

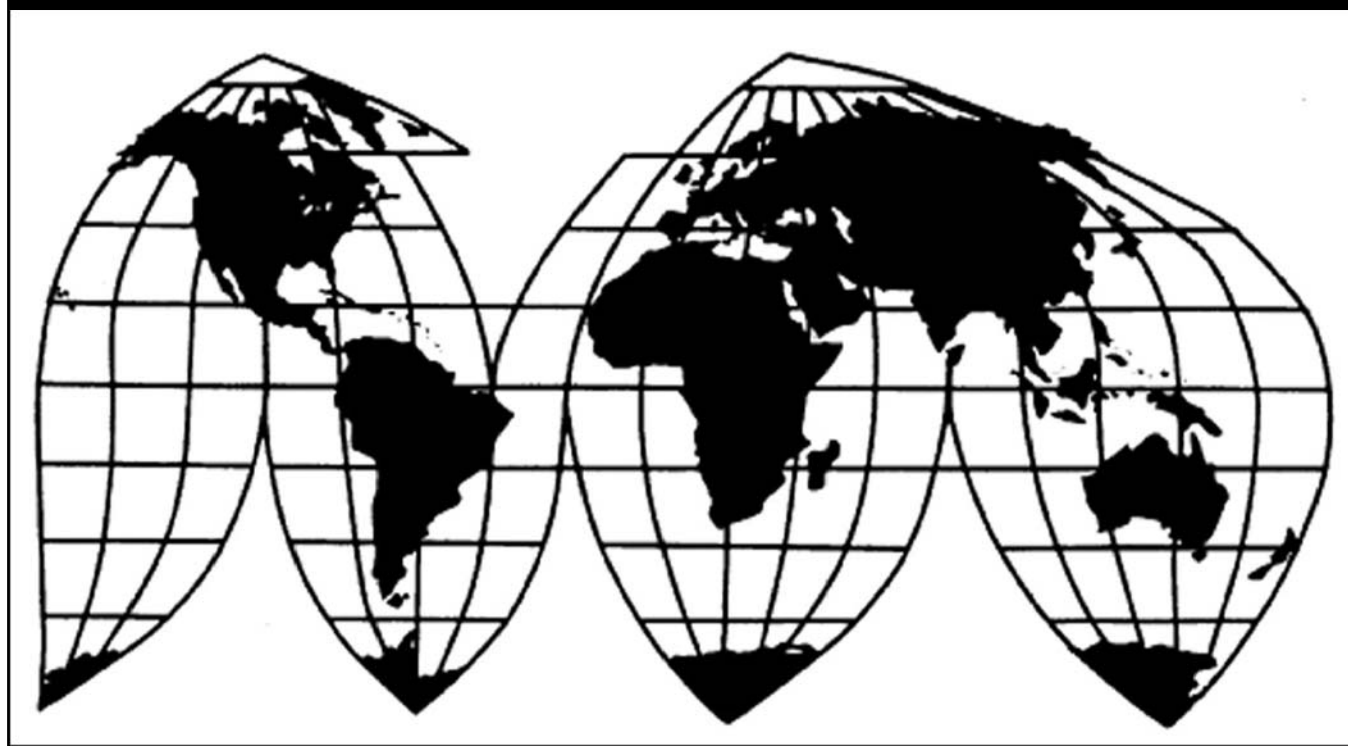
Commodity Matchbooks from India

Investigation Nos. 701-TA-459 and 731-TA-1155 (Preliminary)

Publication 4054

December 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Shara L. Aranoff, Chairman
Daniel R. Pearson, Vice Chairman
Deanna Tanner Okun
Charlotte R. Lane
Irving A. Williamson
Dean A. Pinkert

Robert A. Rogowsky
Director of Operations

Staff assigned

Olympia Hand, Investigator
Lawrence Johnson, Industry Analyst
Ioana Mic, Economist
David Boyland, Accountant
Peter Sultan, Attorney
Lemuel Shields, Statistician

George Deyman, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Commodity Matchbooks from India

Investigation Nos. 701-TA-459 and 731-TA-1155 (Preliminary)

Publication 4054



December 2008

CONTENTS

	<i>Page</i>
Determination	1
Views of the Commission	3
Part I: Introduction	I-1
Background	I-1
Statutory criteria and organization of the report	I-1
U.S. commodity matchbooks market summary	I-3
Summary data	I-3
Nature and extent of alleged subsidies and sales at LTFV	I-3
The subject merchandise	I-4
Commerce's scope	I-4
U.S. tariff treatment	I-5
The domestic product	I-6
Description and applications	I-6
Manufacturing process	I-7
Domestic like product issues	I-8
Physical characteristics and uses	I-9
Manufacturing facilities and production employees	I-10
Interchangeability	I-10
Customer and producer perceptions	I-11
Channels of distribution	I-11
Price	I-12
Part II: Conditions of competition in the U.S. market	II-1
Market characteristics	II-1
Channels of distribution	II-1
Supply and demand considerations	II-2
U.S. supply	II-2
U.S. demand	II-2
Substitutability issues	II-3
Comparisons of domestic products and subject imports	II-3
Comparisons of domestic products and nonsubject imports	II-4
Comparisons of subject imports and nonsubject imports	II-4
Part III: U.S. producers' production, shipments, and employment	III-1
U.S. producers	III-1
U.S. capacity, production, and capacity utilization	III-2
U.S. producers' U.S. shipments and export shipments	III-2
U.S. producers' purchases	III-3
U.S. producers' inventories	III-4
U.S. employment, wages, and productivity	III-4

CONTENTS

	<i>Page</i>
Part IV: U.S. imports, apparent U.S. consumption, and market shares	IV-1
U.S. importers	IV-1
U.S. imports	IV-1
Apparent U.S. consumption	IV-2
Apparent U.S. consumption of commodity and promotional matchbooks combined	IV-3
U.S. market shares	IV-3
Ratios of imports to U.S. production	IV-3
Part V: Pricing and related information	V-1
Factors affecting prices	V-1
Raw material costs	V-1
Transportation costs to the U.S. market	V-1
U.S. inland transportation costs	V-1
Exchange rates	V-1
Pricing practices	V-2
Price data	V-2
Price trends	V-3
Price comparisons	V-4
Lost sales and lost revenues	V-4
Part VI: Financial experience of the U.S. producers	VI-1
Background	VI-1
Operations on commodity matchbooks	VI-1
Capital expenditures, research and development expenses, assets, and return on investment ...	VI-4
Capital and investment	VI-4
Actual negative effects	VI-4
Anticipated negative effects	VI-4
Part VII: Threat considerations and Bratsk information	VII-1
The industry in India	VII-1
Overview	VII-1
Commodity matchbook operations	VII-1
U.S. importers' inventories	VII-2
U.S. importers' imports subsequent to June 30, 2008	VII-3
Antidumping duty investigations in third-country markets	VII-3
Nonsubject source information	VII-3
"Bratsk" considerations	VII-3
Nonsubject-country commodity matchbooks	VII-4
 Appendixes	
A. <i>Federal Register</i> notices	A-1
B. List of witnesses	B-1
C. Summary data	C-1

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-459 and 731-TA-1155 (Preliminary)

COMMODITY MATCHBOOKS FROM INDIA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) (the Act), that there is a reasonable indication that an industry in the United States is injured by reason of imports from India of commodity matchbooks, provided for in subheading 3605.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India. The Commission further determines, pursuant to section 733(a) of the Act (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is injured by reason of imports from India of commodity matchbooks, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 703(b) and section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 705(a) and section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On October 29, 2008, a petition was filed with the Commission and Commerce by D.D. Bean & Sons Co., alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of commodity matchbooks from India, and by reason of LTFV imports from India. Accordingly, effective October 29, 2008, the Commission instituted countervailing duty and antidumping duty investigation Nos. 701-TA-459 and 731-TA-1155 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 5, 2008 (73 FR 65881). The conference was held in Washington, DC, on November 17, 2008, 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)).

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of commodity matchbooks imported from India that are allegedly subsidized and allegedly sold in the United States at less than fair value.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. BACKGROUND

The antidumping and countervailing duty petition in these investigations was filed on October 29, 2008 by D.D. Bean & Sons Co. (“Bean” or “Petitioner”). Petitioner and Bradley Industries are the only two domestic producers of commodity matchbooks. Petitioner participated in the staff conference and filed a postconference brief. A representative of the Government of India (“GOI”) participated in the staff conference and filed a postconference brief. No other respondent interested parties appeared at the conference or submitted postconference briefs.

III. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”³ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴ In turn, the Act defines

¹ 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

³ 19 U.S.C. § 1677(4)(A).

⁴ Id.

“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.”⁵

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.⁶ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁷ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁸ Although the Commission must accept the determination of the U.S. Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value,⁹ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁰

B. Product Description

Commerce’s notices of initiation define the imported merchandise within the scope of these investigations as follows:

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.¹ Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process. Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as “*Thank*

⁵ 19 U.S.C. § 1677(10).

⁶ See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Dep’t 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 the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) consumer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and where appropriate, (6) price. See Nippon Steel Corp., 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁷ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess., at 90-91 (1979).

⁸ Nippon Steel Corp., 19 CIT at 455; Torrington Co., 747 F. Supp. at 748-49; see also S. Rep. No. 249 at 90-91 (Congress has indicated that the domestic like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”)

⁹ See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁰ Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington Co., 747 F. Supp. at 748-52 (affirming Commission’s determination of six domestic like products in investigations where Commerce found five classes or kinds).

You” or a generic image such as the American Flag, with store brands (*e.g., Kroger, 7-Eleven, Shurfine or Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (*e.g., Penley Corp. or Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation. All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR 1202.1 *et. seq.* The scope of this investigation excludes promotional matchbooks, often referred to as “not for resale,” or “specialty advertising” matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café, coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.² Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka “SAW” matches), strike-on-box matches (aka “SOB” matches), fireplace matches, barbecue/grill matches, fire starters, and wax matches. The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.¹¹

¹ Such commodity matchbooks are also referred to as “for resale” because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, *e.g.*, convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

² The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) If it has no printing, or is printed with a generic message such as “Thank You” or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, cafe/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

Commodity matchbooks consist of paper match stems fastened into a matchbook cover. The cover is usually made of plain white paperboard, which is sometimes printed with a simple generic message or image (such as “Thank You” or an American Flag) or printed with a chain store logo. A

¹¹ Commodity Matchbooks from India: Initiation of Antidumping Duty Investigation, 73 Fed. Reg. 70965, 70968 (Nov. 24, 2008), Commodity Matchbooks from India: Initiation of Countervailing Duty Investigation, 73 Fed. Reg. 70968, 70971 (Nov. 24, 2008).

slurry composition containing red phosphorus, polyvinyl acetate, and ground glass is applied to the cover to use as a striker surface for the match head. The match stem is made from paperboard and is tipped with a match head composed of a chemical mixture (usually potassium chlorate, ground glass, gelatin, sulfur, diatomaceous earth, and carboxymethylcellulose), which ignites as the result of a chemical reaction when struck against the striker surface. Each matchbook typically consists of 20 matches, mirroring the quantity of cigarettes contained in a pack.¹² All commodity matchbooks, whether imported or made in the United States, are required to meet U.S. Consumer Product Safety Standards.¹³

C. Definition of the Domestic Like Product

There are two domestic like product issues presented in the preliminary phase of these investigations: (1) whether to include wooden matches in boxes in the definition of the domestic like product, and (2) whether to include promotional matchbooks in the definition of the domestic like product. Both wooden matches in boxes and promotional matchbooks are specifically excluded from the scope of these investigations. We discuss each of these issues in turn.

1. Whether to Include Wooden Matches in Boxes in the Domestic Like Product

Physical Characteristics and Uses. The physical characteristics and uses of wooden matches in boxes and commodity matchbooks are different. Wooden matches are made from wood (not paper), are packed loosely in boxes (not attached to a matchbook stem), and are sold in varying sizes and quantities (not in uniformly sized matchbooks with 20 match stems). Although both wooden matches in boxes and commodity matchbooks are generally used as ignition sources, wooden matches are more often used for lighting fireplaces, stoves, barbecues, candles, and cigars, whereas commodity matchbooks are mostly used to light cigarettes.¹⁴

Interchangeability. The information in the record indicates that there is limited interchangeability between wooden matches in boxes and commodity matchbooks because of the generally smaller size and easier portability of the latter.¹⁵

Channels of Distribution. At the first level of trade, wooden stick matches are moved through wholesale distribution channels similar to those for commodity matchbooks.¹⁶ The channels of distribution for these two products at the end-user level differ, however, in that end-users generally must purchase wooden matches at retail, whereas commodity matchbooks are often given away wherever cigarettes are sold.¹⁷

Manufacturing Facilities, Production Processes, and Employees. Wooden matches in boxes and commodity matchbooks do not share common manufacturing facilities, processes, or employees.¹⁸

Producer and Customer Perceptions. The limited information on the record indicates that customer and producer perceptions of wooden matches in boxes and commodity matchbooks differ. Customers at the end-user level often expect to receive commodity matchbooks for free with a purchase

¹² Confidential Report (“CR”) at I-8, Public Report (“PR”) at I-6.

¹³ CR at I-9, PR at I-7.

¹⁴ Petitioner’s Postconference Brief at 4-5.

¹⁵ Petitioner’s Postconference Brief at 5.

¹⁶ Petition at 13.

¹⁷ Petitioner’s Postconference Brief at 5.

¹⁸ Petitioner’s Postconference Brief at 4-5.

of cigarettes, and they expect commodity matchbooks to be lightweight and easily portable.¹⁹ Neither expectation typically applies with respect to wooden matches in boxes.

Price. There is no information in the record as to the relative pricing of wooden matches in boxes versus commodity matchbooks.

Conclusion. Based on the record evidence in this preliminary phase of the investigations regarding differences in physical characteristics and uses; limited interchangeability; different channels of distribution at the end-user level of trade; different manufacturing facilities, processes, and employees; and differences in producer and customer perceptions, we find that including wooden matches in boxes in the domestic like product is not warranted.

2. Whether to Include Promotional Matchbooks in the Domestic Like Product

Physical Characteristics and Uses. Commodity matchbooks and promotional matchbooks share some general physical characteristics and uses. Both consist of match stems attached to a match cover with a striking face, and both are used as portable ignition sources. The record also indicates, however, that there are a number of differences between the two types of matchbooks. The physical characteristics are often different in terms of the number of stems, the color of the stems and match heads, the material of the matchbook covers, and especially the nature of the printed advertising (if any, in the case of commodity matchbooks) on the covers. Commodity matchbooks typically have 20 stems (corresponding to the number of cigarettes in a pack), whereas the number of stems in promotional matchbooks varies and is most commonly 30.²⁰ Promotional matchbooks often have more stems because a larger cover surface is desirable for printing promotional advertising.²¹ The stems and match heads of commodity matchbooks are in standardized colors, whereas those of promotional matchbooks come in a wide variety of colors.²² The covers of promotional matchbooks are often much more elaborate than the plain paperboard covers of commodity matchbooks; the promotional covers may be embossed and/or made of higher grade materials such as foil or even fabric.²³ The printed advertising on commodity matchbooks – if there is any – typically consists of general advertising for national or regional stores or brands, whereas promotional matchbooks contain “specialty advertising” promoting a restaurant, hotel, casino, or similar “location-based establishment” and include that establishment’s address and telephone number.²⁴

There are also differences in the uses for the two types of matchbooks, particularly at the first level of trade, *i.e.*, among customers who buy the matchbooks from the producers. The customers for promotional matchbooks use them for promotional purposes, whereas the customers for commodity matchbooks generally intend them to be used as an ignition source. Although retail end-users may use both kinds of matchbooks as ignition sources, the evidence indicates that some end-users use promotional matchbooks as a reference source or collect them.^{25 26}

Interchangeability. The two kinds of matchbooks are not interchangeable at the first level of trade, in that commodity matchbooks are not used to advertise the kinds of establishments that order promotional matchbooks (bars, restaurants, casinos, etc.). At the end-user level, however, there is a

¹⁹ Petitioner’s Postconference Brief at 4-5.

²⁰ Conference Transcript at 51-52.

²¹ Conference Transcript at 66.

²² CR at I-12, PR at I-9.

²³ Conference Transcript at 77.

²⁴ Petitioner’s Postconference Brief at 7.

²⁵ In the final phase of these investigations, we intend to seek data on the estimated proportions of promotional matchbooks that are preserved by collectors and those that are used and discarded.

²⁶ Petitioner produces ***. CR at III-4-5, PR at III-2.

general degree of interchangeability between them for the utilitarian purpose of serving as an ignition source, although even at this level commodity matchbooks are not useful as a reference source (in contrast to promotional matchbooks, which typically carry the name, address and telephone number of the establishment advertised).²⁷

Channels of Distribution. Commodity matchbooks are most often bought by wholesalers and distributors for resale to retailers, or are purchased directly by large retail chains. In either case, commodity matchbooks end up in retail establishments, where they are sold or given away with the purchase of cigarettes. Promotional matchbooks, by contrast, are, according to Petitioner, most often bought by smaller establishments that commission their production or by “specialty advertising jobbers” that place orders on behalf of such establishments.²⁸ There is some evidence in the record, however, suggesting that the distinctions in the channels of distribution between commodity and promotional matchbooks may not always be quite so clear cut. ***, and ***.²⁹ In addition, promotional matchbooks are normally given away at the end-user level, and commodity matchbooks are often given away.

Manufacturing Facilities, Production Processes, and Employees. *** that commodity matchbooks are made on a separate production line than promotional matchbooks.³⁰ The production processes are also different. As characterized by Petitioner, the production process for commodity matchbooks is a “continuous system,” while the process for promotional matchbooks is a “discrete system.”³¹ The production of commodity matchbooks occurs in large-scale, mechanized production runs.³² The production of promotional matchbooks, on the other hand, involves a high degree of customization.³³ Although it is possible to adapt machines from producing one kind of matchbook to producing the other, it is apparently not economical or easy to do so.³⁴ There is some evidence that commodity and promotional matchbooks ***.³⁵

Producer and Customer Perceptions. Matchbook producers perceive commodity and promotional matchbooks as separate products. The two types of matchbooks are produced according to different business models and for different kinds of customers. Commodity matchbooks are a standardized product produced in large production runs for wholesalers, distributors, and large retailers.³⁶ Promotional matchbooks are highly customized and are produced in relatively small production runs for relatively smaller establishments.³⁷

Customers at the first level of trade also typically perceive the products differently. Purchasers of commodity matchbooks view them as an accessory to facilitate cigarette sales or as a product to be resold in boxes of 50 matchbooks.³⁸ Purchasers of promotional matchbooks, on the other hand, perceive that type of matchbook as an advertising device.³⁹ We recognize, as argued by the GOI and acknowledged by

²⁷ CR at I-15, PR at I-10.

²⁸ CR at I-16-17, PR at I-11.

²⁹ CR at I-17 n.53, PR at I-11 n.53.

³⁰ CR at I-14, PR at I-10. ***. *Id.* at n. 34.

³¹ CR at I-14, PR at I-10; Conference Transcript at 62-63 and 65-66.

³² CR at I-14, PR at I-10.

³³ CR at I-16, PR at I-10.

³⁴ Petitioner’s Postconference Brief at 9-10.

³⁵ CR at I-14, PR at I-10.

³⁶ CR at I-14 and I-16, PR at I-10 and I-11.

³⁷ CR at I-14 and VI-9 n. 12, PR at I-10 and VI-3 n.12.

³⁸ Petition at 8.

³⁹ CR at I-15, PR at I-10.

Petitioner, that some end-users perceive both types of matchbooks as portable ignition devices.⁴⁰ There is also some evidence in these preliminary phase investigations that some end-users (especially non-smokers) distinguish between the two kinds of matchbooks, valuing promotional matchbooks – but not commodity matchbooks – as a reference tool, a free souvenir, or even as a collector’s item.⁴¹

Price. Promotional matchbooks are sold at higher prices than commodity matchbooks at the first level of trade.⁴² At the end-user level, however, promotional matchbooks are usually given free to the consumer, while commodity matchbooks may be given to the consumer or sold at retail in boxes of 50 matchbooks.⁴³

Conclusion. Although commodity and promotional matchbooks have some similar physical characteristics and uses, their physical characteristics and uses also typically differ in a number of significant respects. They may differ in terms of the number of stems, the color of the stems and match heads, the material of the matchbook covers, and, significantly, the nature of the printed advertising on the covers. There are also distinctions in uses, with promotional matchbooks serving promotional and information resource functions, while commodity matchbooks principally are used only as ignition sources. Because of these distinctions, the two types of matchbooks are not fully interchangeable.

Commodity and promotional matchbooks may have different channels of distribution. There are differences in the production processes and machinery used to make the two kinds of matchbooks. Producers’ perceptions of commodity and promotional matchbooks are different, as are those of customers at the first level of trade and, to a more limited extent, those of end-users. Finally, there is a significant difference in prices between the two kinds of matchbooks at the first level of trade.

Based on the limited evidence in the record of the preliminary phase of these investigations pertaining to physical characteristics and end uses, production equipment and processes, producer and customer perceptions, channels of distribution, price, and interchangeability, we do not include promotional matchbooks in the domestic like product. We will, however, revisit this issue in any final phase of these investigations.⁴⁴ Accordingly, in light of the above discussion, we find, for purposes of these preliminary determinations, a single domestic like product that is coextensive with the scope of the investigations.

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴⁵ In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.⁴⁶ Based on our finding that the domestic like product consists of commodity matchbooks, we find for purposes of these preliminary determinations that the domestic industry consists of the two known domestic producers of commodity

⁴⁰ Conference Transcript at 8-9 and 24.

⁴¹ CR at I-15, PR at I-11. In the final phase of these investigations, we will seek information as to end-users’ preferences as to using commodity matchbooks versus promotional matchbooks, wooden matches, or lighters.

⁴² CR at I-17, PR at I-12.

⁴³ Petition at 8.

⁴⁴ We intend to gather additional data on this domestic like product issue in the final phase of these investigations and will seek parties’ input on data collection in their comments on draft questionnaires.

⁴⁵ 19 U.S.C. § 1677(4)(A).

⁴⁶ 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).

matchbooks, Bean and Bradley Industries. Neither of these firms is a related party within the meaning of 19 U.S.C. § 1677(4)(B).

V. NEGLIGIBLE IMPORTS

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.⁴⁷ In countervailing duty investigations involving developing countries, the statute further provides that the negligibility threshold is four percent, rather than three percent.⁴⁸ The statute defines “developing country” as any country so designated by the U.S. Trade Representative.⁴⁹ The U.S. Trade Representative has designated India as a “developing country.”⁵⁰

By operation of law, a finding of negligibility terminates the Commission’s investigation with respect to such imports.⁵¹ The Commission is authorized to make “reasonable estimates on the basis of available statistics” of pertinent import levels for purposes of deciding negligibility.⁵² In this case, subject imports from India were well above three percent (for purposes of the antidumping investigation) and four percent (for purposes of the countervailing duty investigation) of total imports for the most recent 12-month period preceding the filing of the petition for which data are available. Although data are not available for the precise 12-month period immediately preceding the filing of the petition, subject imports from India accounted for *** percent of total imports of the merchandise in 2007 and *** percent of total imports in interim 2008 (the first six months of 2008).⁵³ We therefore find that subject imports from India are not negligible for purposes of our present material injury analysis.

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED AND LESS THAN FAIR VALUE IMPORTS FROM INDIA

A. Legal Standards

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.⁵⁴ 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.⁵⁵ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or

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

⁴⁸ 19 U.S.C. § 1677(24)(B).

⁴⁹ 19 U.S.C. § 1677(36)(A).

⁵⁰ 15 C.F.R. § 2013.1 (2005).

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

⁵² 19 U.S.C. § 1677(24)(C); see also The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) (“SAA”).

⁵³ CR/PR at Table IV-2.

⁵⁴ 19 U.S.C. §§ 1671b(a) and 1673b(a).

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

unimportant.”⁵⁶ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁷ 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.”⁵⁸

The statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” the unfairly traded imports.⁵⁹ The statute, however, does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.⁶⁰ In identifying a causal link, if any, between subject imports and a reasonable indication of material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation must ensure that subject imports are more than a minimal or tangential cause of material injury and that there is a sufficient causal nexus between subject imports and a reasonable indication of material injury.⁶¹ Thus, the Commission interprets the “by reason of” language in a manner that implements the statutory requirement of finding a causal, not merely a temporal, link between the subject imports and the reasonable indication of material injury to the domestic industry.

In most investigations, there are other economic factors that also may be causing injury to the domestic industry. The legislative history explains that 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 does not require the Commission to isolate the injury caused by other factors from injury caused by unfair imports.⁶² The statutory scheme clearly contemplates that an industry may be facing difficulties from a

⁵⁶ 19 U.S.C. § 1677(7)(A).

⁵⁷ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁸ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁹ 19 U.S.C. §§ 1671b(a) and 1673b(a).

⁶⁰ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“[T]he statute does not ‘compel the commissioners’ to employ [a particular methodology] . . . [however] regardless of what approach is used, whether it be the two-step or unitary approach or some other approach, the three mandatory factors must be considered in each case”), aff’d 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

⁶¹ The Federal Circuit, in addressing the causation standard of the statute, observed that “[a]s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006), where the court stated that the “causation requirement is met so long as the effects of dumping are not merely incidental, tangential, or trivial.” See also Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“to ensure that the subject imports are causing the injury, not simply contributing to the injury in a tangential or minimal way.”); Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (“the statute requires adequate evidence to show that the harm occurred ‘by reason of’ the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.”); Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 10 (Fed. Cir., Sept. 18, 2008).

⁶² Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (URAA), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“[T]he Commission need not isolate the injury caused by other factors from injury caused by unfair imports. . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or
(continued...)”).

variety of sources, including non-subject imports and other factors, but the existence of injury caused by other factors does not compel a negative determination if the subject imports themselves are making more than a minimal or tangential contribution to material injury.⁶³ The legislative history further clarifies that dumped imports need not be the “principal” cause of material injury and that the “by reason of” standard does not contemplate that injury from dumped imports be weighed against other factors, such as non-subject imports, which may be contributing to overall injury to an industry.⁶⁴

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure[s] that it is not attributing injury from other sources to the subject imports.”⁶⁵ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁶⁶ The Federal Circuit has provided guidance on the questions that it would raise and expect the Commission to have considered in its analysis “where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market.”^{67 68}

⁶² (...continued)

dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, Slip Op. 2007-1552 at 17.

The Federal Circuit has affirmed that: “[T]he Commission need not isolate the injury caused by other factors from injury caused by unfair imports. . . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001)(emphasis in original); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“[t]he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.). See also Softwood Lumber from Canada, Inv. Nos. 701-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “[i]f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e. it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

⁶³ See SAA at 851-52, 885.

⁶⁴ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47; see also Nippon Steel Corp., 345 F.3d at 1381 (“[D]umping need not be the sole or principal cause of injury.”).

⁶⁵ Mittal Steel, Slip Op. 2007-1552 at 16-17; see also id at 9 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination. . . . [and has] broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

⁶⁶ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005). See also Mittal Steel, Slip Op. 2007-1552 at 20 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

⁶⁷ Mittal Steel, Slip Op. 2007-1552 at 13-21.

⁶⁸ Commissioner Pinkert does not join in this sentence. He points out that the Federal Circuit, in Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006) and Mittal Steel, held that the Commission is required, in certain circumstances, to undertake a particular kind of analysis of non-subject imports. Mittal Steel explains as follows:

(continued...)

Nonetheless, the question of whether one out of several possible causes of injury exceeds the minimal or tangential threshold and is an independent cause of material injury to the domestic industry is left to the expertise of the Commission. The finding as to whether the threshold is satisfied is a factual one, subject to review under the substantial evidence standard. Congress has delegated these factual findings to the Commission because of the agency's institutional expertise in resolving injury issues.⁶⁹

For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing commodity matchbooks is materially injured by reason of subject imports from India.

B. Conditions of Competition and the Relevant Business Cycle

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

1. Demand Conditions

An important condition of competition in this market is that demand for commodity matchbooks is declining and will continue to decline for reasons generally unrelated to either the overall U.S. economy or subject imports. Because commodity matchbooks are used mainly to light cigarettes, the demand for commodity matchbooks is closely linked to the demand for cigarettes. As the demand for cigarettes declined over the period of investigation, demand for commodity matchbooks also declined. However, apparent U.S. consumption of commodity matchbooks declined over the period of

⁶⁸ (...continued)

What Bratsk held is that “where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1269. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

Slip Op. 2007-1552 at 20.

Based on the record evidence in the preliminary phase of these investigations, Commissioner Pinkert finds that subject matchbooks are essentially a commodity product and that price competitive, non-subject imports were a significant factor in the U.S. market during the period of investigation. He further finds, however, that non-subject imports would not have replaced subject imports during the period of investigation without benefit to the domestic industry. Non-subject imports ***. CR at IV-3, PR at IV-2 and CR/PR at Table C-1. The principal sources of non-subject imports during the period were China and Mexico. CR at VII-7 to VII-8, PR at VII-3. ***, the U.S. importer of commodity matchbooks from *** the subject imports. CR at IV-3 and VII-7 to VII-8, PR at IV-2 and VII-3. Moreover, it appears that Wuzhou, the principal Chinese producer of commodity matchbooks, ceased operations during the period of investigation. CR at VII-8, PR at VII-3. Thus, there is no reason to believe that imports from China and Mexico would have replaced subject imports. Even if nonsubject imports replaced subject imports, the record indicates that antidumping relief would nevertheless have benefited the domestic industry through higher prices. Although subject imports consistently undersold domestic commodity matchbooks during the period of investigation, imports from ***. CR/PR at Table V-2. The average unit values of nonsubject imports during the period of investigation were *** than those of subject imports. CR/PR at Table IV-2.

⁶⁹ Mittal Steel, Slip Op. 2007-1552 at 9-10; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is . . . complex and difficult, and is a matter for the judgment of the ITC.”).

investigation⁷⁰ at a *** rate than the decline in cigarette consumption.⁷¹ Thus, the decline in demand may also have been affected by other factors, such as the use of lighters in lieu of matches.⁷² Even in the absence of significant competition from subject imports, Petitioner's business plan ***.⁷³

Although commodity matchbooks are a commonly used product in the United States, this is not generally true throughout the world. Consumers in most other countries (with the exceptions of Canada, Egypt and Guatemala) use wooden matches exclusively.⁷⁴

2. Supply Conditions

There were two producers of commodity matchbooks in the United States during the period of investigation, Bean and Bradley Industries.⁷⁵ Bradley ***.⁷⁶

The domestic industry's market share, on a quantity basis, declined from *** percent in 2005 to *** percent in 2006, and then rose to *** percent in 2007.⁷⁷ The market share of subject imports rose from 2005 to 2007.⁷⁸ Although the market share of nonsubject imports rose from 2005 to 2007, there were *** nonsubject imports in interim 2008.⁷⁹ In addition to India, there were two other foreign sources of supply to the U.S. market during the period of investigation, China and Mexico.⁸⁰

3. Substitutability

*** importers of commodity matchbooks reported that the U.S. product, the subject imports, and nonsubject imports are always or frequently interchangeable.⁸¹

*** reported that differences other than price were never a significant factor in sales of commodity matchbooks. Among the importers responding to the Commission's questionnaire, however, two reported that differences other than price were always significant, and one reported that they were sometimes significant.⁸²

⁷⁰ The quantity of apparent U.S. consumption was *** cases in 2005, *** cases in 2006, and *** cases in 2007. CR/PR at Table IV-3. The value of apparent U.S. consumption was \$*** million in 2005, \$*** million in 2006, and \$*** million in 2007. Id.

⁷¹ Cigarette consumption in the United States declined from 376 billion cigarettes in 2005 to 372 billion in 2006 and is estimated to have fallen further to 360 billion in 2007. CR at II-5, PR at II-3.

⁷² CR at II-5, PR at II-3. In the final phase of these investigations, we intend to explore the extent to which declining demand for commodity matchbooks is attributable to the use of lighters, instead of a decline in the rate of smoking.

⁷³ CR at II-5, PR at II-3.

⁷⁴ Conference Transcript at 74, CR at III-7 and n.13, PR at III-2-3 and n.13.

⁷⁵ CR at I-3, PR at I-2. Bradley Industries ***.

⁷⁶ CR at III-2, PR at III-2.

⁷⁷ CR/PR at Table IV-5.

⁷⁸ CR/PR at Table IV-5.

⁷⁹ CR/PR at Table IV-5.

⁸⁰ CR at VII-6-7, PR at VII-4.

⁸¹ CR/PR at Table II-2.

⁸² CR/PR at Table II-3.

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.”⁸³

The volume of subject imports rose from *** cases in 2005 to *** cases in 2006, and then declined to *** cases in 2007. The volume was *** cases in interim 2007 and *** cases in interim 2008.⁸⁴ Subject imports’ market share rose from *** percent in 2005 to *** percent in 2006, and then declined to *** percent in 2007.⁸⁵ It was *** percent in interim 2007, and *** percent in interim 2008. The ratio of the quantity of subject imports to U.S. production rose from *** percent in 2005 to *** percent in 2006 and then declined to *** percent in 2007, and it was *** percent in interim 2007 and *** percent in interim 2008.⁸⁶

We have considered the statutory volume factors in these investigations in the context of a market facing a long-term declining trend in end-user demand. Subject imports maintained a significant presence in the shrinking U.S. market throughout the period of investigation, both in absolute terms and relative to production and consumption. Moreover, increases in subject imports’ market share were at the expense of the domestic industry and significant in light of the *** decline in consumption of commodity matchbooks over the period.

Based on the foregoing, we find for purposes of the preliminary phase of these investigations that the volume of 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(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁸⁷

There is a high degree of substitutability between the domestic like product and the subject imports.⁸⁸ As noted above, *** importers of commodity matchbooks reported that the U.S. product, the subject imports, and nonsubject imports are always or frequently interchangeable.⁸⁹

The Commission sought quarterly pricing data for two types of commodity matchbooks: (1) paper matchbooks with 20 match stems, secured with a plain white cover or imprinted with “Thank You,”

⁸³ 19 U.S.C. § 1677(7)(C)(i).

⁸⁴ CR/PR at Table IV-2. In the final phase of these investigations, we intend to seek information on when Indian imports first entered the U.S. market and on Indian producers’ motivation to invest in equipment to produce commodity matchbooks, given that most matches used in India are wooden matches. We will also seek information on the Indian producers’ business plans and sources of investment capital, as well as ***. See CR at VII-2 n.3, PR at VII-1 n.3.

⁸⁵ CR/PR at Table IV-5.

⁸⁶ CR/PR at Table IV-6.

⁸⁷ 19 U.S.C. § 1677(7)(C)(ii).

⁸⁸ CR/PR at Table II-2.

⁸⁹ CR/PR at Table II-2.

packed in trays of 50 books each, wrapped in a paper sleeve and packed 50 trays to a carton/case containing 2,500 matchbooks (Product 1); and (2) paper matchbooks with 20 match stems, secured with a cover imprinted with a logo, packed in trays of 50 books each, wrapped in a paper sleeve and packed 50 trays to a carton/case containing 2,500 matchbooks (Product 2). The Commission received usable pricing data from two U.S. producers and three importers of subject merchandise from India.⁹⁰ The quarterly price data for Indian imports covered ***. The pricing data received by the Commission accounted for *** percent of the quantity of U.S. producers' U.S. shipments in the January 2005-June 2008 period and *** percent of U.S. imports from India.⁹¹

The subject imports undersold the domestic product in all 14 price comparisons at margins ranging from 3.7 percent to 26.3 percent.⁹² In light of the frequency of the underselling by subject imports with respect to sales of Product 1, and the importance of price in purchasing decisions, we find the underselling by subject imports to be significant.

We have also considered price trends over the period of investigation. The price of U.S.-produced Product 1 declined irregularly over the period of investigation. The weighted-average quarterly price of Product 1 was \$*** per case in the second quarter of 2005, declining to \$*** in the second quarter of 2008.⁹³ Thus, the record indicates there was price depression, in that the price of Product 1 declined over the period of investigation while lower priced and highly substitutable subject imports maintained a significant presence in the market. For this reason, we find that subject imports depressed prices for the domestic product to a significant degree.⁹⁴

We also find that subject imports have to a significant degree prevented price increases by the domestic industry that would otherwise have occurred. On a per-unit basis, the domestic industry's cost of goods sold ("COGS") increased over the period of investigation. The unit value of average COGS was \$*** in 2005, \$*** in 2006, and \$*** in 2007.⁹⁵ The domestic industry's unit value of net sales failed to keep up with this increase in costs.⁹⁶ As a result, the domestic industry's COGS as a share of net sales increased over the period of investigation.⁹⁷ Thus, in significant part, we attribute the domestic industry's inability to raise prices to cover increasing costs to competition with the significant volume of subject imports, which are highly interchangeable with the domestic product, competed on the basis of price, and undersold the domestic product in every available comparison. Thus, we find that subject imports prevented price increases, which otherwise would have occurred, to a significant degree.^{98 99}

⁹⁰ CR at V-3, PR at V-3.

⁹¹ CR at V-3-4, PR at V-3.

⁹² Id.

⁹³ CR/PR at Table V-1. The weighted-average quarterly price in the first quarter of 2005 (\$*** per case) appears to have been ***. We note that an *** of the U.S. product was sold in that quarter.

⁹⁴ There appears to be some inconsistency between Petitioner's description of price competition in 2007 and the quarterly pricing data that we have collected. Petitioner maintains that it was forced to cut its prices to some customers drastically in 2007 in order to meet the low prices of subject imports. Conference Transcript at 35-36. The quarterly pricing data for 2007 ***. The existence of a number of confirmed instances of lost revenues, however, including ***, provides some support for Petitioner's claim. CR/PR at Table V-6. We intend to explore this possible inconsistency in the final phase of these investigations.

⁹⁵ CR/PR at Tables VI-2 and C-1.

⁹⁶ The unit value of net sales was \$*** in 2005, \$*** in 2006, and \$*** in 2007. CR/PR at Tables VI-2 and C-1.

⁹⁷ The COGS-to-net-sales ratio was *** percent in 2005, *** percent in 2006, and *** percent in 2007. CR/PR at Tables VI-1 and C-1.

⁹⁸ In addition, there were confirmed lost sales and lost revenues, which support our findings that subject imports have suppressed and depressed domestic prices to a significant degree. The Commission confirmed \$*** of the total
(continued...)

Based on the foregoing, we find for purposes of the preliminary phase of these investigations that the subject imports have had a significant adverse effect on the price of the domestic like product.

E. Impact of the Subject Imports¹⁰⁰

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹⁰¹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁰²

We have examined the performance indicators in the trade and financial data for the domestic industry producing commodity matchbooks. These data mostly show *** declines over the period of investigation. U.S. producers’ capacity to produce commodity matchbooks remained constant throughout the period of investigation.¹⁰³ U.S. producers’ production, however, declined by *** percent from 2005 to 2007.¹⁰⁴ Thus, capacity utilization dropped from *** percent in 2005 to *** percent in 2006 and *** percent in 2007.¹⁰⁵ Domestic producers’ U.S. shipments declined by *** percent from 2005 to 2007.¹⁰⁶ Domestic producers’ inventories as a ratio to shipments declined.¹⁰⁷

Most of the domestic industry’s employment indicators also deteriorated over the period of investigation. The number of production and related workers, aggregate hours worked, aggregate wages

⁹⁸ (...continued)

*** in alleged lost sales for which customers provided information during the period of investigation. CR/PR at Table V-5. The Commission also confirmed *** of the total *** in alleged lost revenues for which customers provided information during the period of investigation. CR/PR at Table V-6. In the final phase of these investigations, we intend to explore the details behind these instances of lost sales and lost revenues, for example, whether U.S. distributors sought bids from importers or foreign producers or were approached by the importers or foreign producers. We would also like to know whether the domestic producers and importers of the subject product competed against each other in an organized bidding process.

⁹⁹ Chairman Aranoff does not join this paragraph. Having found price depression, Chairman Aranoff does not reach the issue of whether subject imports prevented price increases, which otherwise would have occurred, to a significant degree. She will reconsider this issue during the final phase of these investigations.

¹⁰⁰ In its notice of initiation of the antidumping duty investigation, Commerce estimated a weighted-average dumping margin of 135.95 percent for imports from India. 73 Fed. Reg. 70965.

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

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

¹⁰³ The domestic industry’s capacity was ***, and was ***. CR/PR at Table III-2.

¹⁰⁴ Production fell from *** cases in 2005 to *** cases in 2006 and *** cases in 2007. Production was *** cases in interim 2007 and *** cases in interim 2008. CR/PR at Tables III-2 and C-1.

¹⁰⁵ CR/PR at Tables III-2 and C-1.

¹⁰⁶ Domestic producers’ U.S. shipments fell from *** cases in 2005 to *** cases in 2006 and *** cases in 2007. Shipments were *** cases in interim 2007 and *** cases in interim 2008. CR/PR at Tables III-3 and C-1.

¹⁰⁷ The ratio of inventories to total shipments was *** percent in 2005, *** percent in 2006, *** percent in 2007, *** percent in interim 2007, and *** percent in interim 2008. CR/PR at Tables III-4 and C-1.

paid, and productivity all declined – in some cases ***.¹⁰⁸ There was, however, a *** improvement in hourly wages.¹⁰⁹

The domestic industry's financial indicators – net sales measured by quantity and value, operating income, and operating margins – declined *** over the period of investigation. The quantity of net sales was *** cases in 2005, *** cases in 2006, and *** cases in 2007; the value of net sales was \$*** in 2005, \$*** in 2006, and \$*** in 2007.¹¹⁰ Operating income declined from \$*** in 2005 to \$*** in 2006 and *** \$*** in 2007.¹¹¹ The industry's ratio of operating income to net sales fell from *** percent in 2005 to *** percent in 2006 and *** percent in 2007.¹¹² This deterioration in the domestic industry's financial performance occurred despite efforts by Petitioner to ***.¹¹³

We recognize that demand for commodity matchbooks fell *** during the period of investigation¹¹⁴ and that this falling demand played a role in the domestic industry's declining performance. The decline in the domestic industry's production and shipments over the period of investigation, however, was greater than the decline in demand.¹¹⁵

We have also considered the role of nonsubject imports in the U.S. market during the period of investigation. Although nonsubject imports were present in the market in significant quantities at times during the period of investigation,¹¹⁶ nonsubject imports were generally *** than the domestic product.¹¹⁷ We recognize that these matchbooks generally are interchangeable regardless of source of supply.¹¹⁸ Nevertheless, the prices for nonsubject imports were *** than prices for domestic products. We do not

¹⁰⁸ The number of production and related workers (PRWs) declined from *** in 2005 to *** in 2006 and *** in 2007. The number of PRWs was *** in interim 2007 and *** in interim 2008. Aggregate hours worked fell from *** in 2005 to *** in 2006 and *** in 2007, and were *** in interim 2007 and *** in interim 2008. Aggregate wages paid were \$*** in 2005, \$*** in 2006, \$*** in 2007, \$*** in interim 2007, and \$*** in interim 2008. Productivity (measured in cases per hour) declined from *** in 2005 to *** in 2006 and *** in 2007. Productivity was *** in interim 2007 and *** in interim 2008. CR/PR at Tables III-5 and C-1.

¹⁰⁹ Hourly wages rose from \$*** in 2005 to \$*** in 2006 but then fell to \$*** in 2007. Hourly wages were \$*** in interim 2007 and \$*** in interim 2008. CR/PR at Tables III-5 and C-1. We note that the *** in hourly wages in interim 2008 as compared with interim 2007 was ***. CR at III-9, PR at III-4.

¹¹⁰ CR/PR at Tables VI-1 and C-1.

¹¹¹ CR/PR at Tables VI-1 and C-1.

¹¹² CR/PR at Tables VI-1 and C-1.

¹¹³ CR at VI-11, PR at VI-3. The domestic industry's ratio of SG&A expenses to net sales was *** percent in 2005, *** percent in 2006, and *** percent in 2007. This ratio was *** percent in interim 2007 and *** percent in interim 2008. CR/PR at Table VI-1.

¹¹⁴ As noted above, apparent U.S. consumption fell from *** cases in 2005 to *** cases in 2007. CR/PR at Table IV-3.

¹¹⁵ U.S. consumption of commodity matchbooks declined by *** percent in the 2005-2007 period, while the domestic industry's production and shipments fell by *** percent and *** percent, respectively. CR/PR at Table C-1.

¹¹⁶ The market share of nonsubject imports rose from *** percent in 2005 to *** percent in 2006, and then declined to *** percent in 2007, after which nonsubject imports ***.

¹¹⁷ See CR/PR at Table V-2. Imports from Mexico of Product 2 ***. Although imports of Product 2 from China (the other source of nonsubject imports) ***. No subject imports were reported for Product 2. Prices for Product 2 generally were higher than prices for Product 1 because Product 2 is produced to order for private label customers and the matchbooks are printed. CR/PR at Table V-2, Note.

¹¹⁸ CR/PR at Table II-2.

find that the injury to the domestic industry described above can be attributed in any significant way to the non-subject imports. Nonsubject imports *** as a result of a ***,¹¹⁹

We find that subject imports played a material role in the injury experienced by the domestic industry. The widespread deterioration in the domestic industry's performance described above occurred as subject imports entered the U.S. market in significant volumes and undersold the domestic product, typically by double-digit margins, suppressing and depressing domestic prices. Thus, for purposes of these preliminary determinations, we conclude that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation.

CONCLUSION

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

¹¹⁹ CR at IV-3, PR at IV-1.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on October 29, 2008, by D.D. Bean & Sons Co. (“D.D. Bean”), Jaffrey, NH, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of less-than-fair-value (“LTFV”) imports of commodity matchbooks¹ from India. The petition further alleged that an industry in the United States is materially injured and threatened with further material injury by reason of subsidized imports of commodity matchbooks from India. Information relating to the background of these investigations is provided below.²

Effective date	Action
October 29, 2008	Petition filed with Commerce and the Commission; Commission institutes investigations (73 FR 65881, November 5, 2008)
November 17, 2008	Commission’s conference (a list of witnesses that appeared at the conference is presented in appendix B)
November 24, 2008	Commerce’s notices of initiation (73 FR 70965 (AD) and 70968 (CVD), November 24, 2008)
December 12, 2008	Date of the Commission’s vote
December 15, 2008	Commission’s determinations transmitted to Commerce
December 22, 2008	Commission’s views transmitted to Commerce

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission—

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are

¹ A complete description of the imported product subject to these investigations is presented in *The Subject Merchandise* section located in Part I of this report. The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (“HTS”) under subheading 3605.00.00. The merchandise enters the United States duty-free under the normal trade relations tariff rate on commodity matchbooks, applicable to imports from India.

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

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.

...

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

...

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

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

U.S. COMMODITY MATCHBOOKS MARKET SUMMARY

Apparent U.S. consumption for commodity matchbooks totaled approximately \$*** (***) cases) in 2007. Two firms – D.D. Bean and Bradley Industries, Inc. (“Bradley”) – accounted for all known U.S. production in 2007. The imports of commodity matchbooks from India were generally concentrated among three firms – *** – during the period for which data were collected (2005 through June 2008). Imports of commodity matchbooks from nonsubject sources were primarily from one firm – ***. Importers' responses are believed to have accounted for more than 95 percent of U.S. imports of

commodity matchbooks during the period for which data were collected. Data were received from one large producer in India – Triveni Safety Matches Pvt. Ltd. (“Triveni Safety”) – which reported that it accounted for approximately *** percent of Indian production in 2007 and approximately *** percent of Indian exports to the United States in that year. Triveni Safety’s exports to the United States accounted for *** percent of reported U.S. imports of commodity matchbooks from India in 2007.

U.S. producers’ U.S. shipments of commodity matchbooks totaled *** cases in 2007, and accounted for *** percent of apparent U.S. consumption by quantity. U.S. shipments of imports from India totaled *** cases in 2007, and accounted for *** percent of apparent consumption by quantity, and U.S. shipments of imports from all other sources combined totaled *** cases in 2007, and accounted for *** percent of apparent U.S. consumption by quantity.

SUMMARY DATA

A summary of data collected in these investigations for the U.S. commodity matchbook market is presented in appendix C, table C-1. Producer data are based on questionnaire responses of two firms that accounted for all known U.S. production of commodity matchbooks during the period examined. U.S. import data are based on questionnaire responses of three importers that provided data and are believed to account for more than 95 percent of U.S. imports of commodity matchbooks during the period examined. Data on apparent U.S. consumption of commodity matchbooks were compiled using shipment data from questionnaire responses of the two responding U.S. producers and shipments of imports data reported in the questionnaire responses of the three firms that imported commodity matchbooks during the period examined.

NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

On November 24, 2008, Commerce published a notice in the *Federal Register* of the initiation of the antidumping investigation on commodity matchbooks from India. The estimated weighted-average dumping margin (in percent *ad valorem*), as reported by Commerce (based on petitioner’s alleged margins) was 135.95 percent.³

Also on November 24, 2008, Commerce published a notice in the *Federal Register* of the initiation of the countervailing duty investigation on commodity matchbooks from India.⁴ The following government programs in India are involved:

- A. Exported oriented unit scheme
 - 1. Duty-free import of capital goods and raw materials
 - 2. Reimbursement of central sales tax paid on goods manufactured in India
 - 3. Duty drawback on fuel procured from domestic oil companies
 - 4. Exemption from income tax under Sections 10A and 10B of Income Tax Act
- B. Export promotion capital goods scheme
- C. Duty entitlement passbook scheme
- D. Advance license program

³ *Commodity Matchbooks from India: Initiation of Antidumping Duty Investigation*; 73 FR 70965, November 24, 2008.

⁴ *Commodity Matchbooks from India: Initiation of Countervailing Duty Investigation*; 73 FR 70968, November 24, 2008.

- E. Duty-free import authorization scheme
- F. Pre-shipment and post-shipment export financing

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as follows:

The subject product covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.⁵ Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled, or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks may or may not include printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as “*Thank You*” or a generic image such as the American Flag, with store brands (e.g., *Kroger*, *7-Eleven*, *Shurfine* or *Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., *Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 C.F.R. §§ 1202.1 et seq.

Excluded from the definition of commodity matchbooks are promotional matchbooks, often referred to as “not for resale,” or “specialty advertising” matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking, or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbeque, or individual

⁵ Such commodity matchbooks are also referred to as “for resale” because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g., convenience stores, supermarkets, dollar stores, drug stores, and mass merchandisers.

establishment prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.⁶ Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka “SAW” matches), strike-on-box matches (aka “SOB” matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

Commodity matchbooks are imported under statistical reporting number 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTS). Subject merchandise may also enter under statistical reporting number 3605.00.0030.⁷

U.S. Tariff Treatment

The products subject to these investigations are currently classified in HTS subheading 3605.00.00 (matches, other than pyrotechnic articles), entering duty-free at the general rate of duty, as presented in table I-1. Commodity matchbooks enter the United States under statistical reporting number 3605.00.0060, but are believed by the petitioner to also possibly enter the United States under statistical reporting number 3605.00.0030 (matches with natural wood stems).⁸

**Table I-1
Commodity matchbooks: Tariff treatment, 2007**

HTS provision	Article description	General ¹	Special	Column 2 ²
		Rates (<i>percent ad valorem</i>)		
3605.00.00	Matches, other than pyrotechnic articles of heading 3604:			
3605.00.0030	Matches with natural wood stems	Free		\$.20 per gross of immediate containers
3605.00.0060	Other	Free		

¹ Normal trade relations, formerly known as the most-favored-nation duty rate.
² Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2007).

⁶ The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) if it has no printing, or is printed with a generic message such as “Thank You” or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

⁷ *Commodity Matchbooks from India: Initiation of Antidumping Duty Investigation*; 73 FR 70965, November 24, 2008; and *Commodity Matchbooks from India: Initiation of Countervailing Duty Investigation*; 73 FR 70968, November 24, 2008.

⁸ Petition, p. 6.

THE DOMESTIC PRODUCT

Paper matchbooks were first introduced in 1892 when a Philadelphia patent attorney, Joshua Pusey, was granted a patent for what he termed “flexible matches.” The patent was purchased by the Diamond Match Co. (“Diamond”), the leading producer of wooden matches in the United States. A young salesman for Diamond, Henry Trout, realized that matchbook covers were an ideal medium for advertising and convinced a New York tobacconist to give away advertising matchbooks with every purchase of tobacco products by retail customers. Free matchbooks were an immediate success. During World War II the Office of Price Administration promulgated a regulation requiring distribution of a free matchbook with the sale of every pack of cigarettes—a custom that is still widespread today.⁹ By the 1920s, matchbooks had become one of the most popular advertising mediums in the United States—the medium was particularly suitable for small businesses because of the low cost and the ability to target particular regions or even localities. The United States Government also used matchbooks as a method of communication, using them for both wartime and peacetime public service announcements and particularly for messages urging support for World War II efforts.¹⁰

According to the petition, commodity matchbooks are distinguished by their plain white covers, generic messages such as “Thank You,” generic images such as the American Flag, or national and regional chain store brand logos (such as Kroger, 7-Eleven, Shurfine, or Giant). Commodity matchbooks are characterized by petitioner as always entering retail channels, where they may be re-sold or given away, typically with the purchase of cigarettes.¹¹ The imported and domestically produced products are generally interchangeable.¹² The Indian respondent argued in favor of finding a domestic like product that is broader than Commerce’s scope.¹³

Description and Applications

Commodity matchbooks consist of paper match stems fastened into a matchbook cover. The cover is usually made of plain white paperboard, which is sometimes printed with a simple generic message or image (such as “Thank You” or an American Flag) or printed with a chain store logo. A slurry composition containing red phosphorus, polyvinyl acetate, and ground glass is applied to the cover to use as a striker surface for the match head. The match stem is made from paperboard and is tipped with a match head composed of a chemical formula (usually potassium chlorate, ground glass, gelatin, sulfur, diatomaceous earth, and carboxymethylcellulose (“CMC”)), which ignites when struck against the striker surface. Each matchbook typically consists of 20 matches, mirroring the quantity of cigarettes contained in a pack.¹⁴

The flame is produced as the result of a chemical reaction which takes place on contact between potassium chlorate and red phosphorus. Safety matches separate the principal chemicals by adding the potassium chlorate into the formulation of the match head and the red phosphorous into the formulation

⁹ Transcript of the Commission’s November 17, 2008 conference (“conference transcript”), pp. 13-14 (C. Bean).

¹⁰ Petition, exh. 4, pp. 2-3.

¹¹ Petition, pp. 4-7. Commodity matchbooks are characterized as “for resale,” although a portion will be given away to the end user as single matchbooks with the sale of a pack of cigarettes at convenience stores.

¹² Petition, pp. 13-14, and conference transcript, p. 72 (M. Bean and Bartlett).

¹³ Similarities and differences between various forms of matches and matchbooks are discussed in the section of this chapter entitled *Domestic Like Product Issues*.

¹⁴ Correspondence with ***, November 14, 2008 and petition, p. 4.

of the striker surface. All matchbooks and most wooden matches are safety matches.¹⁵ All commodity matchbooks, whether imported or made in the United States, are required to meet U.S. Consumer Product Safety Standards (16 C.F.R. §§ 1202.1 et seq.)¹⁶

Commodity matchbooks always enter the retail channels of trade and are intended for resale by large supermarkets or similar chains (in boxes of 50 matchbooks each), or as give-aways by convenience store owners with the purchase of a pack of cigarettes. Commodity matchbooks are intended for use as portable ignition devices, and the petitioner estimates that 95 percent of their use involves cigarettes.¹⁷ Figure I-1 presents a depiction of a type of commodity matchbook produced by petitioner D.D. Bean.

Manufacturing Process¹⁸

The production process for commodity matchbooks is an automated process involving dedicated machinery. Match stem stock is purchased in large rolls and continuously fed into a punch press with a die that stamps out strips of 120 individual matches. The match strips are inserted into a carrier chain that passes through a paraffin dip followed by immersion into the match head composition. The carrier chain continues through a drying process and the strips are extracted and conveyed directly to the assembly area. The printing of the match cover may be outsourced to a commercial printer or done internally. High speed roll-to-roll printing is commonly used to produce commodity matchbook covers. A slurry composition containing red phosphorous is applied to either a sheet or roll of printed covers using a variety of application methods and then dried. The tray or caddy that contains the 50 matchbooks is die cut from rolls or sheets of recycled chipboard and folded and glued by machine to form the finished caddy. The caddies are transported to the assembly machines either manually or typically by conveyor belts.

The finished match stems and the sheets or rolls of match covers are simultaneously loaded into an automatic assembly machine. While in the automatic assembly machine, the match strips are cut into sections containing the appropriate number of individual matches (20 match stems per book) at the same time the cover is cut to individual size. The cover is then folded over the match stems and stitched to complete the finished book. The assembled matchbooks are then accumulated and presented for packaging, either manually or automatically, into caddies of 50 matchbooks. After packed with 50 matchbooks, the caddies are most commonly paper-wrapped but may also be inserted into a folding carton (made of recycled clay-coated carton stock),¹⁹ with or without shrink-wrap. Finished caddies are accumulated and packaged into cases. Fifty caddies per case is the standard size but variations of 40, 30, and 20 caddies per case are not uncommon. Upon completion of this step, finished cases are palletized and are ready for shipment to the customer.

¹⁵ Strike-anywhere matches substitute the key component red phosphorus contained in the striker surface with phosphorus sesquisulfide added to the tip of the match head to achieve the strike-anywhere physical characteristic. Correspondence with ***, November 21, 2008.

¹⁶ Petition, p. 5 and exh. 6.

¹⁷ Ibid., p. 8.

¹⁸ Ibid., exh. 5; correspondence with ***, November 14, 2008; and field visit report, ***, November 19, 2008.

¹⁹ ***. Field visit report, ***, November 19, 2008.

Figure I-1
Commodity matchbooks: Product forms



Source: D.D. Bean.

DOMESTIC LIKE PRODUCT ISSUES

Presented below is information related to the Commission’s “domestic like product” finding.²⁰ Counsel for the petitioner has urged the Commission to adopt the petitioner’s definition of the domestic like product.²¹ The Indian Government (“Indian respondent”) has urged the Commission to include promotional matchbooks in the domestic like product.²² Responding importers did not comment on domestic like product issues in their questionnaire responses.²³ Data collected on U.S. producer’s U.S.

²⁰ The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.

²¹ Petition, p. 8; conference transcript, p. 7 (Gaston); and petitioner’s postconference brief, pp. 3-4.

²² Conference transcript, pp. 8-10 (George) and Indian respondent’s comments, p. 4.

²³ ***.

shipments, U.S. imports, and apparent U.S. consumption of promotional matchbooks and commodity and promotional matchbooks combined are presented in table IV-4.

Physical Characteristics and Uses

According to the petitioner, commodity matchbooks are made with plain white covers, contain generic messages or images, or are printed with simple chain store logos. They typically contain 20 matches.²⁴

Promotional matchbooks may contain many variations on the number of match stems, according to the petitioner. The match covers are highly customized with many colors of paper stock and variations of printing and inks, special embossing and die stamping, and colors for match stems. The shape of the matchbook may be customized.²⁵

The petitioner contends that commodity matchbooks are used as ignition devices (95 percent of all such ignitions are for cigarettes) for resale at chain retail stores or as giveaways at convenience stores for consumers with the purchase of cigarettes.²⁶ Bradley, the only producer of promotional matchbooks, *** this contention.²⁷ According to the Indian respondent, commodity matchbooks may also be kept for emergency purposes in case of a power shortage or for lighting other products in addition to cigarettes.²⁸

According to the petitioner, promotional matchbooks are not for resale, but rather are intended as a souvenir, adding to a matchbook collection, or for future reference of a telephone number or address. Their use as an ignition device is secondary to their use as a promotional item.²⁹ Bradley *** this contention.³⁰ Moreover, it is in the interest of the establishment distributing the promotional item that the end user not use the promotional matchbook as an ignition device, but rather save it for as long as possible for future reference as an advertising item.³¹

The Indian respondent contends that D.D. Bean's definition of the domestic like product and matchbooks industry is artificially narrow, as commodity matchbooks and promotional matchbooks both serve as ignition devices and have promotional purposes. The Indian respondent notes that promotional matchbooks also serve as ignition devices, as a D.D. Bean web page states that "with 20 lights in every matchbook and 20 direct advertising exposures to match users - as well as 8 indirect exposures to other people - matchbook advertising reaches a broad audience of millions of consumers everyday," and that commodity matchbooks are also used for promotional purposes as they may be printed with names of national or regional chain stores; with product brands for national or regional advertisers; or with corporate brands for national or regional distributors.³²

In its safety standard for matchbooks, the Consumer Product Safety Commission divides matchbooks into two basic categories: resale matchbooks and special reproduction matchbooks. "Resale matchbooks can be subdivided into advertising and nonadvertising matchbooks. Nonadvertising matchbooks are generally sold by large chain stores, and constitute a small portion of the total resale matchbook volume. Resale matchbooks with advertising are generally given away by tobacco shops, drug stores, vending firms, and other mass distribution outlets. Special reproduction matchbooks,

²⁴ Petition, p. 8 and conference transcript, p. 19 (M. Bean).

²⁵ Petition, p. 9 and conference transcript, p. 52 (M. Bean).

²⁶ Petition, pp. 8 and 10.

²⁷ ***.

²⁸ Conference transcript, pp. 83-84 (George).

²⁹ Petition, pp. 8-9; conference transcript, pp. 20-21 and 50 (M. Bean); and petitioner's postconference brief, p. 3.

³⁰ ***.

³¹ Conference transcript, pp. 68-69 (M. Bean and Gaston).

³² Indian respondent's comments, November 13, 2008, p. 4.

characterized by their distinctive and unique cover designs, are purchased and distributed for promotional purposes by hotels, restaurants, financial institutions, and other business enterprises, and are given free to users.”³³

Manufacturing Facilities and Production Employees

According to the petitioner, commodity matchbooks are produced using different machinery than promotional matchbooks.³⁴ Bradley *** the petitioner’s assertion that commodity matchbooks are produced using different machinery than promotional matchbooks, ***.³⁵ According to the petitioner, the commodity matchbook machinery is faster and uses a more mechanized process. The promotional matchbook production line is highly customized and more reliant on labor.

For example, one commodity matchbook line typically consists of one stem punch press, one mixing tank, one roll fed striking surface applicator, one high speed roll-to-roll printing press, four semi-automatic assembly machines, one automatic caddy finishing line, one caddy/tray forming line, and one case packing line. It takes approximately *** employees to operate one line—*** operators and *** mechanics.³⁶ A promotional matchbook line consists of ***. It takes approximately *** employees to operate one line—*** composers/plate makers, *** machine operators, and *** mechanic.³⁷

Interchangeability

Commodity matchbooks and promotional matchbooks are generally not interchangeable for their primary functions, according to the petitioner, because promotional matchbooks are not available at retail locations wherein cigarettes are sold, often are made with more than 20 match stems, and serve a primarily promotional rather than utilitarian purpose.³⁸ Bradley *** this contention.³⁹ Although promotional matchbooks are used for ignition purposes at times, it is irrelevant to their primary purpose as a promotional function for the business or establishment which gives them away. Moreover, although commodity matchbooks are sometimes used for promotional purposes, e.g., when a chain store or supermarket chain that sells matchbooks at retail may want its name on the commodity matchbooks, the advertising is incidental to the primary purpose for which such matchbooks are resold by the chain—to serve as an ignition source.⁴⁰ Bradley *** this argument.⁴¹

According to the Indian respondent, commodity and promotional matchbooks are interchangeable at the end user level of trade for the purpose of the ignition of tobacco products.⁴²

³³ Consumer Product Safety Commission Safety Standard for Matchbooks, petition, exh. 6, p. 2.

³⁴ D.D. Bean ***. Conference transcript, p. 62 (M. Bean) and field visit report, ***, November 19, 2008. While it is possible to adapt a machine from the production of promotional matchbooks to the production of commodity matchbooks, and (with more difficulty) vice versa, it is neither easy nor economical to do either, according to the petitioner. Petitioner’s postconference brief, p. 9.

³⁵ ***.

³⁶ Petition, p. 19.

³⁷ Correspondence with ***, November 26, 2008.

³⁸ Petition, pp. 13-15 and petitioner’s postconference brief, p. 8.

³⁹ ***.

⁴⁰ Conference transcript, pp. 24, 43, and 51 (M. Bean).

⁴¹ ***.

⁴² Conference transcript, p. 8 (George).

Customer and Producer Perceptions

According to the petitioner, end users of commodity matchbooks expect the product to be free or inexpensive, and function in a utilitarian manner to produce a functional flame for lighting tobacco products.⁴³ End users of promotional matchbooks may or may not be tobacco users. Often they value the promotional matchbook as a free souvenir or information reference tool.⁴⁴ Although there may be some overlap of perception at the end user level of trade that commodity matchbooks and promotional matchbooks are able to perform an ignition function, the similarity ends there.⁴⁵ Bradley *** the petitioner's contention.⁴⁶

According to the Indian respondent, end users perceive commodity and promotional matchbooks to be interchangeable as portable ignition devices.⁴⁷

The petitioner contends that customers of the commodity matchbooks expect a product that is inexpensive, generic, and that customers buy in large production lots. Customers of the promotional matchbooks have usually worked closely with the producer in specifying every component of the promotional product, and the lot sizes are very small, sometimes just 1-2 cases. The size of the production run can decide the degree of customization possible in most cases, which is a reason for producing commodity and promotional matchbooks on different production lines.⁴⁸

According to the petitioner, producers of commodity matchbooks follow the business model of producing large quantities of a standardized product by the pallet load or truck load. Producers of the promotional matchbooks have built their business model on being able to offer as many customizations as possible in the smallest possible quantities.⁴⁹

Channels of Distribution

According to the petitioner, commodity matchbooks are most often purchased by large distributors and wholesalers, and also by larger convenience and grocery store chains.⁵⁰ Large customers of the petitioner include Diamond Brands (a large distributor in the grocery trade) and Sultana Distribution Services, a large distributor in the wholesale convenience store market.⁵¹ Table II-1 in Part II of this report also confirms this contention by the petitioner. The petitioner states that promotional matches are sold directly to the customer, typically bars, restaurants, resorts, hotels, clubs, cafes, coffee shops, grills, pubs, eateries, lounges, and casinos, or through specialty advertising jobbers and then shipped directly to those customers.⁵² Bradley *** the petitioner's statements in its questionnaire response.⁵³ The Indian respondent did not make an argument about channels of distribution.

⁴³ Petition, p. 15; conference transcript, pp. 19-20 (M. Bean); and petitioner's postconference brief, p. 9.

⁴⁴ Petition, p. 16 and conference transcript, p. 20 (M. Bean).

⁴⁵ Petitioner's postconference brief, p. 6.

⁴⁶ ***.

⁴⁷ Conference transcript, pp. 8-9 (George).

⁴⁸ Petition, pp. 16-18 and 20 and conference transcript, pp. 21-22 and 78 (M. Bean).

⁴⁹ Petition, pp. 17-18; conference transcript, p. 22 (M. Bean); and petitioner's postconference brief, p. 3.

⁵⁰ Petition, pp. 11-12 and petitioner's postconference brief, p. 8.

⁵¹ Conference transcript, p. 60 (M. Bean).

⁵² Petition, p. 12 and petitioner's postconference brief, p. 8.

⁵³ ***. However, ***. Correspondence with ***, December 4, 2008. ***. Correspondence with ***, December 2, 2008.

Price

According to the petitioner, commodity matchbooks sell for about \$*** to \$*** per case (2,500 matchbooks), with an average of \$*** per case. Promotional matchbooks average about \$35 to \$110 per case (1,000 matchbooks), which would convert to \$87.50 to \$275 per case (2,500 matchbooks).⁵⁴ The petitioner contends that promotional matchbooks could sell for 10 times the price of commodity matchbooks because they are highly customized.⁵⁵ Bradley *** the contention that promotional matchbooks are much more expensive.⁵⁶ According to data collected on U.S. producers shipments and U.S. imports of promotional matchbooks in 2007, the average unit value of U.S.-produced promotional matchbooks was \$*** per case, and the average unit value of matchbooks imported from sources other than India was \$*** per case.⁵⁷ The Indian respondent did not make an argument about price differences between commodity and promotional matchbooks.

⁵⁴ Petition, p. 22.

⁵⁵ Conference transcript, p. 54 (M. Bean) and petitioner's postconference brief, p. 10.

⁵⁶ ***.

⁵⁷ Derived from data in table I-2.

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

MARKET CHARACTERISTICS

Commodity matchbooks are “intended for use as portable ignition devices, and 95 percent of all such ignitions are for cigarettes. They are often purchased from wholesalers by convenience store owners to give away for free with the purchase of a pack of cigarettes.”¹

In most cases, U.S. producers and importers of commodity matchbooks from India sell the product in one or more specific regions of the United States. The two producers of commodity matchbooks and one importer sell commodity matchbooks ***. The remaining two responding U.S. importers sell *** of the United States.

U.S. inland shipping distances for U.S.-produced commodity matchbooks and imports from India were reported by U.S. producers and U.S. importers. The two U.S. producers reported that the *** their commodity matchbooks were sold within distances of *** miles from their facilities. Similarly, the one responding importer reported that *** percent and another firm reported that *** percent of their commodity matchbooks were sold within distances of *** of their storage facilities. One importer sold about *** percent of its commodity matchbooks within distances of *** miles from its storage facilities.

Delivery lead times from inventories varied widely for both U.S.-produced and imported commodity matchbooks. For U.S. producers, lead times ranged from *** to as much as ***. For importers, lead times ranged from *** to as much as ***. U.S. producer *** reported delivery lead times for produced-to-order commodity matchbooks of *** and it made *** of its sales from inventory and *** were produced to order. U.S. producer *** and the *** responding importers reported that *** percent of their products were sold from inventory.

CHANNELS OF DISTRIBUTION

The Commission’s questionnaire asked firms to report the quantity of U.S. shipments sold to wholesalers/distributors, convenience/grocery stores, food service companies, membership warehouses, and other channels of distribution. Data compiled in response to Commission questionnaires concerning these channels of distribution are presented in table II-1. In 2007, U.S. producers’ U.S. shipments were divided among three categories: D.D. Bean sold ***, and Bradley sold ***. In 2007, *** sold *** and *** sold ***. There were *** reported sales of imported product to food service companies or membership warehouses.

Table II-1

Commodity matchbooks: U.S. producers’ and importers’ shares of reported U.S. shipments, by sources and channels of distribution, 2005-07, January-June 2007, and January-June 2008

* * * * *

¹ Petition, p. 8.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

The sensitivity of the domestic supply of commodity matchbooks to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced commodity matchbooks, inventory levels, and the ability to shift to the manufacture of other products. The record in the preliminary phase of this investigation suggests that U.S. producers have a *** degree of flexibility in expanding output and U.S. shipments in response to an increase in price, chiefly due to *** industry capacity utilization rates. U.S. producers' capacity utilization declined from *** percent in 2005 to *** percent in 2007, and was *** percent during January-June 2008. Exports, as a share of total shipments, were *** percent in 2005 and 2006 and decreased to *** percent in 2007 and *** percent during January-June 2008. The ratio of U.S. producers' end-of-period inventories to their total shipments decreased from *** percent in 2005 to *** percent in 2007, and was *** percent during January-June 2008.

Supply of Subject Imports to the U.S. Market

The responsiveness of the supply of imports from India to changes in price in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, suppliers of subject imports have the ability to respond in changes in demand with *** changes in the quantity of shipments of commodity matchbooks to the U.S. market mainly due to *** capacity utilization rates.

Subject imports from India

The capacity utilization rate for the single responding producer of commodity matchbooks in India, Triveni Safety, was *** percent in 2005, increased to *** percent in 2006, then decreased to *** percent in 2007; capacity utilization is projected to *** to *** percent in 2007 and *** percent in 2008. Triveni Safety's inventories, as a ratio to total shipments, increased from *** percent in 2005 to *** percent in 2007; inventories are estimated to *** to *** percent in 2008 and then further to *** percent in 2009. Triveni Safety reported *** to the Indian home market. Exports to non-U.S. markets, as a share of its shipments, ranged from *** percent in 2005 to *** percent in 2007;² they are projected to *** to *** percent in 2008 and *** percent in 2009.

U.S. Demand

Demand Characteristics

Since commodity matchbooks are mainly used to light cigarettes, the overall demand for commodity matchbooks is closely linked to the demand for cigarettes. The price elasticity of demand for commodity matchbooks is likely high since commodity matchbooks have several substitutes including

² Table VII-1.

“wooden matches, stick matches, box matches, kitchen matches, pocket matches etc. and even promotional matchbooks.”³

Demand for commodity matchbooks decreased over the period of investigation as demand for cigarettes decreased in the United States.⁴ The petitioner, D.D. Bean, budgeted for a “***” per year. When asked how the U.S. demand for commodity matchbooks had changed since January 1, 2005, the *** reported that demand had decreased and *** reported that demand did not change. *** reporting decreased demand attributed the decrease to the general decline in smoking and associated anti-smoking laws; *** attributed the decline to the use of lighters. Indeed, cigarette consumption in the United States decreased from 376 billion in 2005 to 372 billion in 2006 and it is estimated to have further decreased to 360 billion in 2007.⁵

Apparent U.S. consumption of commodity matchbooks decreased from *** cases in 2005 to *** cases in 2007. During January-June 2007, apparent U.S. consumption was *** cases as compared to *** cases during January-June 2008.⁶

SUBSTITUTABILITY ISSUES

The extent of substitutability between domestic products and subject and nonsubject imports and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from producers and importers.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced commodity matchbooks can generally be used in the same applications as imports from India, producers and importers were asked whether the product can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-2).

Table II-2
Commodity matchbooks: Interchangeability of product from different sources

* * * * *

*** comparing U.S. products with those from India reported that the products from these countries can always be used interchangeably. ***, the *** reported that the products from these countries can always or frequently be used interchangeably.

Producers and importers were also asked to compare U.S.-produced products with imports from India in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-3).

³ Indian respondent’s written comments, November 13, 2008, p. 4.

⁴ Conference transcript, pp. 54-55 (M. Bean).

⁵ *Cigarette Consumption, United States, 1900-2007* - Tobacco Outlook Report, Economic Research Service, U.S. Department of Agriculture. Accessed on December 1, 2008. <http://www.infoplease.com/ipa/A0908700.html>.

⁶ See table C-1.

Table II-3

Commodity matchbooks: Differences other than price between products from different sources

* * * * *

*** that compared the U.S. product with that from India reported that differences other than price are never significant. *** that compared the U.S. product with that from India, *** reported that differences other than price are always significant and *** reported that the differences other than price are sometimes significant.

Comparisons of Domestic Products and Nonsubject Imports

U.S. producers and importers of commodity matchbooks were also asked to separately compare domestic products with nonsubject imports, both in terms of interchangeability and differences other than price. *** comparing U.S. products with those from nonsubject countries reported that the products from these countries can always be used interchangeably. *** reported that the products from these countries can always or frequently be used interchangeably.

*** that compared the U.S. products with those from nonsubject countries reported that differences other than price are never significant. *** reported that the differences other than price are always significant and *** reported that the differences other than price are sometimes significant.

Comparisons of Subject Imports and Nonsubject Imports

U.S. producers and importers of commodity matchbooks were also asked to separately compare imports from India with nonsubject imports, both in terms of interchangeability and differences other than price. *** that compared imports from India with nonsubject imports in terms of interchangeability reported that the products are always interchangeable.

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

Information presented in this section of the report is based on the questionnaire responses of the two responding firms. These firms are believed to account for all known U.S. production of commodity matchbooks during the period for which data were collected (January 2005-June 2008).

U.S. PRODUCERS

The Commission sent producers' questionnaires to both firms identified as U.S. producers of commodity matchbooks in the petition, and to an additional producer, Diamond/Jarden Home Brands, identified as a producer of wooden matchbooks and identified by a U.S. importer as a potential producer of commodity matchbooks.¹ The two firms listed in the petition provided questionnaire responses.² Table III-1 presents the list of responding U.S. producers with each company's production location, share of U.S. production in 2007, and position on the petition.

D.D. Bean, the petitioner, is a family-owned business run by third-generation Bean brothers (Delcie D. Bean, III, Mark Bean, and Christopher Bean), was founded in 1938, and has operated continuously since that time. It is located in an 1827 former textile mill and ***.³ It has concentrated in commodity matchbook production and is the *** producer in the industry.

Bradley was incorporated in 1969 and has operated continuously since that time. Bradley concentrated in the promotional matchbook business, but has maintained a portion of its production (between *** and *** percent) dedicated to commodity matchbooks.⁴ Neither firm imported commodity matchbooks from any source.

**Table III-1
Commodity matchbooks: U.S. producers, U.S. production locations, shares of U.S. production in 2007, and positions on the petition**

Firm	Production location	Share of production (percent)	Position on the petition
D.D. Bean	Jaffrey, NH	***	Petitioner
Bradley ¹	Frankfort, IL Euless, TX	***	***
¹ ***			
Source: Compiled from data submitted in response to Commission questionnaires.			

¹ Petition, p. 3 and interview with ***, November 12, 2008.

² Jarden Home Brands provided ***.

³ Petition, p. 2, conference transcript, p. 15 (C. Bean), and field visit report, ***, November 19, 2008.

⁴ Petition, p. 1 and interview with ***, November 13, 2008.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

In response to a question about changes to plant operations since January 1, 2005, the firms provided the following information. D.D. Bean stated that it ***.⁵ Bradley noted that “***.”⁶

Data on U.S. producers’ capacity, production, and capacity utilization are presented in table III-2.

Table III-2

Commodity matchbooks: U.S. producers’ capacity, production, and capacity utilization, 2005-07, January-June 2007, and January-June 2008

* * * * *

Capacity in the United States remained steady throughout the period for which data were gathered. Production decreased between 2005 and 2007, and was lower in January-June 2008 than in January-June 2007. Accordingly, capacity utilization declined throughout the period for which data were collected. The trends experienced by both firms during the period were similar; however, Bradley’s capacity utilization *** D.D. Bean’s during 2005-07 and then declined *** between January-June 2007 and January-June 2008 at the time it ***.

In response to a question requesting firms to describe the constraints and limits experienced on their production capacity, the two firms provided the following responses. D.D. Bean reported that the ***. Bradley reported that its primary constraint was ***.⁷

In response to a question requesting firms to describe their ability to switch production capacity between products, the firms provided the following information. D.D. Bean reported that ***.⁸

In addition, D.D. Bean produces ***.⁹

Bradley reported that ***.¹⁰

U.S. PRODUCERS’ U.S. SHIPMENTS AND EXPORT SHIPMENTS

U.S. producers’ total shipments are presented in table III-3. The unit value of U.S. shipments increased between 2005 and 2006, then decreased between 2006 and 2007. The unit value of U.S. shipments was lower in January-June 2008 than in January-June 2007. Unit values averaged in the \$*** per case range.¹¹ As a share of the quantity of total shipments, exports declined from 2005 to 2007, and the share of total shipments accounted for by exports was lower in January-June 2008 than in January-June 2007. *** export shipments were made by ***. Exports were destined for ***.¹² The only countries with historical and current resale distribution of commodity matchbooks outside of the United

⁵ ***.

⁶ ***.

⁷ ***.

⁸ ***.

⁹ *** and field visit report, ***, November 19, 2008. In 2007, D.D. Bean shipped *** cases of ***, valued at \$***, with an average unit value of \$*** per case. Correspondence with ***, November 24, 2008.

¹⁰ ***.

¹¹ ***, November 18, 2008.

¹² Field visit report, ***, November 19, 2008.

States are Canada, Egypt, and Guatemala.¹³ There were no internal consumption shipments or transfers to related firms.

Table III-3
Commodity matchbooks: U.S. producers' shipments, by type, 2005-07, January-June 2007, and January-June 2008

* * * * *

D.D. Bean reported that in 2007 ***. The equivalent percentages of its 2007 sales were the following: ***.

D.D. Bean included only its commodity matchbook shipments in the data submitted for table III-3.¹⁴ *** D.D. Bean's shipments were comprised of plain white and "thank you" commodity matchbooks. These products accounted *** D.D. Bean's total commodity matchbook shipments during the period for which data were gathered.¹⁵

Item	Calendar year			January-June	
	2005	2006	2007	2007	2008
Plain white and thank you (percent)	***	***	***	***	***

Bradley's shipments were *** plain white or "thank you."¹⁶

U.S. PRODUCERS' PURCHASES

Neither U.S. producer reported direct imports or purchases of imports of commodity matchbooks; however, *** D.D. Bean *** reported purchases ***.¹⁷ D.D. Bean reported purchases of plain white commodity matchbooks from Bradley during the period for which data were gathered. At the conference, an official from D.D. Bean explained that the firm had a longstanding agreement with Bradley dating back 10 years to supply the plain white matchbooks, initially because D.D. Bean needed to supplement its production, and then because it preferred to concentrate more of its production in the private label, higher quality printing matchbooks.¹⁸ ***.¹⁹

¹³ Conference transcript, p. 74 (M. Bean). The reason for such few countries using commodity matchbooks is that the Swedish Match Co. established the wooden match industry 150 years ago and set up companies all over the world, thereby disseminating the custom of using wooden matches worldwide.

¹⁴ ***.

¹⁵ Interview with ***, November 18, 2008.

¹⁶ Interview with ***, November 13, 2008.

¹⁷ ***.

¹⁸ Conference transcript, p. 70 (M. Bean).

¹⁹ Interview with ***, November 12, 2008 and ***, November 13, 2008.

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of commodity matchbooks for the period for which data were collected are presented in table III-4.²⁰

Table III-4

Commodity matchbooks: U.S. producers' end-of-period inventories, 2005-07, January-June 2007, and January-June 2008

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of commodity matchbooks, the total hours worked by such workers, and wages paid to such workers during the period for which data were collected in these investigations, are presented in table III-5. Overall, the industry experienced a decrease in employment during 2005-07 and employment was lower in January-June 2008 than in January-June 2007. Individual firms' experience *** during the period. ***. Hourly wages were higher in January-June 2008 than in January-June 2007 ***.²¹ ***.

Table III-5

Commodity matchbooks: Average number of production and related workers producing commodity matchbooks, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2005-07, January-June 2007, and January-June 2008

* * * * *

²⁰ ***.

²¹ Correspondence with ***, November 21, 2008.

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 19 firms believed to be importers of commodity matchbooks from all countries, as well as to two U.S. producers.¹ Questionnaire responses were received from four firms (with usable data from three firms that are believed to account for over 95 percent of total U.S. imports of commodity matchbooks).² There were no imports by the U.S. producers. Questionnaire respondents are listed in table IV-1, with their locations, origin of imports, and shares of reported imports from India during 2007.

The imports of Indian commodity matchbooks were split among three importers: the majority of subject imports were accounted for by ***, which imported ***, and ***, which ***. Both firms were ***. *** imported a little over *** percent of subject imports during the period for which data were gathered.

Table IV-1

Commodity matchbooks: Reporting U.S. importers, parent companies, sources of imports, locations, and shares of reported U.S. imports, 2007

* * * * *

U.S. IMPORTS

The petition alleged that imports of commodity matchbooks could be estimated using official Commerce statistics under HTS statistical reporting number 3605.00.0060, covering paper matchbooks (commodity and promotional), although the petition stated that commodity matchbooks may also enter under statistical reporting number 3605.00.0030, covering wooden matches.³ The value of commodity matchbooks reported in importers' questionnaire responses indicated that the imports reported in HTS statistical reporting number 3605.00.0060 from India all consisted of subject products. Questionnaire responses indicated a higher value of subject imports than reported under the statistical reporting number. Accordingly, subject imports are based on questionnaire responses.

Nonsubject imports reported in questionnaire responses were valued at far less than reported in the appropriate HTS statistical reporting number, indicating a large degree of imports of other items (as evidenced by the large number of negative importers' questionnaire responses). The value of reported imports was as little as *** of imports entering under HTS statistical reporting number 3605.00.0060

¹ The Commission sent questionnaires to firms identified in the petition and to firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs") (formerly the U.S. Customs Service), may have imported commodity matchbooks since 2005. Questionnaires were sent to all substantial importers which imported products under HTS statistical reporting numbers 3605.00.0060 (matches, not with natural wood stems) and 3605.00.0030 (matches with natural wood stems—a statistical reporting number under which commodity matchbooks may enter according to the petition).

² Negative questionnaire responses were received from 12 firms that certified that they did not import commodity matchbooks. Many of these firms imported other types of matches (not promotional), one firm imported promotional matchbooks (***), and a small number imported wood matches. One additional firm stated in a telephone interview that it did not import commodity matchbooks. No responses were received from two firms importing products from sources other than India, neither of which were large importers according to Customs' records.

³ Petition, p. 6.

during the period for which data were examined.⁴ Accordingly, nonsubject imports are based on questionnaire responses. Data on imports of commodity matchbooks are presented in table IV-2.

Table IV-2
Commodity matchbooks: U.S. imports, by source, 2005-07, January-June 2007, and January-June 2008

* * * * *

The quantity of subject imports increased from 2005 to 2006, then decreased between 2006 and 2007. The quantity of subject imports was lower in January-June 2008 than in January-June 2007. Nonsubject imports followed a similar trend at a lower level during 2005-07. Nonsubject imports *** during June-December 2007, and *** in January-June 2008. According to the importer of nonsubject imports from ***, the reasons for discontinuing nonsubject imports included several factors: ***.⁵

The average unit value of subject imports declined from \$*** per case in 2005 to \$*** per case in 2007. The average unit value of subject imports was lower in January-June 2008 (\$*** per case) than in January-June 2007 (\$*** per case). The average unit value of nonsubject imports declined from \$*** per case in 2005 to \$*** per case in 2007. There were *** nonsubject imports during the first half of 2008.

As a share of the total quantity of imports, subject imports increased from *** percent to *** percent between 2005 and 2006, then increased to *** percent in 2007 before nonsubject imports exited the market in 2008.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of commodity matchbooks are presented in table IV-3. In calculating apparent U.S. consumption, U.S. shipments of imports data were used, based on questionnaire responses.

Apparent consumption, measured in quantity and value, decreased from 2005 to 2007, and was lower in January-June 2008 than in January-June 2007. The decline in apparent consumption may be attributed in part to the decline in sales of cigarettes (the petitioner estimates that 95 percent of commodity matchbooks are used for lighting cigarettes).⁶ The petitioner ***.⁷

Table IV-3
Commodity matchbooks: U.S. shipments of domestic product, U.S. shipments of imports by source, and apparent U.S. consumption, 2005-07, January-June 2007, and January-June 2008

* * * * *

⁴ The landed, duty-paid value of imports from sources other than India under statistical reporting number HTS 3605.00.0060 was the following: 2005: \$2,229,206; 2006: \$1,887,604; 2007: \$824,846; January-June 2007: \$483,520; and January-June 2008: \$273,687.

⁵ Interview with *** November 12, 2008.

⁶ Conference transcript, p. 54 (M. Bean).

⁷ Correspondence with ***, November 24, 2008.

Apparent U.S. Consumption of Commodity and Promotional Matchbooks Combined

Table IV-4 presents apparent U.S. consumption of promotional matchbooks and of commodity and promotional matchbooks combined.⁸ Imports of promotional matchbooks were sourced from ***.⁹

Table IV-4

Commodity plus promotional matchbooks: U.S. shipments of domestic product, U.S. imports by source, and apparent U.S. consumption, 2007

* * * * *

U.S. MARKET SHARES

Data on market shares in the U.S. market for commodity matchbooks are presented in table IV-5. Subject imports accounted for an increasing share of the quantity of the U.S. market between 2005 and 2006, then decreased their share from 2006 to 2007. The market share measured on a quantity basis held by subject imports was higher in January-June 2008 than in January-June 2007. Nonsubject imports *** their market share between 2005 and 2006. From 2006 to 2007, the nonsubject imports' market share decreased, and in January-June 2008 there were no nonsubject imports. The U.S. producers' market share declined from 2005 to 2006, increased *** between 2006 and 2007, and was *** higher in January-June 2008 than in January-June 2007.

Table IV-5

Commodity matchbooks: Apparent U.S. consumption and market shares, 2005-07, January-June 2007, and January-June 2008

* * * * *

RATIOS OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of commodity matchbooks are presented in table IV-6.

Table IV-6

Commodity matchbooks: U.S. production, U.S. imports, and ratios of imports to production, 2005-07, January-June 2007, and January-June 2008

* * * * *

⁸ Commission staff solicited data concerning U.S. shipments and U.S. imports of promotional matchbooks in correspondence dated November 26, 2008 from ***. Correspondence with ***, December 3, 2008 and ***, December 4, 2008. ***. Correspondence with ***, December 1, 2008. *** firms did not respond to the inquiry, but it is unlikely that any non-responding firm imported promotional matchbooks, based on staff interviews and Customs records.

⁹ ***.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The major cost elements to manufacture commodity matchbooks are raw materials, labor, and other factory costs. During the period examined, raw materials represented the largest share of the cost of goods sold (**% percent), followed by direct labor (**% percent), and other factory costs (**% percent).¹

There are ** main raw materials used in manufacturing matchbooks. Of these, ** comprise about ** percent of the total cost: ** (**% percent), ** (**% percent), ** (**% percent), and ** (**% percent). Other raw materials include **. More costly materials such as elaborate matchbook cover designs and higher quality paper can be used to produce higher end commodity matchbooks.²

Transportation Costs to the U.S. Market

Transportation costs for commodity matchbooks shipped from India to the United States were 3.4 percent. These estimates are derived from official import data and represent the transportation and other charges on imports.³

U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of commodity matchbooks generally account for a small share of the delivered price of these products. One U.S. producer, **, reported that its transportation cost was ** percent of the delivered price. For importers, these costs typically ranged between ** and ** percent.

Exchange Rates

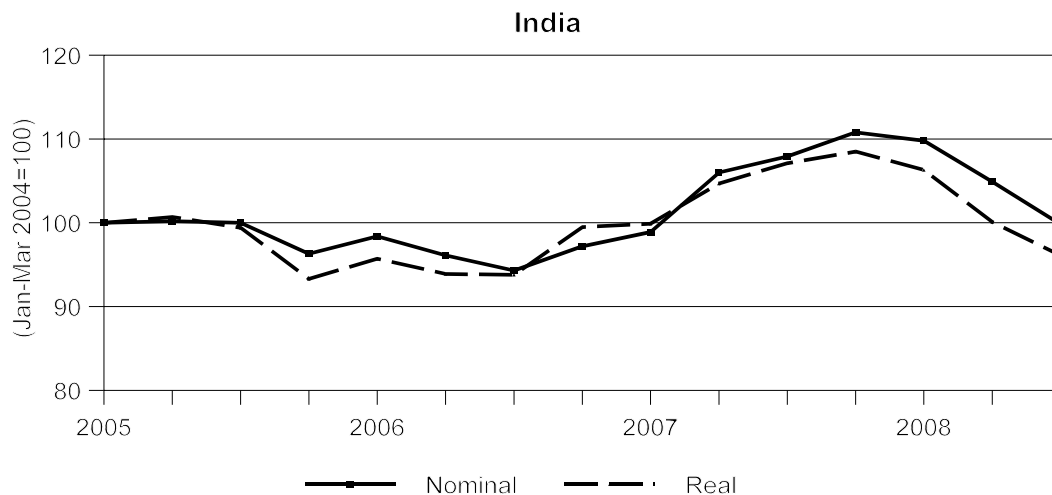
Nominal and real exchange rate data for India are presented on a quarterly basis in figure V-1.

¹ See Part VI.

² Petition, exhibit 49.

³ The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2007 and then dividing by the customs value (based on import entries under HTS statistical reporting number 3605.00.0060). While possibly over-inclusive, these data are believed to provide a reasonable basis for estimating transportation costs.

Figure V-1
Exchange rates: Indexes of nominal and real values of the Indian currency relative to the U.S. dollar, by quarters, January 2005-June 2008



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

PRICING PRACTICES

Firms reported that prices of commodity matchbooks are determined in a variety of ways. One U.S. producer, ***, has ***; the second U.S. producer, ***, cited *** negotiations. Similarly, two importers cited *** negotiations and one importer cited *** as their method for arriving at prices. Discount policies are *** in this industry: only *** reported quantity discounts.

*** and *** quote prices on a delivered basis. *** reportedly quotes prices on a f.o.b. basis.

Commodity matchbooks are sold on both a contract and on a spot basis. One producer reported that it sells *** percent of its commodity matchbooks on a spot basis with the remainder of its sales *** between long- and short-term contracts. The other producer sells *** percent of the product on a long-term contract basis and *** percent on a short-term contract basis. The two responding importers sell subject product only on a spot sale basis.

PRICE DATA

U.S. producers and importers of commodity matchbooks were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of selected products that were shipped to unrelated customers in the U.S. market from January 2005-June 2008. The products for which pricing data were requested were as follows:

Product 1. — Paper matchbooks with 20 match stems, secured into a **plain white cover** (referred to as “plain white”) or **imprinted with THANK YOU**⁴ packed into trays of 50 books each, wrapped in a paper sleeve and packed 50 trays to a carton/case containing 2,500 matchbooks.

⁴ Initially paper matchbooks imprinted with **THANK YOU** were included in product 2. However, the petitioner testified that plain white and **THANK YOU** matchbooks have the same price; hence the staff included both of these products’ pricing data in product 1. Conference transcript, p. 49 (M. Bean).

Product 2. — Paper matchbooks with 20 match stems, secured into a cover imprinted with a logo, packed into trays of 50 books each, wrapped in a paper sleeve and packed 50 trays to a carton/case containing 2,500 matchbooks.

Two U.S. producers⁵ and three importers⁶ provided price data.⁷ Pricing data for product *** were reported *** for nonsubject countries ***. Pricing data accounted for *** percent of the quantity of U.S. producers' U.S. shipments during January 2005-June 2008 and *** percent of U.S. imports from India. Quarterly, weighted-average sales prices for the above products are shown in tables V-1 and V-2 and figure V-2.

Table V-1
Commodity matchbooks: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), January 2005-June 2008

* * * * *

Table V-2
Commodity matchbooks: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 2, and margins of underselling/(overselling), January 2005-June 2008

* * * * *

Figure V-2
Commodity matchbooks: Weighted-average f.o.b. selling prices for products 1 and 2, January 2005-June 2008

* * * * *

Price Trends

Weighted-average prices for U.S.-produced commodity matchbooks generally fluctuated during January 2005-June 2008. Prices for domestically produced products 1 and 2 fluctuated throughout the period with no apparent trend, and were higher at the end of the period than at the beginning. Prices for imports from India also fluctuated, although they were lower at the end of the period than they were at the beginning. A summary of price trends is shown in table V-3.

Table V-3
Commodity matchbooks: Summary of weighted-average f.o.b. prices for products 1 and 2 from the United States and India

* * * * *

⁵ D.D. Bean and Bradley.

⁶ ***.

⁷ ***.

Price Comparisons

Prices for imported commodity matchbooks from India were lower than those for U.S.-produced commodity matchbooks in all comparisons. A summary of margins of underselling is presented in table V-4.

Table V-4
Commodity matchbooks: Summary of underselling/(overselling) by product from India

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
India	14	3.7 to 26.3	***	0	-	-

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

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of commodity matchbooks to report any instances of lost sales or revenues they experienced due to competition from imports from India from January 2005 to June 2008. *** provided lost sales allegations involving *** firms and lost revenue allegations involving *** firms. The *** lost sale allegations regarding India totaled \$*** and the *** lost revenue allegations regarding India totaled \$***. Staff contacted the *** purchasers cited in the allegations, of which *** responded and discussed lost sale allegations totaling \$*** and lost revenue allegations totaling \$***. Two purchasers agreed and one purchaser disagreed with the lost sale allegations. Four purchasers agreed and one purchaser disagreed with the lost revenue allegations. Tables V-5 and V-6 summarized the results of purchasers that responded to staff requests for information.

Table V-5
Commodity matchbooks: U.S. producers' lost sales allegations due to imports from India

* * * * *

Table V-6
Commodity matchbooks: U.S. producers' lost revenue allegations due to imports from India

* * * * *

PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

BACKGROUND

Two U.S. producers, Bradley and D.D. Bean, reported their commodity matchbook financial results on the basis of U.S. generally accepted accounting principles (“GAAP”). All sales revenue reflects commercial shipments of commodity matchbooks.

D.D. Bean’s overall establishment operations represent the production and sale of in-scope and out-of-scope matchbooks with *** of activity focused on commodity matchbooks.¹ ***, Bradley’s overall establishment operations primarily represent ***.² While D.D. Bean reported ***, most of its overall sales revenue represents U.S. commercial shipments. With respect to commodity matchbooks, ***.³ As noted in Part III of this report, ***.⁴ ***.

OPERATIONS ON COMMODITY MATCHBOOKS

Income-and-loss data for operations on commodity matchbooks, representing the combined operations of D.D. Bean and Bradley, are presented in table VI-1 and on an average unit basis in table VI-2. Table VI-3 presents selected company-specific financial information and table VI-4 presents a variance analysis of the overall financial results.

Table VI-1

Results of operations on commodity matchbooks, 2005-07, January-June 2007, and January-June 2008

* * * * *

Table VI-2

Results of operations on commodity matchbooks (*per case*), 2005-07, January-June 2007, and January-June 2008

* * * * *

Table VI-3

Results of operations on commodity matchbooks, by firm, 2005-07, January-June 2007, and January-June 2008

* * * * *

¹ D.D. Bean’s overall establishment operations in effect represent its Match division. Conference transcript, p. 56 (Mark Bean). ***. D.D. Bean’s U.S. producer questionnaire response, III-5. ***. November 24, 2008 e-mail with attachment from D.D. Bean to Auditor. Auditor preliminary phase notes.

² ***. Bradley’s U.S. producer questionnaire response, III-5.

³ November 18, 2008 e-mail with attachment from Bradley to auditor. ***.

⁴ ***. November 13, 2008 investigator phone notes.

Table VI-4

Variance analysis of financial results on commodity matchbook operations, 2005-07, January-June 2007, and January-June 2008

* * * * *

During 2005-07 overall commodity matchbook sales volume declined at an average annual rate of around *** percent.⁵ As shown in the revenue section of the variance analysis (see table VI-4), the reduction in absolute revenue between 2005 and 2007 was primarily due to declining sales volume, while the impact of the corresponding positive price variance between 2005 and 2006 and the negative price variance between 2006 and 2007 was minor. As shown in table VI-3, D.D. Bean and Bradley ***.

The average sales values reported by D.D. Bean and Bradley were *** throughout the period with the average sales value reported by D.D. Bean *** compared to Bradley's.⁶ Like sales volume, company-specific trends in average sales value were not uniform. *** during the full-year periods and then *** in interim 2008 compared to interim 2007, Bradley's average sales value *** throughout the period.⁷

As shown in table VI-3, the pattern of change in the average cost of goods sold ("COGS") of D.D. Bean and Bradley *** during the full-year period and then *** in interim 2008 compared to interim 2007. While declines in sales volume primarily explain the industry's lower overall sales revenue, as noted above, higher average COGS and the absence of offsetting increases in average revenue are important additional factors which explain the overall reduction in gross profitability. By way of comparison, during the full-year period average COGS increased at an average annual rate of around *** percent, while average sales value increased at an average annual rate of a little less than *** percent.

Raw material is the single largest component of COGS, representing *** percent on a cumulative basis. Bradley identified *** as the primary components of its raw material costs.⁸ Based on detailed raw material information submitted by D.D. Bean in the petition, *** are the most significant raw material components, representing on average ***, respectively, of total raw material costs.⁹ In 2007 compared to 2005/2006, the *** increased by ***, respectively. In interim 2008 compared to full-year 2007, these two items increased by ***, respectively.¹⁰ The majority of other raw material components also increased during the period examined.

Table VI-3 shows that both companies reported generally higher average raw material costs during the period, with D.D. Bean reporting a *** between 2005 and 2007 (***) compared to Bradley (***). According to Bradley, ***.¹¹

Unlike most cases where direct labor is a relatively small component, direct labor on a cumulative basis represents *** share of commodity matchbook COGS at *** percent. With respect to this *** and

⁵ ***. November 24, 2008 e-mail with attachment from D.D. Bean to auditor.

⁶ ***. According to the petition, "[t]he lower end of the price range {of commodity matchbooks} is for the plain white and generic giveaway matchbooks. The higher end represents private label resale matchbooks imprinted with a supermarket or convenience store logo." Petition, p. 22.

⁷ ***. November 18, 2008 e-mail with attachment from Bradley to auditor.

⁸ November 18, 2008 e-mail with attachment from Bradley to auditor.

⁹ Auditor notes with percentage calculations based on exhibit 49 of the petition. ***.

¹⁰ Auditor preliminary phase notes with percentage calculations based on exhibit 49 of the petition. ***.

¹¹ November 18, 2008 e-mail with attachment from Bradley to auditor. ***. Ibid.

***. Auditor notes with percentage calculations based on exhibit 49 of petition. ***. November 24, 2008 e-mail with attachment from Bradley to auditor.

notwithstanding a high level of automation, both companies indicated that labor is an important component in commodity matchbook production.^{12 13 14}

As shown in table VI-3, the *** increase in Bradley's average direct labor cost in interim 2008 is *** and due primarily to the ***.¹⁵

While Bradley and D.D. Bean both reported higher average other factory costs during 2005-07 (see table VI-3), other factory costs remained *** component of COGS at *** percent on a cumulative basis. According to Bradley, the pattern of higher average other factory costs during the full-year period was in part due to ***.¹⁶ Similarly, D.D. Bean attributed higher average other factory costs to ***.¹⁷

The *** in Bradley's average other factory costs in interim 2008 compared to interim 2007 is *** with the *** average other factory costs in the interim period reported by D.D. Bean.¹⁸ According to Bradley, this ***.¹⁹

As shown in table VI-1, lower gross profit margins combined with declining overall net sales revenue resulted in lower absolute gross profitability throughout the period. This pattern was in turn the primary driver of period-to-period changes in the industry's operating income. With respect to company-specific financial results (see table VI-3), the ***. D.D. Bean's gross margin also ***. Information in Part III of this report indicates that the *** in D.D. Bean's average direct labor cost at the end of the period was generally due to ***.

Table VI-1 shows that total SG&A expenses as a ratio to net sales declined during the period. While Bradley and D.D. Bean reported *** in terms of *** SG&A expense ratios, D.D. Bean's SG&A expenses ratios were ***. According to D.D. Bean, ***.^{20 21}

As shown in the SG&A section of the variance analysis (table VI-4), SG&A expense variances were positive throughout the period. In interim 2008, *** operating income (***) is largely attributable to a lower overall SG&A expense ratio; i.e., the overall gross profit margin in interim 2008 was *** the gross profit margin in interim 2007.

The other income and expenses section of table VI-1 reflects a ***.²²

¹² ***. November 19, 2008 e-mail from Bradley to auditor.

¹³ ***. November 20, 2008 e-mail from D.D. Bean to auditor.

¹⁴ ***.

¹⁵ ***. November 18, 2008 e-mail with attachment from Bradley to auditor.

¹⁶ November 18, 2008 e-mail with attachment from Bradley to auditor. ***. Ibid.

¹⁷ ***. November 20, 2008 e-mail (second) with attachment from D.D. Bean to auditor.

¹⁸ ***. Ibid.

¹⁹ ***. November 18, 2008 e-mail with attachment from Bradley to auditor.

²⁰ November 20, 2008 e-mail (second) with attachment from D.D. Bean to auditor. ***. Ibid.

²¹ ***. November 18, 2008 e-mail with attachment from Bradley to auditor.

²² ***. November 20, 2008 e-mail (second) with attachment from D.D. Bean to auditor.

**CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES,
ASSETS, AND RETURN ON INVESTMENT**

Data on capital expenditures, research and development (“R&D”) expenses, assets, and return on investment are presented in table VI-5.

Table VI-5
Operations on commodity matchbooks: Capital expenditures, R&D expenses, assets, and return on investment, by firms, 2005-07, January-June 2007, and January-June 2008

* * * * *

According to D.D. Bean, ***.²³ Bradley ***.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of commodity matchbooks from India on their firms’ 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.

Actual Negative Effects

Bradley: ***.
D.D. Bean: ***.

Anticipated Negative Effects

Bradley: ***.
D.D. Bean: ***.

²³ November 20, 2008 e-mail (second) with attachment from D.D. Bean to auditor.

PART VII: THREAT CONSIDERATIONS AND *BRATSK* INFORMATION

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(I)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producer's operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report are the statutory requirements and information obtained for use in the Commission's consideration pursuant to *Bratsk* rulings.

THE INDUSTRY IN INDIA

Overview

The petition alleged that there are two producers/exporters of commodity matchbooks in India, Triveni Safety and Hind Matches Pvt. Ltd ("Hind"). Foreign producer questionnaires were issued to both producers in the petition, plus two potential producers identified by Commission staff. Triveni Safety was the only foreign producer that provided a questionnaire response. It estimated that it accounted for *** percent of production of commodity matchbooks in India in 2007, and *** percent of exports of commodity matchbooks to the United States in that year. *** stated in an interview with Commission staff that it imported *** of commodity matchbooks from Hind during the period for which data were gathered, and that it believed that Hind ***.¹ The petitioner likewise stated that it believed that ***.^{2 3}

The Indian respondent contends that there may be a few other companies making matchbooks in India, but none exclusively making matchbooks besides Triveni Safety. It believes that the percentage of the other companies' volume of matchbook production with respect to their wooden match production is very small (less than 3 percent). The Indian respondent did not make a distinction between commodity and promotional matchbooks when providing the estimate.⁴

Commodity Matchbook Operations

Table VII-1 presents data for reported production and shipments of commodity matchbooks in India by Triveni Safety. Capacity remained steady during the period for which data were gathered. Production increased between 2005 and 2006, then decreased from 2006 to 2007. Production was lower in January-June 2008 than in January-June 2007. Production was projected to *** in 2008 and 2009. Capacity utilization increased from *** percent to *** percent between 2005 and 2006, before decreasing to *** percent in 2007. Capacity utilization was lower in January-June 2008 (*** percent) than in January-June 2007 (*** percent). Capacity utilization was projected to *** to *** percent in 2008 and *** percent in 2009. There was *** unused capacity in each period: *** cases in 2005, *** cases in 2006, *** cases in 2007, *** cases in January-June 2007, *** in January-June 2008, *** cases in projected 2008, and *** cases in projected 2009.

¹ Interview with ***, November 12, 2008.

² Field visit report, ***, November 19, 2008 and conference transcript, p. 46 (M. Bean).

³ Although not stated in its foreign producers' questionnaire, nor in the importers' questionnaire response of Triveni, it appears as if there is some relationship between ***. Correspondence from ***, November 17, 2008.

⁴ Indian respondent's comments, pp. 4-5.

Table VII-1
Commodity matchbooks: Triveni Safety's reported production capacity, production, shipments, and inventories, 2005-07, January-June 2007, January-June 2008, and projections for 2008 and 2009

* * * * *

*** Triveni Safety's shipments of commodity matchbooks consisted of exports to the United States. Exports to the United States increased from 2005 to 2006, decreased between 2006 and 2007, and were *** higher in January-June 2008 than in January-June 2007. Exports to the United States were projected to *** in 2008 and 2009. There were *** home market shipments *** internal consumption. The Indian respondent explained that although India has a large match industry, the Indian people have traditionally used wooden matches as a source of ignition. It believes that India has a small but emerging market for matchbooks.⁵

Exports to markets other than the United States grew from *** in 2005 to *** percent of total exports in 2006 and *** percent in 2007. They were lower as a share of total exports in January-June 2008 than in January-June 2007. Exports to third country markets were projected to *** to *** percent of total exports in 2008, and *** percent in 2009. Inventories of the subject merchandise as a ratio to production decreased from 2005 to 2006, increased between 2006 and 2007, and were lower in January-June 2008 than in January-June 2007. Inventories were projected to *** as a ratio to production in 2008 and 2009.

In response to a question about whether Triveni has the ability to produce other products on the same equipment used in the production of commodity matchbooks, the firm responded "****." When asked whether the firm had any plans to add, expand, curtail, or shut down production capacity, and/or production of commodity matchbooks in India, Triveni responded "****," it ***. Triveni reported that *** percent of its sales were accounted for by commodity matchbooks in 2007. It also reported that *** of commodity matchbooks in the United States.

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from India are shown in table VII-2. The ratios of inventories to imports were *** for imports reported by *** from India⁶ and from all other sources. Subject inventories reported by Triveni fluctuated as a ratio to its imports, from *** percent in 2005 to *** percent in 2006, to *** percent in 2007. The ratio was lower in January-June 2008 (*** percent) than in January-June 2007 (*** percent).

Table VII-2
Commodity matchbooks: U.S. importers' end-of-period inventories of subject imports, by source, 2005-07, January-June 2007, and January-June 2008

* * * * *

⁵ Conference transcript, p. 87 (George) and Indian respondent's postconference brief, p. 4.

⁶ *** inventories as a percent of its imports were *** percent in 2005 and *** percent in 2006. There were *** inventories reported in 2007 or January-June 2008.

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JUNE 30, 2008

The Commission requested that importers indicate whether they imported or arranged for the importation of commodity matchbooks from India after June 30, 2008. *** reported that it had arranged for the importation of commodity matchbooks from India subsequent to June 30, 2008. Table VII-3 presents imports subsequent to June 30, 2008, by quarter of expected import.

Table VII-3
Commodity matchbooks: Subject U.S. imports scheduled for delivery after June 30, 2008

* * * * *

ANTIDUMPING DUTY INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There were no antidumping duty investigations on commodity matchbooks reported in third-country markets.

NONSUBJECT SOURCE INFORMATION

The Commission sought pricing data from U.S. importers of commodity matchbooks from India and also from all other countries. Those data are presented in Part V of this report. The primary nonsubject suppliers of commodity matchbooks during the period for which data were gathered were China and Mexico. With respect to nonsubject industry data, the Commission sought production and export data from Compania Cerillera la Central S.A. de C.V. ("Cerillera") in Mexico and Annual Ring Industrial and Qingdao Anshan Wood Products Co. in China. None of the firms responded to the Commission questionnaire. Commission staff attempted to contact the Chinese firm Wuzhou Touch Manufacturing Co. ("Wuzhou"), but was informed that the firm was out of business.⁷ There is no publicly available information regarding international production or exports of commodity matchbooks during the period for which data were collected.

"Bratsk" Considerations

As a result of the Court of Appeals for the Federal Circuit ("CAFC") decision in *Bratsk Aluminum Smelter v. United States* ("Bratsk"), the Commission is directed to:

undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers."⁸

⁷ Conference transcript, p. 45 (M. Bean).

⁸ *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

Nonsubject-Country Commodity Matchbooks

Overview

Official import statistics from Commerce are not useful in these investigations with regard to nonsubject imports, as they contain promotional matchbooks and other items. Accordingly, there is no information available from the World Trade Atlas regarding world exports of commodity matchbooks from China or Mexico. Imports of commodity matchbooks from China and Mexico combined are reported in table IV-2. According to the importer from ***, the reasons for *** nonsubject imports included several factors: ***.⁹

There are no production data available for commodity matchbooks produced in the nonsubject countries of China or Mexico.

China

The main producer of commodity matchbooks in China, Wuzhou, appears to have ceased operations during the period for which data were examined. Its related importer, ***, submitted ***. *** imported from Wuzhou ***.

Mexico

Cerillera exported commodity matchbooks to *** during the period for which data were examined, but ***. Cerillera's web site indicates that it sells wooden matches.¹⁰

⁹ Interview with *** November 12, 2008.

¹⁰ http://74.125.93.104/translate_c?hl=en&sl=es&u=http://3003.mx.all-biz.info/cat.php%3Foid%3D15866&prev=/search%3Fq%3DCompania%2BCerillera%2Bla%2BCentral%2BS.A.%2Bde%2BC.V.%26hl%3Den&usg=ALkJrhi-cvH2jD-iYO5PBe9ocAYZnblk2A, downloaded November 25, 2008.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

certain rubber antidegradants, antidegradant intermediates, and products containing the same that infringe claims 61–74 of U.S. Patent No. 5,453,541 (“the ‘541 patent’”) and claims 23–28 of U.S. Patent No. 5,608,111 (“the ‘111 patent’”). 73 FR 39719 (July 10, 2008). The complaint named as respondents Sinorgchem Co., Shandong (Shandong, China) (“Sinorgchem”), Korea Kumho Petrochemical Co., Ltd. (Seoul, South Korea), Kumho Tire USA, Inc. (Rancho Cucamonga, California), and Kumho Tire Co., Inc. (Seoul, South Korea). (The last three respondents are referred to collectively as “Kumho.”) The Commission in its notice of institution noted that the ALJ might wish to consider whether the claims asserted in this investigation were precluded by prior litigation. 73 FR 39719.

On July 29, 2008, Sinorgchem moved for summary determination and dismissal of this investigation as to Sinorgchem, stating that Flexsys’s claims in the complaint for this investigation represent improper claim splitting as to the ‘111 patent and claim preclusion as to the ‘541 patent. On July 31, 2008, Kumho moved for summary determination that Flexsys is also precluded from re-litigating its ‘111 and ‘541 patents against Kumho. The Commission investigative attorney filed responses on August 4 and 5, 2008, respectively in support of Sinorgchem and Kumho. Flexsys filed a response in opposition on August 4, 2008. The ALJ heard argument at a preliminary conference on August 5, 2008.

On August 8, 2008, the ALJ issued Order No. 6, asking the parties to respond to certain questions. On August 15, 2008, Sinorgchem and Kumho each filed submissions. On August 22, 2008, Flexsys filed a response. On August 28, 2008, Sinorgchem filed a supplemental response. On August 29, 2008, the Commission investigative attorney filed a submission. On September 3, 2008, Flexsys filed a surreply.

On September 15, 2008, the ALJ issued the subject ID (Order No. 9), granting the motions for summary determination and terminating the investigation in its entirety.

On September 29, 2008, Flexsys filed a petition for review of the subject ID. On October 6, 2008, Sinorgchem, Kumho, and the Commission investigative attorney filed responses opposing the petition.

Having examined the relevant portions of the record in this investigation, including the ID, the petition for review, and the responses thereto, the Commission has determined not to review the subject ID. The

investigation is terminated in its entirety.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–.46 of the Commission’s Rules of Practice and Procedure (19 CFR 210.42–.46).

By order of the Commission.

Issued: October 30, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–26316 Filed 11–4–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–459 and 731–TA–1155 (Preliminary)]

Commodity Matchbooks From India

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigation and antidumping duty investigation and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping duty investigations Nos. 701–TA–459 and 731–TA–1155 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) and section 733(a) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of commodity matchbooks, provided for in subheading 3605.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India,¹ and that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)) or 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty and antidumping investigations in 45 days, or in these cases by December 15, 2008. The Commission’s views are due

¹ Commodity matchbooks contain paper match stems which are stitched, stapled, or otherwise fastened into a matchbook cover of any material.

at Commerce within five business days thereafter, or by December 22, 2008.

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

DATES: *Effective Date:* October 29, 2008.

FOR FURTHER INFORMATION CONTACT:

Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on October 29, 2008, by D.D. Bean & Sons Co., Jaffrey, NH.

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

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the

APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 17, 2008, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202–205–3182) not later than November 13, 2008, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 20, 2008, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a

document for filing without a certificate of service.

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

Issued: October 30, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–26320 Filed 11–4–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–501]

Textile and Apparel Imports From China: Statistical Reports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt of a request on October 9, 2008, from the Committee on Ways and Means of the U.S. House of Representatives (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–501, *Textile and Apparel Imports from China: Statistical Reports*.

DATES: *December 1, 2008:* Submission of first report, including compilation of historical data.

Every 2 weeks: Statistical reports sent to the Committee every 2 weeks thereafter and posted on the Commission's Web site.

Annually: Publication of a compilation of monthly Census data.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. Any written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

FOR FURTHER INFORMATION CONTACT: Project leader Donald Sussman (202–205–3331 or donald.sussman@usitc.gov) for information specific to this investigation. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General

Counsel (202–205–3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). 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.

Background: In its letter the Committee noted that the U.S.-China Memorandum of Understanding (MOU) Concerning Trade in Textile and Apparel Products expires on December 31, 2008. The Committee noted that the United States, in entering into the agreement in November 2005, sought to provide a more stable and predictable trading environment. The Committee expressed concern that a market disrupting surge in textile and apparel imports from China could occur after the MOU expires.

In order that the Committee might have accurate and timely information regarding the imports, the Committee requested that the Commission provide statistical reports every 2 weeks on the volume, value, unit value, and import market share of certain textile and apparel imports from China. Specifically, the Committee asked that the Commission compile these data for each product covered by the MOU at both the three-digit textile/apparel category level and at the 10-digit Harmonized Tariff Schedule level for each product within each of the three-digit textile/apparel categories. The Committee asked that the Commission, to the extent practicable and within a reasonable time after data become available, provide the Committee with preliminary Customs data once every 2 weeks and that the Commission post these reports on its Web site. The Committee also asked that the Commission include updated final Census data in the appropriate report when they become available. The Committee stated that it is not, at this time, requesting any analysis of the data, but rather is seeking the statistical data that will allow it to monitor the volume and unit values of textile and apparel imports from China to determine whether a more comprehensive investigation is appropriate. The Committee noted that the data the Commission provides already will have been compiled and

	Period to be reviewed
Antidumping Duty Proceedings	
India: Certain Lined Paper Products, ¹ A-533-843	9/1/07-8/31/08
The People's Republic of China: Certain Helical Spring Lock Washers ² A-570-822 Hangzhou Spring Washer, Co., Ltd.	10/1/07-9/30/08
Trinidad and Tobago: Carbon and Certain Alloy Steel Wire Rod, A-274-804 ArcelorMittal Point Lisas Limited	10/1/07-9/30/08
Countervailing Duty Proceedings	
None	
Suspension Agreements	

¹ We note that the Department erred by inadvertently including the manufacturer/exporter name: "Ria ImpEx Pvt. Ltd." in the prior initiation notice under case number A-533-843 for the period of review: 9/1/07-8/31/08. See 73 FR 64305 (October 29, 2008). The Department did not receive a timely request to review Ria ImpEx Pvt. Ltd. for case number A-533-843, therefore, the Department retracts its initiation of an administrative review of the antidumping order with respect to Ria ImpEx Pvt. Ltd. for the period of review 9/1/07-8/31/08.

² If the above-named company does not qualify for a separate rate, all other exporters of Certain Helical Spring Lock Washers from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: November 17, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-27885 Filed 11-21-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-533-848)

Commodity Matchbooks from India: Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: November 24, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3874.

SUPPLEMENTARY INFORMATION:

The Petition

On October 29, 2008, the Department of Commerce (the Department) received a petition concerning imports of commodity matchbooks from India (the petition) filed in proper form by D.D. Bean & Sons Inc. (the petitioner). See the Petition on Commodity Matchbooks from India filed on October 29, 2008. On November 3, 2008, the Department issued requests for additional information and clarification of certain areas of the petition, including the scope. Further, on November 6, 2008, the Department also requested additional information regarding constructed export price (CEP) profit. Based on the Department's requests, the petitioner filed two supplements to the petition on November 6, 2008, and an

additional supplement on November 10, 2008. On November 17, 2008, the Government of India, an interested party to this proceeding as defined in section 771(9)(B) of the Act, submitted a letter challenging the definition of the domestic like product as well as the completeness of the industry as reported by the petitioner. The petitioner filed its reply to this challenge on November 18, 2008.

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

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

Scope of Investigation

The merchandise covered by this investigation is commodity matchbooks. See Attachment I to this notice for a complete description of the merchandise covered by this investigation.

Comments on Scope of Investigation

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

Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaire

We are requesting comments from interested parties regarding the appropriate physical characteristics of commodity matchbooks to be reported in response to the Department's antidumping duty questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe commodity matchbooks, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical

characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaire, we must receive comments at the above-referenced address by December 1, 2008.

Additionally, rebuttal comments must be received by December 8, 2008.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency

contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On November 17, 2008, the Government of India, an interested party to this proceeding as defined in section 771(9)(B) of the Act, submitted a letter challenging the definition of the domestic like product. On November 18, 2008, the petitioner filed its reply to this challenge. We have analyzed these comments, and based on our analysis of the information submitted on the record, we have determined that commodity matchbooks as defined by the petitioner constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Commodity Matchbooks from India (Initiation Checklist), at Attachment II (Analysis of Industry Support for the Petition), on file in the CRU, Room 1117 of the main Department of Commerce building.

With regard to section 732(c)(4)(A) of the Act, in determining whether the petitioner has standing (*i.e.*, the domestic workers and producer supporting the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in the "Scope of Investigation" section, above. According to the petitioner, there are three producers of the domestic like product: itself; Bradley Industries, LLC; and Atlas Match Corp., LLC. (Atlas Match Corp. is owned by Bradley Industries, LLC.) To establish industry support, the

petitioner provided its production of the domestic like product for calendar year 2007. In addition, Bradley Industries, LLC provided a letter of support for the petition and included its production figures for calendar year 2007. *See* Petition at 3; *see also* Letter of Support filed by Bradley Industries, LLC, on October 31, 2008. We have relied upon data provided by the petitioner and supporters of the petition for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

The Department's review of the data provided in the petition, and other information readily available to the Department, indicates that the petitioner has established industry support. First, the petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* section 732(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate. *See* Initiation Checklist at Attachment II.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is

threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

Period of Investigation

In accordance with 19 CFR 351.204(b)(1), because this petition was filed on October 29, 2008, the period of investigation (POI) is October 1, 2007, through September 30, 2008.

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department has based its decision to initiate an investigation. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

Constructed Export Price

The petitioner calculated CEP based on actual POI sales prices obtained from a U.S. distributor for Indian-produced commodity matchbooks sold by an Indian producer through its U.S. affiliate. The petitioner made adjustments to the starting price, where applicable, for foreign inland freight, ocean freight, and marine insurance. The petitioner calculated foreign inland freight, ocean freight, and marine insurance based on price quotes obtained from service providers. Because the petitioner's calculation of CEP excluded CEP profit, we requested further information from the petitioner on this issue. On November 10, 2008,

the petitioner stated that the information necessary to calculate CEP profit was not reasonably available to it. Therefore, to be conservative, the Department has not made an adjustment for CEP profit in our calculation of CEP. *See* Initiation Checklist and "Fair Value Comparisons" section, below, for the CEP-to-NV margins.

Normal Value

With respect to NV, the petitioner stated that home market prices were not reasonably available to it. The petitioner made a reasonable attempt to determine the existence of a viable home market for commodity matchbooks in India. According to the petitioner, it was unsuccessful in obtaining such pricing information, despite its best efforts. *See* the Petition at Exhibit 32. Therefore, the petitioner based NV on third country prices.

The petitioner calculated NV based on a purchase of Indian-made commodity matchbooks from a Canadian matchbook retailer. The petitioner deducted a series of standard markups to estimate the price at the importer level. The petitioner made additional adjustments to the starting third country price, where applicable, for foreign inland freight, ocean freight, marine insurance, and Canadian customs duties. *See* the Petition at page 42 and Exhibit 36.

Fair-Value Comparison

Based on the data provided by the petitioner, there is reason to believe that imports of commodity matchbooks from India are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of CEP to NV, the estimated dumping margin is 135.95 percent.

Initiation of Antidumping Investigation

Based upon the examination of the petition on commodity matchbooks from India and other information reasonably available to the Department, the Department finds that this petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of commodity matchbooks from India are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

The Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S.

imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice, and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Website at <http://ia.ita.doc.gov/apo>.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the petition have been provided to the representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to all known foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than December 13, 2008, whether there is a reasonable indication that imports of commodity matchbooks from India materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the petition would result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 18, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Attachment I

Scope of the Investigation Covering Commodity Matchbooks from the India

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.¹

¹ Such commodity matchbooks are also referred to as "for resale" because they always enter into

Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as "Thank You" or a generic image such as the American Flag, with store brands (e.g., *Kroger*, *7-Eleven*, *Shurfine* or *Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., *Penley Corp.* or *Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR § 1202.1 et seq.

The scope of this investigation excludes promotional matchbooks, often referred to as "not for resale," or "specialty advertising" matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.² Also excluded are all

retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g. convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

² The gross distinctions between commodity matchbooks and promotional matchbooks may be

other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka "SAW" matches), strike-on-box matches (aka "SOB" matches), fireplace matches, barbecue/grill matches, fire starters, and wax matches.

The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. E8-27893 Filed 11-21-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-849]

Commodity Matchbooks From India: Initiation of Countervailing Duty Investigation

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

DATES: Effective Date: November 24, 2008.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Paul Matino, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-4146, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On October 29, 2008, the Department of Commerce (the Department) received a petition on commodity matchbooks from India filed in proper form by D.D. Bean & Sons Co. (Petitioner), a domestic producer of commodity matchbooks. On November 3, 2008, the Department

summarized as follows: (1) if it has no printing, or is printed with a generic message such as "Thank You" or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

issued requests for additional information and clarification of certain areas of the petition involving general issues. Based on the Department's request, Petitioner timely filed additional information concerning the petition on November 6, 2008. On November 5, 2008, the Department issued requests for additional information and clarification of some of the subsidy allegations. Based on the Department's requests, Petitioner timely filed the requested additional information on November 10, 2008.

On November 13, 2008, the Government of India (GOI), an interested party to this proceeding as defined in section 771(9)(B) of the Tariff Act of 1930, as amended (the Act), submitted a letter challenging the definition of the domestic like product in analyzing industry support. On November 17, 2008, Petitioner filed its reply to this challenge.

In accordance with section 702(b)(1) of the Act, Petitioner alleges that manufacturers, producers or exporters of commodity matchbooks in India receive countervailable subsidies within the meaning of section 701 of the Act, and that imports of commodity matchbooks materially injure, or threaten material injury to, an industry in the United States.

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

Period of Investigation

The period of investigation (POI) is January 1, 2007, through December 31, 2007, or the most recently completed fiscal year for the GOI and the producers and exporters under investigation, provided the GOI and the companies have the same fiscal year. *See* 19 CFR 351.204(b)(2).

Scope of Investigation

The merchandise covered by this investigation is commodity matchbooks. *See* Attachment I to this notice for a complete description of the merchandise covered by this investigation.

Comments on Scope of the Investigation

During our review of the petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic

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

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the GOI for consultations with respect to the countervailing duty petition. The Department held these consultations on November 17, 2008. *See* Memorandum to the File, *Consultations with the Government of India Regarding the Countervailing Duty Petition on Commodity Matchbooks from India*, November 17, 2008, and on file in the CRU, Room 1117 of the main Department of Commerce building.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied*, 492 U.S. 919 (1989).

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

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On November 13, 2008, the GOI submitted a letter challenging the definition of the domestic like product. *See* the GOI's November 13, 2008 letter. On November 17, 2008, Petitioner filed its reply to this challenge. We have analyzed these comments, and based on our analysis all of the information submitted on the record, we have determined that commodity matchbooks as defined by Petitioner constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Countervailing Duty Investigation Initiation Checklist: Commodity Matchbooks from India (Initiation Checklist)*, at Attachment II (Analysis of Industry Support for the

Petition), on file in the CRU, Room 1117 of the main Department of Commerce building.

With regard to section 702(c)(4)(A), in determining whether Petitioner has standing, (*i.e.*, those domestic workers and producers supporting the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. According to Petitioner, there are three producers of the domestic like product: itself; Bradley Industries, LLC; and Atlas Match Corp., LLC. (Atlas Match Corp. is owned by Bradley Industries, LLC.) To establish industry support, Petitioner provided its production of the domestic like product for calendar year 2007. In addition, Bradley Industries, LLC, provided a letter of support for the petition and included its production figures for calendar year 2007. *See* Petition at 3; *see also* Letter of Support filed by Bradley Industries, LLC, on October 31, 2008. We have relied upon data provided by Petitioner and supporters of the petition for purposes of measuring industry support. For further discussion, *see Initiation Checklist* at Attachment II.

The Department's review of the data provided in the petition, and other information readily available to the Department, indicates that Petitioner has established industry support. First, the petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act and *Initiation Checklist* at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. *See Initiation Checklist* at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product

produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See Initiation Checklist* at Attachment II.

The Department finds that Petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate. *See Initiation Checklist* at Attachment II.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of 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 India materially injures, or threatens material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of commodity matchbooks from India are benefitting from countervailable subsidies and that such imports are causing or threaten to cause, material injury to the domestic industry producing commodity matchbooks. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

Subsidy Allegations

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an

industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner supporting the allegations. The Department has examined the countervailing duty petition on commodity matchbooks from India and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of commodity matchbooks from India receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers or exporters of the subject merchandise:

- A. Export Oriented Unit Scheme
 - 1. Duty-Free Import of Capital Goods and Raw Materials
 - 2. Reimbursement of Central Sales Tax Paid on Goods Manufactured in India
 - 3. Duty Drawback on Fuel Procured from Domestic Oil Companies
 - 4. Exemption from Income Tax under Sections 10A and 10B of Income Tax Act
- B. Export Promotion Capital Goods Scheme
- C. Duty Entitlement Passbook Scheme
- D. Advance License Program
- E. Duty Free Import Authorization Scheme
- F. Pre-shipment and Post-shipment Export Financing

For further information explaining why the Department is investigating these programs, *see Initiation Checklist*.

We are not including in our investigation the following program alleged to benefit producers and exporters of the subject merchandise in the GOI: Exemption from Payment of Central Excise Duty on Goods Procured from a Domestic Tariff Area for Goods Manufactured in India. For further explanation of the Department's decision not to investigate this program, *see Initiation Checklist*.

Respondent Selection

Petitioner claims that there is only one Indian producer/exporter of commodity matchbooks that shipped to the United States during the proposed POI. The Department intends to release U.S. Customs and Border Protection (CBP) data under Administrative Protective Order (APO) to all parties

with access to information protected by APO within five days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOI. To the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is reasonable indication that imports of subsidized commodity matchbooks from India are causing material injury, or threatening to cause material injury, to a U.S. industry. See Section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 18, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.

Attachment I

Scope of the Investigation Covering Commodity Matchbooks from India

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.¹ Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip

composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as “Thank You” or a generic image such as the American Flag, with store brands (*e.g., Kroger, 7-Eleven, Shurfine or Giant*); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (*e.g., Penley Corp. or Diamond Brands*). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR 1202.1 *et. seq.*

The scope of this investigation excludes promotional matchbooks, often referred to as “not for resale,” or “specialty advertising” matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.² Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny

matches, household matches, strike-anywhere matches (aka “SAW” matches), strike-on-box matches (aka “SOB” matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

The merchandise subject to this investigation is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. E8–27875 Filed 11–21–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–940)

Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain tow-behind lawn groomers (lawn groomers) and certain parts thereof from the People’s Republic of China (PRC). For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice. This notice also serves to align the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty investigation of lawn groomers from the PRC.

EFFECTIVE DATE: November 24, 2008.

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3586 and (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

¹ Such commodity matchbooks are also referred to as “for resale” because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, *e.g.* convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

² The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) If it has not printing, or is printed with a generic message such as “Thank You” or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

APPENDIX B
LIST OF WITNESSES

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject: Commodity Matchbooks from India
Inv. Nos.: 701-TA-459 and 731-TA-1155 (Preliminary)
Date and Time: November 17, 2008 - 9:30 a.m.

The conference in connection with these investigations was held in Courtroom B (room 111), 500 E Street, SW, Washington, DC.

OPENING REMARKS:

Petitioners (Paul G. Gaston, Law Offices of Paul G. Gaston)
Respondents (Sibi George, Indian Embassy)

In Support of the Imposition of Antidumping and Countervailing Duties:

Law offices of Paul G. Gaston
Washington, DC
on behalf of

D.D. Bean & Sons Co.

Mark C. Bean, Owner/Director and President, Match Division,
D.D. Bean & Sons Co.

Christopher V. Bean, Owner/Director and Corporate Counsel,
D.D. Bean & Sons Co.

Julia M. Bartlett, Vice President Fulfillment Management,
D.D. Bean & Sons Co.

Paul G. Gaston, Esq.) – OF COUNSEL

**In Opposition to the Imposition of
Antidumping and Countervailing Duties:**

Indian Embassy
Washington, DC
on behalf of

Government of India

Sibi George, Counselor (Commerce)
Indian Embassy

REBUTTAL/CLOSING REMARKS:

Petitioners (Paul G. Gaston, Law Offices of Paul G. Gaston)
Respondents (Sibi George, Indian Embassy)

APPENDIX C
SUMMARY DATA

Table C-1
Commodity matchbooks: Summary data concerning the U.S. market, 2005-07, January-June 2007,
and January-June 2008

* * * * *

