of margins for products 1-6, imported by *non-producer importers only*, January 2003-December 2005

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APPENDIX G

**INCOME-AND-LOSS DATA ON U.S. PRODUCERS' TOTAL LPP
OPERATIONS (INCLUDING IMPORTS) AND OPERATIONS ON THE
RESALE OF IMPORTED LPP**

Table G-1
LPP: Results of total operations (including imports) of U.S. producers, 2003-05

Item	Fiscal year		
	2003	2004	2005
Quantity (1,000 units)			
Total net sales ^{1 2 3}	563,308	568,136	529,177
Value (1,000 dollars)			
Total net sales ^{1 2 3}	369,992	356,481	343,904
Cost of goods sold:			
Raw materials	217,766	217,202	230,051
Direct labor	22,411	23,162	15,936
Other factory costs	63,717	65,962	49,839
Total COGS	303,894	306,327	295,826
Gross profit	66,098	50,155	48,079
SG&A expense	38,568	36,024	37,549
Operating income	27,529	14,131	10,529
Interest expense	8,543	8,319	8,934
Other income or (expense), net ⁴	344	(36,592)	(4,692)
Net income or (loss)	19,330	(30,780)	(3,097)
Depreciation	13,472	12,641	8,651
Cash flow	32,801	(18,139)	5,555
Ratio to net sales (percent)			
Cost of goods sold:			
Raw materials	58.9	60.9	66.9
Direct labor	6.1	6.5	4.6
Other factory costs	17.2	18.5	14.5
Average COGS	82.1	85.9	86.0
Gross profit	17.9	14.1	14.0
SG&A expenses	10.4	10.1	10.9
Operating income	7.4	4.0	3.1
Net income or (loss)	5.2	(8.6)	(0.9)
Table continued.			

Table G-1--Continued

LPP: Results of total operations (including imports) of U.S. producers, 2003-05

Item	Fiscal year		
	2003	2004	2005
Value (per unit)⁵			
Total net sales	\$0.66	\$0.63	\$0.65
Cost of goods sold	0.54	0.54	0.56
Gross profit	0.12	0.09	0.09
SG&A expenses	0.07	0.06	0.07
Operating income ³	0.05	0.02	0.02
Net income or (loss)	0.03	(0.05)	(0.01)
Number of companies reporting			
Operating losses	2	2	3
Data	8	8	8
<p>¹ Data include the resale of all LPP imports, including nonsubject imports.</p> <p>² ***</p> <p>³ *** provided financial data only for 2004 and 2005. If this firm were included in the overall financial data on total operations, it would account for *** percent of total LPP sales quantity and *** percent of total LPP sales value in 2005. *** reported an operating income margin on total LPP operations of *** and *** percent in 2004 and 2005, respectively. Inclusion of *** data in the overall reported financial data would change the aggregate operating income margins on total LPP operations to *** and *** percent, respectively, in 2004 and 2005.</p> <p>⁴ ***</p> <p>⁵ Because different products have varying per-unit measures and reporting firms differ in terms of product mix, per-unit data should be used with caution.</p>			
Source: Compiled from data submitted in response to Commission questionnaires.			

Table G-2

LPP: Selected results of total operations (including imports) of U.S. producers, by firm, 2003-05

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Table G-3

LPP: Results of import resale operations of U.S. producers, 2003-05

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Table G-4

LPP: Selected results of import resale operations of U.S. producers, by firm, 2003-05

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APPENDIX H

**SUPPLEMENTAL FINANCIAL DATA ON U.S. PRODUCERS' IMPORT
TRANSACTIONS ON CLPSS IN WHICH THEY ACTED AS A MIDDLEMAN
OR OTHERWISE DERIVED A FINANCIAL BENEFIT**

Table H-1
CLPSS: Reported financial data for brokered import transactions of U.S. producers, 2003-05

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APPENDIX I

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION EFFORTS,
GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL**

The Commission requested U.S. producers to describe any actual or potential negative effects since January 1, 2003, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain lined paper school supplies from China, India, and Indonesia. Their responses are as follows:

Actual Negative Effects

*** “Yes. Cancellation, postponement, or rejection of expansion projects, denial or rejection of investment proposal, reduction in the size of capital investments, rejection of bank loans, lowering of credit rating, ***.”

*** “No.”

*** “No.”

*** “Yes. Cancellation, postponement, or rejection of expansion projects, denial or rejection of investment proposal, reduction in the size of capital investments, rejection of bank loans, lowering of credit rating.”

*** “Yes. Cancellation, postponement, or rejection of expansion projects, reduction in the size of capital investments. ***.”

*** “Yes. Cancellation, postponement, or rejection of expansion projects, denial or rejection of investment proposal, reduction in the size of capital investments, rejection of bank loans, lowering of credit rating.”

*** “No.”

*** “Yes. Cancellation, postponement, or rejection of expansion projects, reduction in the size of capital investments. ***.”

About the same time, it became clear that foreign producers in Indonesia, China, and later India were willing to import products in the United States at extremely low prices with no regard for standard costing or return on investment. At this time, ***.

Therefore, since 2002, ***. This is of course harmful to our long-term ability to compete. If relief is granted, we hope to make future investments. If relief is denied, domestic production is likely to be reduced.”

*** “No.”

*** “***.”

*** “Yes. Reduction in the size of capital investments.”

Anticipated Negative Effects

*** “Yes. The incredible market share that the subject imports have gained through their unfair pricing - greater than 40% of apparent consumption in interim 2005 - has made U.S. production increasingly difficult to sustain. If subject imports continue at the present dumped and subsidized prices, ***.

We foresee the further erosion of U.S. prices as prices are set by dumped and subsidized subject imports. We foresee ***. Domestic producers will be pushed even further into the role of “middlemen” facilitating imports for large customers. Given customers’ increasing direct import programs, soon domestic producers will be forced to move their production abroad, or cease production entirely. Unless there is affirmative relief, the outlook for ***’s domestic production is ***.”

*** “Yes. A continual problem resulting in company forced redirection to different area of sales. We cannot compete when foreign entities are selling like products at our material costs only.”

*** “No.”

*** “No.”

*** “Yes. Increased volumes of subject imports have resulted in lower prices in the U.S. market, lower operating margins, and reduced employment. The continued onslaught of subject imports threatens more of the same. Subject import pricing no longer has any relation to the cost of products. If these cases do not result in AD and CVD orders, we expect to continue to lose business from existing customers as we struggle to compete with dumped and subsidized imports. We anticipate that producers from China, India, and Indonesia will greatly expand their sales to retailers at lower and lower prices, resulting in additional losses for the domestic industry and ***.”

*** “No.”

*** “Yes. Continued loss of business from existing customers and an inability to grow our business (gain new customers) because we cannot profitably compete with pricing from China, India, and Indonesia on certain lined paper school supplies, ***. ***. We expect an ongoing decline in domestic production, therefore reducing further our purchases of domestic raw materials, services, and labor. This is problematic in that lower volumes translate into reduced discounts and reduced efficiencies. If we are not granted relief, ***. Cessation of capital expenditures in this industry. ***. This project is on-hold pending the outcome of the antidumping action. If we do not get relief, ***.”

*** “Yes. If the price remains below our cost, our largest customers will import directly which will cause us to lose sales and manufacturing jobs.”

*** “***.”

*** “Yes. Inability to raise selling prices to compensate for increases in raw material, labor, utilities, and transportation costs.”

*** “No.”

APPENDIX J

JANUARY-JUNE 2005 AND JANUARY-JUNE 2006 DATA

INTERIM-PERIOD DATA

Interim-period data (January-June 2005 and January-June 2006) were requested from all firms that provided completed responses to the Commission's questionnaires. U.S. producers were requested to provide trade, financial, and pricing data relating to their U.S. operations on LPP and outsized lined paper products, as well as data on their direct imports, purchases, and brokering of subject merchandise. U.S. importers were asked to provide shipment and inventory data (where applicable) as well as pricing data. Foreign producers were requested to provide data on their capacity, production, shipments, and inventories of subject merchandise. Finally, direct importers and purchasers were requested to provide data on their purchase and bid prices, where applicable.

Responses to the Commission's interim-period data requests were received from 5 of the 10 U.S. producers of LPP identified in table III-1 of the staff report.¹ Twelve importers, including five U.S. producers of LPP, provided the Commission with shipment and inventory data. Interim-period data responses were also received from one Chinese firm,² six Indian firms,³ and one Indonesian firm.⁴ Finally, twelve purchasers and direct importers provided some pricing or bid data.

The table numbers in this appendix correspond to the related tables in the body of the report. U.S. producers' data are based on the data responses of five firms that accounted for *** percent of reported U.S. production of LPP in 2005. Import data are based on official Commerce statistics.⁵

U.S. producers providing interim-period data were asked to report whether their firms had experienced any changes in the character of their operations relating to the production of LPP or outsized lined paper products since December 31, 2005. Two of the five reporting producers responded in the affirmative. *** reported that it had experienced "an overall increase in domestic production and shipments." The company cited additional sales volume to *** customers that it believed resulted from a reduction in these firms' import programs. It also reported that it had decreased its own imports as a result of the "uncertainty" surrounding these investigations, and had as a result increased production.⁶

*** reported that, as a result of these investigations, the company has experienced an improved ability to compete for orders from new and existing customers, resulting in gains in production, sales, and hours worked. The company further noted that, although its financial performance had improved, pricing was still "significantly and negatively affected by quotes from suppliers out of subject countries." According to ***, these suppliers continued to be present in bid auctions during the 2006 back-to-school season, and continued to be low-price leaders.⁷

¹ Interim-period data were received from ***. These five firms accounted for *** percent of reported U.S. production of LPP in 2005.

² An interim-period response was submitted by ***. This firm accounted for *** percent of reported production of CLPSS by firms in China in 2005.

³ Responses were received from ***. These firms accounted for *** percent of reported production of CLPSS by Indian firms in 2005.

⁴ Tjiwi Kimia, ***, provided interim-period data.

⁵ As in the staff report, import data for CLPSS in this memorandum are based on HTS statistical reporting numbers 4811.90.9090 (4811.90.9000 prior to July 1, 2005) and 4820.10.2050.

⁶ ***'s response to the Commission's interim-period data request, p. 2.

⁷ ***'s response to the Commission's interim-period data request, p. 1.

INTERIM-PERIOD DATA TABLES

Table III-2A

LPP: U.S. producers' capacity and production, January-June 2005 and January-June 2006

Item	January-June	
	2005	2006
Capacity (<i>1,000 pieces</i>)	284,635	297,130
Production (<i>1,000 pieces</i>)	131,876	182,026
Capacity utilization (<i>percent</i>)	46.3	61.3
Source: Compiled from data submitted in response to Commission request.		

Table III-5A

LPP: U.S. producers' U.S. shipments and export shipments, January-June 2005 and January-June 2006

Item	January-June	
	2005	2006
Quantity (1,000 pieces)		
U.S. shipments	112,500	169,711
Export shipments	***	***
Total shipments	***	***
Value (\$1,000)¹		
U.S. shipments	85,333	112,910
Export shipments	***	***
Total shipments	***	***
Unit value (per piece)		
U.S. shipments	\$0.76	\$0.67
Export shipments	***	***
Total shipments	***	***
Share of quantity (percent)		
U.S. shipments	***	***
Export shipments	***	***
Total shipments	100.0	100.0
Share of value (percent)		
U.S. shipments	***	***
Export shipments	***	***
Total shipments	100.0	100.0
¹ F.o.b. U.S. point of shipment.		
Source: Compiled from data submitted in response to Commission request.		

Table III-6A**LPP: U.S. producers' end-of-period inventories, January-June 2005 and January-June 2006**

Item	January-June	
	2005	2006
End-of-period inventories (<i>1,000 pieces</i>)	115,610	109,633
Ratio to production (<i>percent</i>)	43.8	30.1
Ratio to U.S. shipments (<i>percent</i>)	51.4	32.3
Ratio to total shipments (<i>percent</i>)	***	***
Note.—All ratios were calculated using data only from firms providing both inventory data and production or shipment data. Ratios are based on annualized production and shipment data.		
Source: Compiled from data submitted in response to Commission request.		

Table III-7A**LPP: U.S. producers' employment data, January-June 2005 and January-June 2006**

Item	January-June	
	2005	2006
PRWs (<i>number</i>)	698	711
Hours worked (<i>1,000</i>)	673	716
Hours worked per PRW	964	1,007
Wages paid (<i>\$1,000</i>)	11,716	12,488
Hourly wages	\$17.41	\$17.44
Productivity (<i>pieces per hour</i>)	196.0	254.2
Unit labor cost (<i>per piece</i>)	\$0.09	\$0.07
Source: Compiled from data submitted in response to Commission request.		

Table III-9A**CLPSS: U.S. producers' imports and ratios of imports to LPP production, January-June 2005 and January-June 2006**

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Table III-10A**CLPSS: U.S. producers' brokered imports, January-June 2005 and January-June 2006**

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Table IV-2A
CLPSS: U.S. imports, by source, January-June 2005 and January-June 2006

Source	January-June	
	2005	2006
Quantity (1,000 pieces)		
Imports from: China	220,423	104,472
India	22,722	11,800
Indonesia	22,183	2,329
Subtotal, subject imports	265,328	118,601
Brazil	41,540	102,679
All other sources	41,406	72,828
Total imports	348,274	294,108
Value¹ (\$1,000)		
Imports from: China	114,917	61,653
India	8,163	4,110
Indonesia	8,506	789
Subtotal, subject imports	131,586	66,552
Brazil	19,347	51,612
All other sources	54,872	58,660
Total imports	205,805	176,824
Share of quantity (percent)		
Imports from: China	63.3	35.5
India	6.5	4.0
Indonesia	6.4	0.8
Subtotal, subject imports	76.2	40.3
Brazil	11.9	34.9
All other sources	11.9	24.8
Total imports	100.0	100.0

Table continued on following page.

Table IV-2A--Continued
CLPSS: U.S. imports, by source, January-June 2005 and January-June 2006

Source	January-June	
	2005	2006
Share of value (percent)		
Imports from: China	55.8	34.9
India	4.0	2.3
Indonesia	4.1	0.4
Subtotal, subject imports	63.9	37.6
Brazil	9.4	29.2
All other sources	26.7	33.2
Total imports	100.0	100.0
Unit value (per piece)		
Imports from: China	\$0.52	\$0.59
India	0.36	0.35
Indonesia	0.38	0.34
Subtotal, subject imports	0.50	0.56
Brazil	0.47	0.50
All other sources	1.33	0.81
Total imports	0.59	0.60
Ratio of imports to U.S. LPP production (percent)		
Imports from: China	192.1	64.9
India	19.8	7.3
Indonesia	19.3	1.4
Subtotal, subject imports	231.2	73.6
Brazil	36.2	63.7
All other sources	36.1	45.2
Total imports	303.5	182.6
¹ Landed, duty-paid. Source: Compiled from official Commerce statistics.		

Table IV-10A

LPP: Apparent U.S. consumption, January-June 2005 and January-June 2006

Item	January-June	
	2005	2006
Quantity (1,000 pieces)		
U.S. producers' U.S. shipments	112,500	169,711
U.S. CLPSS imports from-- China	220,423	104,472
India	22,722	11,800
Indonesia	22,183	2,329
Subtotal, subject imports	265,328	118,601
Brazil	41,540	102,679
All other sources	41,406	72,828
Subtotal, total CLPSS imports	348,274	294,108
U.S. OLPP imports (all sources)	143,434	169,108
Total imports	491,708	463,216
Apparent consumption	604,208	632,927
Value (\$1,000)		
U.S. producers' U.S. shipments	85,333	112,910
U.S. CLPSS imports from-- China	114,917	61,653
India	8,163	4,110
Indonesia	8,506	789
Subtotal, subject imports	131,586	66,552
Brazil	19,347	51,612
All other sources	54,872	58,660
Subtotal, total CLPSS imports	205,805	176,824
U.S. OLPP imports (all sources)	89,255	86,268
Total imports	295,060	263,092
Apparent consumption	380,393	376,002
Source: Compiled from official Commerce statistics and data submitted in response to Commission request.		

Table IV-11A

LPP: U.S. market shares, January-June 2005 and January-June 2006

Item	January-June	
	2005	2006
Quantity (1,000 pieces)		
Apparent consumption	604,208	632,927
Value (\$1,000)		
Apparent consumption	380,393	376,002
Share of quantity (percent)		
U.S. producers' U.S. shipments	18.6	26.8
U.S. CLPSS imports from-- China	36.5	16.5
India	3.8	1.9
Indonesia	3.7	0.4
Subtotal, subject imports	43.9	18.7
Brazil	6.9	16.2
All other sources	6.9	11.5
Subtotal, total CLPSS imports	57.6	46.5
U.S. OLPP imports (all sources)	23.7	26.7
Total imports	81.4	73.2
Share of value (percent)		
U.S. producers' U.S. shipments	22.4	30.0
U.S. CLPSS imports from-- China	30.2	16.4
India	2.1	1.1
Indonesia	2.2	0.2
Subtotal, subject imports	34.6	17.7
Brazil	5.1	13.7
All other sources	14.4	15.6
Subtotal, total CLPSS imports	54.1	47.0
U.S. OLPP imports (all sources)	23.5	22.9
Total imports	77.6	70.0
Source: Compiled from official Commerce statistics and data submitted in response to Commission request.		

Table V-1A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 1 and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table V-2A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 2 and margins of underselling/(overselling), by quarters, January 2006-June 2006

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Table V-3A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 3 and margins of underselling/(overselling), by quarters, January 2006-June 2006

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Table V-4A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 4 and margins of underselling/(overselling), by quarters, January 2006-June 2006

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Table V-5A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported LPP product 5 and margins of underselling/(overselling), by quarters, January 2006-June 2006

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Table V-6A

LPP: Weighted-average f.o.b. prices and quantities of domestic and imported CLPSS product 6 and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table VI-1A

LPP: Results of operations of U.S. producers, January-June 2005 and January-June 2006

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Table VI-2A

LPP: Selected results of operations of U.S. producers, by firm, January-June 2005 and January-June 2006

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Table VI-3A

LPP: Capital expenditures and research and development expenses of U.S. producers, January-June 2005 and January-June 2006

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Table VI-4A

CLPSS: Reported financial data for brokered import transactions of U.S. producers, January-June 2005 and January-June 2006

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Table VII-1A

CLPSS: Reported Chinese production, shipments, and inventories, January-June 2005 and January-June 2006

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Table VII-2A

CLPSS: Reported Indian production, shipments, and inventories, January-June 2005 and January-June 2006

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Table VII-3A

CLPSS: Reported Indonesian production, shipments, and inventories, January-June 2005 and January-June 2006

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Table VII-4

CLPSS: U.S. importers' end-of-period inventories, January-June 2005 and January-June 2006

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Table F-1A

LPP: Weighted-average prices and quantities of CLPSS product 1, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

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Table F-2A

LPP: Weighted-average prices and quantities of CLPSS product 2, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-3A

LPP: Weighted-average prices and quantities of CLPSS product 3, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-4A

LPP: Weighted-average prices and quantities of CLPSS product 4, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-5A

LPP: Weighted-average prices and quantities of LPP product 5, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-6A

LPP: Weighted-average prices and quantities of CLPSS product 6, produced and imported by *domestic producers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-8A

LPP: Weighted-average prices and quantities of CLPSS product 1, both domestic sales and imports imported by *non-producer importers only* and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-9A

LPP: Weighted-average prices and quantities of CLPSS product 2, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-11A

LPP: Weighted-average prices and quantities of CLPSS product 4, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *

Table F-13A

LPP: Weighted-average prices and quantities of CLPSS product 6, both domestic sales and imports imported by *non-producer importers only*, and margins of underselling/(overselling), by quarters, January 2006-June 2006

* * * * *