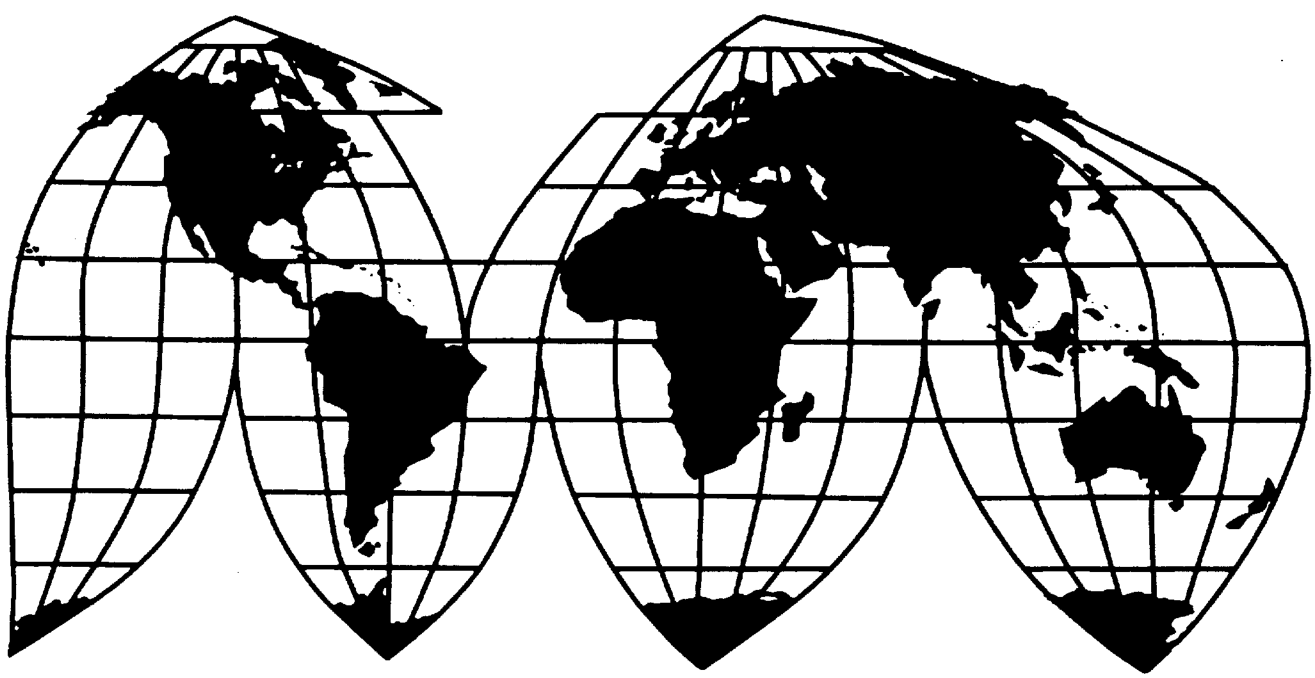
Certain Crepe Paper Products From China

Investigation No. 731-TA-1070A (Final)

Publication 3749 **January 2005**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

GLOSSARY OF FIRMS

American Crepe	American Crepe Corp.
American Greetings	American Greetings
Beistle	The Beistle Company
Burrows	Burrows Paper Corporation
Cindus	Cindus Corporation
Creative Expressions	Creative Expressions/Hoffmaster/Sweetheart Cup
Eagle	Eagle Tissue LLC
Flower City	Flower City Tissue Mills Co.
Garlock	Garlock Printing & Converting Inc.
Green Mountain	Green Mountain Specialties Inc.
Hallmark	Hallmark Cards, Inc.
Paper Service	Paper Service Limited
Printwrap	Printwrap Corp.
Putney	Putney Paper Co., Inc.
Seaman	Seaman Paper Co. of Mass. & Dennecrepe

GLOSSARY OF TERMS

AUV	Average unit value
COGS	Cost of goods sold
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
F.o.b.	Free on board
FR	*Federal Register*
HTS, HTSUS	Harmonized Tariff Schedule of the United States
LTFV	Less than fair value
NAICS	North American Industry Classification System
PRWs	Production and related workers
R&D	Research and development
RMA	Risk Management Association
ROI	Return on investment
SG&A	Selling, general, and administrative
SIC	Standard Industrial Classification
USITC	U.S. International Trade Commission

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1070A (Final)

CERTAIN CREPE PAPER PRODUCTS FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of crepe paper,[2] provided for in subheadings 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; and 9505.90.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV). The Commission makes a negative finding with respect to critical circumstances.

BACKGROUND

The Commission instituted this investigation effective February 17, 2004, following receipt of a petition filed with the Commission and Commerce by Seaman Paper Company of Massachusetts, Inc.; American Crepe Corporation; Eagle Tissue LLC; Flower City Tissue Mills Co.; Garlock Printing & Converting, Inc.; Paper Service Ltd.; Putney Paper Co., Ltd.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of crepe paper from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 8, 2004 (69 FR 60423), subsequently revised on November 15, 2004 (69 FR 65632). The hearing was held in Washington, DC, on December 9, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Crepe paper as defined by Commerce in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper from the People's Republic of China*, 69 FR 70233, December 3, 2004.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of certain crepe paper products from China that are sold in the United States at less than fair value (LTFV).[1]

The petition in this investigation was filed on February 17, 2004, by Seaman Paper Company of Massachusetts, Inc. (Seaman), American Crepe Corporation (American Crepe), Eagle Tissue LLC (Eagle), Flower City Tissue Mills Co. (Flower City), Garlock Printing & Converting, Inc. (Garlock), Paper Service Ltd. (Paper Service), Putney Paper Co., Ltd. (Putney), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC (PACE). The petition covered both certain tissue paper products (tissue paper) and certain crepe paper products (crepe paper products or, simply, crepe paper). However, the Commission's investigation is proceeding in two parts in the final phase – identified in the investigation number by the suffixes A for crepe paper and B for tissue paper – because Commerce has found tissue paper and crepe paper to be separate products, and is conducting two separate investigations of the subject merchandise.[2]

With respect to crepe paper, domestic producers Seaman and American Crepe are Petitioners.[3] A participating respondent interested party, Unique Industries, Inc. (Unique or Respondent), a U.S. importer of subject crepe paper from China, filed a posthearing brief and final comments.

I. BACKGROUND

Crepe paper products are manufactured from flat tissue paper using a wet creping process that imparts a regularly wrinkled surface to the paper. Crepe paper may be colored, decorated, or customized in a variety of ways and is usually cut into streamers that are used for decorative purposes.[4] The key performance characteristics include appearance (e.g., color and design), strength (e.g., tear and water resistance), and durability (e.g., resistance to fading). With respect to domestically produced crepe paper products, U.S. shipments in 2003 were made to distributors, retailers, and directly to end users, with slightly over one-half of the shipments going to retailers. With respect to crepe paper products from China, 2 percent of U.S. shipments in 2003 were made to distributors, 83 percent were made directly to retailers, and 15 percent were made directly to end users.[5]

The domestic industry producing certain crepe paper products is believed to include four established firms.[6] Three of the four provided questionnaire responses to the Commission. Two, Seaman

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[1] We find that those imports from China that are subject to an affirmative critical circumstances determination by the U.S. Department of Commerce (Commerce) are not likely to undermine seriously the remedial effect of the antidumping duty order. We therefore make a negative finding with respect to critical circumstances, as discussed more fully below.

[2] "Investigation" hereafter refers to Inv. No. 731-TA-1070A, unless otherwise noted.

[3] With the exception of American Crepe, the other identified companies are Petitioners with respect to certain tissue paper products.

[4] Final Confidential Staff Report, Memorandum INV-BB-161 (Dec. 28, 2004) (CR) at I-5, Public Staff Report (PR) at I-4.

[5] CR, PR at II-1. Crepe paper end users include individuals and firms that purchase the product for use in their entertainment or artistic activities. CR, PR at II-1 n.1.

[6] American Crepe, Beistle, Cindus, and Seaman.

and American Crepe, are petitioners[7] and collectively accounted for a majority of reported U.S. production in 2003.[8]

The share of the U.S. market accounted for by domestic production declined substantially between 2001 and 2003, and reached its lowest level in the January-September 2004 interim period.[9] Because there were no imports from nonsubject sources during this period, all of the market share lost by domestically produced crepe paper went to subject imports from China.

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[10] Section 771(4)(A) of the Tariff Act of 1930, as amended (the Act), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[11] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[12]

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.[13] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[14] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[15] Although the Commission must accept the determination of Commerce as to the scope of the imported

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[7] CR at III-3, PR at III-2. "Petitioners" hereafter refers only to Seaman and American Crepe except as otherwise noted.

[8] CR, PR at Table III-1.

[9] CR, PR at Table IV-4.

[10] 19 U.S.C. § 1677(4)(A).

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(10).

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

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

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

merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[16]

B. Product Description

In its final determination regarding crepe paper from China, Commerce defined the scope as follows:

> Crepe paper products subject to this investigation have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this investigation may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.[17]

As noted above, crepe paper is a lightweight paper with a finely wrinkled (creped) surface that is most often treated with fire-retardant chemicals and used for decorative purposes at special events.[18] Generally sold as streamers, crepe paper may be colored, decorated, or customized in a variety of ways.[19]

C. Analysis

In the preliminary phase of this investigation, in which tissue paper and crepe paper were still being investigated in tandem, the Commission addressed two domestic like product issues: First, whether tissue and crepe paper were separate like products; and, second, whether bulk and consumer tissue paper constituted separate tissue paper like products.[20] The first issue was uncontested. Petitioners and Respondents agreed that the Commission should define tissue paper and crepe paper as separate like products.[21]

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

[17] 69 Fed. Reg. 70233 (Dec. 3, 2004). Subject imports from China do not have distinct statistical reporting numbers assigned under the HTS, and may fall under one or more of several different broad subheadings that cover a range of paper goods. Id. As such, they enter the United States free of duty at normal trade relations rates. CR at I-4, PR at I-3.

[18] CR at I-5, PR at I-4.

[19] Samples presented at the hearing included streamers of varying lengths, some in solid colors and others with prints. See Hearing Transcript (Dec. 9, 2004) (Tr.) at 24 (George Jones, President of Seaman). Small amounts are also sold in sheets to school supply companies, craft stores, and individuals for use in craft projects. CR at II-3, PR at II-2.

[20] The second issue is not material to the instant inquiry, which concerns the definition of the domestic like product for subject crepe paper.

[21] Certain Tissue Paper Products and Crepe Paper Products from China, Inv. No. 731-TA-1070 (Preliminary), USITC Pub. 3682 (April 2004) (Preliminary Determination) at 6.

Applying its traditional six-factor analysis, the Commission reached the same conclusion. The Commission found that physical differences between tissue and crepe paper largely result in different end uses, limited interchangeability, and differences in producer perceptions of the two products. In addition, tissue and crepe paper undergo distinct finishing processes, and separate production facilities and employees are used in their manufacture. The record also revealed considerable price disparity between tissue and crepe paper. The Commission therefore concluded that tissue and crepe paper are separate like products, defining the crepe paper domestic like product co-extensively with Commerce's scope for subject crepe paper.[22]

Petitioners argue that crepe paper and tissue paper are distinct products and that the Commission should continue to define them as separate like products in the final phase.[23] Respondent takes no issue with this definition.[24]

The record continues to support the significant distinctions between tissue and crepe paper found by the Commission in the preliminary phase.[25] Without any evidence calling into question the propriety of a domestic like product finding limited to the scope of Commerce's final determination, and given the concurrence of the parties in such a definition, we find one domestic like product – crepe paper – co-extensive with the scope, for the reasons stated in the preliminary determination.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[26] In its preliminary determination, the Commission defined the domestic industry to include all domestic producers of crepe paper, whether those producers are integrated or operate as converters.[27] Converters make finished crepe paper products from purchased jumbo rolls of tissue paper; integrated producers make the jumbo rolls as well as the finished downstream products. The conversion of jumbo rolls into crepe paper products is estimated to generate *** percent of the value added to the final product.[28]

It was generally accepted by the parties and the Commission in the preliminary phase that "converters" were properly a part of the domestic industry. No party has disputed their inclusion in the domestic industry definition.[29] The record in the final phase of this investigation is essentially unchanged, and the information does not warrant our revisiting the preliminary definition. Accordingly, and

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[22] Preliminary Determination at 6-8.

[23] Petitioners' Prehearing Brief at 14.

[24] See Respondent's Posthearing Brief at 1 (applying this definition to its analysis of the merits of the petition).

[25] CR at I-5-I-8, PR at I-4-I-6 (addressing each of the six factors); Tr. at 23-24 (Mr. Jones) (discussing main differences between the products).

[26] 19 U.S.C. § 1677(4)(A). 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. See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[27] Preliminary Determination at 12-13 & n.83. Of the major U.S. producers of crepe paper, Seaman is an integrated producer and Cindus and American Crepe are converters. CR, PR at III-1 n.2.

[28] CR, PR at III-1 n.2.

[29] See Petitioners' Prehearing Brief at 14; Respondent's Posthearing Brief at 1 (applying this definition of domestic industry to its analysis of the merits of the petition).

consistent with our single domestic like product finding, we define the domestic industry as all domestic producers (whether integrated or converters) of crepe paper.[30]

B. Related Parties

In defining the domestic industry, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act.[31] The record shows that *** a related party under the Act based on the importation of subject merchandise during the period examined. In its preliminary determination, the Commission found that appropriate circumstances did not exist to exclude *** from the domestic industry as a related party because the volume of the firm's subject imports was small in relation to its domestic production, and its domestic production did not appear to benefit significantly from those imports.[32] With respect to ***.[33] In the final phase, neither respondent nor Petitioners have argued for any firm's exclusion from the domestic industry as a related party.[34]

***.[35] In the final phase, *** reiterated that one of the reasons for its importation of subject merchandise from China is ***.[36] The firm also ***. Based on the volume of its subject imports relative to its domestic production, and given its rationale for engaging in such importation as well as its ***,[37] the record demonstrates that *** business focus is domestic production rather than importation.

Moreover, the firm's financial results have *** since it started importing subject crepe paper from China in ***. For example, *** operating income as a ratio to net sales ***. *** has since reported *** in ***.[38] Its financial performance does not appear to have significantly benefitted from its purchases of subject merchandise in a way that would skew the data for the rest of the industry. Accordingly, appropriate circumstances do not exist to exclude *** from the domestic industry.

With respect to ***, the firm ***.[39] Thus, while the Commission has more information than it did in the preliminary phase, it still lacks usable production or trade data from ***.[40]

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30 These firms are identified in CR, PR at Table III-1 for purposes of this investigation. We note that the importer Glitterwrap purportedly *** and began crepe paper production in September 2004. CR, PR at III-1 n.3; cf. Mem. Staff Telephone Interview with *** at 2. The Commission has no trade, financial, or pricing data regarding Glitterwrap's production activities. Glitterwrap did not respond to a producer's final phase questionnaire. CR, PR at III-1 n.3.

31 See 19 U.S.C. § 1677(4)(B)(ii)(II).

32 Preliminary Determination at 14.

33 Preliminary Determination at 13 n.88 (***).

34 Petitioners' Prehearing Brief at 18-19.

35 CR, PR at Table III-1 n.3.

36 CR, PR at Table III-1 n.3.

37 CR, PR at Table III-1.

38 CR, PR at Table VI-2. The interim periods were January through September of 2003 and 2004.

39 CR, PR at Table III-1 n.2.

40 We note that ***, but that the firm's production and U.S. shipments appear very modest, in any event. CR, PR at III-1 n.1 & Table III-1. ***. *** Questionnaire Response at 9; CR, PR at Table C-1.

IV. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS[41]

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[42] In making this determination, the Commission must consider the volume of 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.[43] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[44] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[45] 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."[46]

A. Conditions of Competition

1. Demand

Most domestic producers and U.S. importers reported that demand in the U.S. crepe paper market remained unchanged during the period examined; a number of purchasers also reported unchanged demand since 2001.[47] Overall, apparent U.S. consumption increased by 7.5 percent between 2001 and 2002 and then decreased by 9.4 percent between 2002 and 2003, but was 6.7 percent higher in interim 2004 than in interim 2003.[48]

2. Channels of Distribution

U.S. shipments of domestically produced and subject crepe paper from China were directed to three channels of distribution during the period examined: distributors, retailers, and end users. U.S. producers' U.S. shipments during the period examined demonstrated a *** shift away from distributors. In 2001, for example, a plurality of U.S. producers' domestic shipments were to distributors (*** percent), followed by *** percent to retailers, and *** percent to end users. In 2003, most U.S. producers' domestic shipments were to retailers (*** percent), the amount to distributors *** to ***

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[41] Negligibility is not an issue in this investigation. Subject imports from China are not negligible under 19 U.S.C. § 1677(24) because they accounted for more than three percent of the volume of all subject crepe paper imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition. In fact, China was the sole source of subject crepe paper imported into the United States during the period examined. CR, PR at Table IV-2.

[42] 19 U.S.C. § 1673d(b).

[43] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also, Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[44] 19 U.S.C. § 1677(7)(A).

[45] 19 U.S.C. § 1677(7)(C)(iii).

[46] Id.

[47] Purchasers' responses, however, showed more variation than those of producers and importers, with eight of seventeen reporting no change in demand, seven reporting increased demand, and two reporting decreased demand. CR at II-5, PR at II-3.

[48] CR, PR at Table C-1.

percent, and the remainder (*** percent) were to end users.[49] The decline in the share of shipments to distributors continued into 2004.[50]

The shift in channels of distribution away from distributors was due to a larger decline in U.S. producers' shipments to distributors than in U.S. producers' shipments to retailers. From 2001 to 2003, U.S. producers' shipments to retailers *** declined, from *** square meters to *** square meters. U.S. producers' shipments to distributors declined at a faster rate, from *** square meters in 2001 to *** square meters. These trends continued in the interim period (January-September), with U.S. producers' shipments to retailers falling from *** square meters in interim 2003 to *** square meters in interim 2004, and shipments to distributors falling from *** square meters in interim 2003 to *** square meters in interim 2004.[51]

During the period examined, the share of U.S. shipments of subject imports to distributors remained consistently low, never exceeding 2.2 percent between 2001 and 2003, and reaching 3.1 percent in interim 2004 as compared to 1.5 percent in interim 2003.[52] In contrast, the record shows a major shift between 2001 and 2003 in the composition of U.S. shipments of subject imports in the other channels, retailers and end users.[53] Most of the volume of domestic shipments of subject imports was to end users at the start of period (55.3 percent in 2001), with 42.8 percent to retailers. By 2003, however, shipments of subject imports had grown dramatically, and the vast majority was to retailers (83.2) percent, as compared to 15.2 percent to end users.[54] This growth in the proportion of shipments to retailers and decline in the share of shipments to end users has continued during the interim period.[55]

3. Supply

The U.S. market is supplied by domestic production and subject imports, as there were no reported nonsubject imports during the period examined. Of the major domestic producers of crepe paper, Seaman is an integrated producer and Cindus and American Crepe are converters.[56] The domestic industry's share of apparent U.S. consumption fell substantially from *** percent in 2001 to *** percent in 2003. This loss of market to subject imports continued in a comparison of interim periods, falling from *** percent in interim 2003, to a low of *** percent in interim 2004.[57] The domestic industry's production capacity was stable until interim 2004,[58] when *** idled *** of its capacity.[59]

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[49] See CR, PR at II-1; Staff Worksheet, EDIS document 220991.

[50] See CR, PR at II-1; Staff Worksheet, EDIS document 220991. Comparing interim 2003 and interim 2004, U.S. producers' domestic shipments respectively were *** percent and *** percent to retailers, *** percent and *** percent to distributors, and *** percent and *** percent to end users. Id.

[51] See CR, PR at II-1; Staff Worksheet, EDIS document 220991.

[52] See CR, PR at II-1; Staff Worksheet, EDIS document 220991.

[53] U.S. shipments of subject imports to end users include, predominantly, sales by so-called direct importers. "Direct importers" are those firms that import subject product and sell it directly to consumers, thereby eliminating one or more levels of trade.

[54] See CR, PR at II-1; Staff Worksheet, EDIS document 220991.

[55] See CR, PR at II-1; Staff Worksheet, EDIS document 220991 (the share of shipments to retailers was 80.4 percent in interim 2003 and 89.9 percent in interim 2004; the share of shipments to end users was 18.1 percent in interim 2003 and 7.0 percent in interim 2004).

[56] CR, PR at III-1 n.2.

[57] CR, PR at Table IV-4.

[58] CR, PR at Table III-2 (*** square meters or *** the level of apparent U.S. consumption through 2003).

[59] CR at III-4, PR at III-3; CR, PR at Table III-2 (resulting in a capacity decrease of *** square meters for the first nine months of 2004).

4. Substitutability

There is a high degree of substitutability between domestically produced crepe paper and subject imports from China.[60] All domestic producers and nine of the 14 responding purchasers reported that U.S. and Chinese crepe paper products were "always" interchangeable; nine of the 11 responding importers reported that the two were "always" or "frequently" interchangeable.[61] In addition, price is considered by purchasers to be one of the most important factors in purchasing decisions. Quality was ranked first most frequently, identified by six of the 17 responding crepe paper purchasers, while "price" was ranked first with the second greatest frequency (identified by five of the responding purchasers). Ten other responding purchasers ranked price among the three most important purchasing factors, while four others ranked quality among the top three factors.[62] The significance of price in this comparison is also revealed by the fact that the vast majority of responding purchasers reported that domestically produced crepe paper and subject imports from China are comparable in terms of quality.[63]

B. Volume

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[64]

Subject import volume increased sharply throughout the period examined, rising from 3.8 million square meters in 2001 to 12.2 million square meters in 2002, and further to 20.8 million square meters in 2003 (an increase between 2001 and 2003 of approximately 444 percent). Subject import volume was 15.0 million square meters in interim 2003 as compared to 25.8 million square meters in interim 2004; thus, the quantity of subject imports was 73 percent higher in January-September 2004 than in January-September 2003, and even exceeded the full-year volume for 2003.[65]

During the period examined, subject imports' U.S. shipment volume relative to apparent U.S. consumption grew from *** percent in 2001 to *** percent in 2002 and to *** percent in 2003, and was *** percent in interim 2004 compared to *** percent in interim 2003. With the absence of nonsubject imports in the U.S. market during the period examined, domestic market share declined by precisely the amount that subject import market share grew, from *** percent in 2001 to *** percent in 2002 and to *** percent in 2003. In interim 2004, the domestic market share dipped below *** percent.[66]

Subject import volume relative to production in the United States increased throughout the period examined, rising from *** percent in 2001 to *** percent in 2002 and to *** percent in 2003. The same ratio was *** percent in interim 2003 and reached *** percent by interim 2004.[67]

The volume of subject imports thus increased substantially over the period examined, both in absolute terms and relative to consumption and production in the United States, and subject imports gained market share directly at the expense of U.S. producers. Accordingly, we find the volume of subject imports (in absolute terms and relative to consumption and production in the United States), and the increase in that volume, to be significant.

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[60] See, e.g., CR at II-8-II-11, PR at II-5-II-8.

[61] CR, PR at Table II-4.

[62] CR, PR at Table II-1.

[63] CR, PR at Table II-3.

[64] 19 U.S.C. § 1677(7)(C)(i).

[65] CR, PR at Table IV-2.

[66] CR, PR at Table IV-4 (domestic industry market share was *** percent in interim 2004 as compared to *** percent in interim 2003).

[67] CR at IV-5, PR at IV-1.

C. **Price Effects of the Subject Imports**

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

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (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.[68]

Subject imports and the domestic like product, as previously discussed, are highly interchangeable, and price plays an important role in purchasing decisions.[69] The importance of price, and its relationship to the rising volumes of subject imports, is demonstrated by information provided by purchasers, importers, and domestic producers. Several significant purchasers confirmed that they switched from U.S. to Chinese product to take advantage of lower prices, or that U.S. suppliers lowered prices to compete with Chinese suppliers.[70] For example, *** confirmed that ***.[71] The *** echoed a similar experience, stating that ***.[72] ***.[73] Ten of 11 responding purchasers, accounting for the majority of crepe paper purchases in the United States, reported that subject imports were lower priced than domestically produced crepe paper.[74]

Despite the clear evidence of underselling by subject imports described above, which is based on reliable information obtained from purchasers, importers, and domestic producers, the Commission's quarterly pricing data in the final phase show overselling by subject imports. The Commission collected such data for sales of a common form of crepe paper product to unrelated U.S. customers. In addition, importers that sell directly to consumers, and importers that resell the product to retailers, were asked to report their purchase price of the product.[75] Data comparing domestic and importer sales prices to unrelated customers show that subject imports *** oversold the domestic product, at weighted average margins ranging from *** percent to *** percent, with U.S. prices ranging from $*** to $*** per unit

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[68] 19 U.S.C. § 1677(7)(C)(ii).

[69] One purchaser went so far as to label the product "a commodity." Staff Telephone Interview with *** (January 3, 2005) (EDIS document 220993).

[70] CR, PR at Tables V-4, V-5, and V-6.

[71] CR at V-9, PR at V-3.

[72] Staff Telephone Interview with ***. See CR at V-9, PR at V-3.

[73] CR, PR at Table V-4 and accompanying text.

[74] CR, PR at Table II-3. The purchasers represented *** percent of apparent U.S. consumption by value in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004. Lower coverage in 2001 reflects the inability of *** to provide data for that year. See CR, PR at Table IV-4 and data from questionnaire responses.

These responses are also consistent with other reports of prices in the U.S. market. For example, domestic producer *** reported that it ***. Staff Telephone Interview with *** (December 14, 2004) (EDIS document 220281). See CR, PR at Table V-6 (***).

[75] In 2003, crepe paper sales price data accounted for *** percent of U.S. producers' shipments and *** percent of shipments of imports from China; purchase price data reported by retailers engaged in importing accounted for *** percent of shipments of imports from China. CR at V-3-V-4, PR at V-3.

and prices for Chinese crepe paper ranging from $*** to $*** per unit.[76] As discussed above, however, the domestic industry has sold crepe paper to both retailers and distributors, including firms that also increasingly import subject crepe paper from China. We note that import purchase prices for both importer/retailers ($*** per unit) and importer/distributors ($*** per unit) are consistently lower than the selling prices of the U.S. producers.[77]

The parties have vigorously disputed the probative value of the data obtained.[78] The fact that the overselling shown by the importer sales data is so inconsistent with the other information on relative U.S. and Chinese prices has raised some concern about the comparability of the domestic and import sales price data. We note that the pricing data used in this analysis contain sales from domestic producers to both distributors and retailers. The record indicates that prices in these channels differ with the sales price to distributors *** than the sales price to retailers.[79] The domestic industry has a greater proportion of their sales to distributors than do importers.[80, 81] Thus, calculating a weighted average price across channels would lower the domestic industry's sales prices relative to importers' sales prices. This likely explains, at least in part, the apparent overselling by imports shown in our price comparison data.

Based on the mixed evidence, we do not find significant underselling by subject imports. The record demonstrates, however, significant adverse price effects by subject imports on the domestic prices of crepe paper during the period examined.

Reported prices for the domestic product for which the Commission collected data fluctuated between $*** and $*** during the period examined, starting at $*** - $*** in 2001, declining to $*** - $*** by 2003, and then finishing at $*** in the first three quarters of 2004.[82] Reported prices of this crepe product from China ranged between $*** and $***, showing a gradual *** during the period examined after an initial *** in the 2001.[83]

The significant price competition from, and rapidly increasing volume of, subject imports resulted in declines in U.S. sales volumes and either restricted or prevented any price increases by U.S. producers. The impact of these conditions on the U.S. industry is demonstrated by the increase in cost of goods sold

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76 CR, PR at Table V-3. Petitioners claim that the overselling evidenced in this data is the result of erroneous prices reported by ***, and that the data collected for sales comparisons were more reliable in the preliminary phase of this investigation. Staff has noted, however, that the pricing data collected in the final phase of this investigation are largely complete, and that such data include corrections from the preliminary phase. CR at V-3-V-4, PR at V-2. Also, pricing data from two other *** firms are not substantially different from *** data. Accordingly, we do not find that the data include significant misreporting.

77 CR, PR at Tables V-1 & D-1. Data from importer/retailers cover only a very small volume of subject imports. See also Respondent's Posthearing Brief at 13-15 (comparison of domestic sales prices with importer purchase prices does not constitute an "apples-to-apples" comparison). There are thus three sets of import prices in the final phase of this investigation: sales prices (which, as described above, show overselling); purchase prices of retailers that act as importers (which, as noted above, are based on very small volumes); and purchase prices from two large importing distributors ***). The purchase prices with which Petitioners were inviting comparison, which are identified in CR, PR at Table V-1 (last column), fall into the middle category. With respect to the third category, these purchase price data are identified in CR, PR at Table D-1, and available data for imports of crepe paper by the *** U.S. importers and their sales of crepe paper to retailers of crepe paper from China are identified in Memorandum INV-CC-001 (January 4, 2005).

78 See, e.g., Petitioners' Prehearing Brief at 54; Petitioners' Posthearing Brief at 4-13; Respondent's Posthearing Brief at 3, 7-8, 13-14.

79 Testimony to Staff and the Commission also supported this point. See, e.g., INV-CC-001 at 1 & Tables 1-2.

80 We note that shipments to distributors constituted a declining percentage of U.S. producers' U.S. shipments.

81 The record suggests that importers have a smaller proportion of their sales to distributors, in part, because the largest distributors became importers. See CR at V-3, PR at V-2; see also INV-CC-001 at 1.

82 CR, PR at Table V-1.

83 CR, PR at Table V-1.

(COGS) as a ratio to net sales from 2001 to 2003, a trend that continued in interim 2004.[84] The industry's large loss of market share meant that it had far fewer sales over which to spread its fixed costs. Domestic prices did not increase to offset the financial effects of this loss of volume. With the industry rapidly losing its customer base to subject imports, and facing stiff price competition from the imports, the industry was in no position to seek to implement price increases on its remaining customers.[85] Accordingly, we find that subject imports have had a significant price suppressing effect on the U.S. industry.

D. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[86] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[87] [88]

Respondent does "not dispute that the domestic industry producing crepe paper has suffered significant reverses in recent years, as evidenced by their declining market share, production, employment and profit."[89] Indeed, virtually every indicator of the domestic industry's condition showed marked declines overall in the period examined. As noted above, the domestic industry's production capacity was stable through 2003, and then decreased by *** square meters in interim 2004.[90] Domestic output decreased by *** percent from 2001 to 2003, and further decreased by *** percent in comparing interim 2004 to interim 2003. Capacity utilization was down *** percentage points between 2001 and 2003 (from *** percent to *** percent, respectively), and down *** percentage points in interim 2004 relative to interim 2003 (to *** percent from *** percent), notwithstanding the idling of some capacity in 2004.[91]

U.S. shipment volumes declined as well, decreasing by *** square meters (or *** percent) between 2001 and 2003, and *** square meters in interim 2004 relative to interim 2003.[92] The number of workers followed output trends, declining from *** to *** between 2001 and 2003 and reportedly down

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84 The ratio of COGS to net sales was *** percentage points higher in 2003 (*** percent) than in 2001 (*** percent), and was *** percent in interim 2004 as compared to *** percent in interim 2003. CR, PR at Table VI-1.

85 See, e.g., Staff Telephone Interview with ***.

86 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 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.").

87 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

88 The Act instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final affirmative determination for subject crepe paper from China, Commerce found a weighted-average dumping margin of 266.83 percent for each of the five manufacturers/exporters for which it calculated individual rates, as well as for the PRC-wide rate. 69 Fed. Reg. at 70234.

89 Respondent's Posthearing Brief at 1.

90 CR, PR at Table III-2 (*** square meters, or *** the level of apparent U.S. consumption through 2003).

91 CR, PR at Table C-1.

92 CR, PR at Table C-1. Shipment average unit values, to the extent they afford any useful measure, declined between 2001 and 2003 (down *** percent) before increasing (*** percent) in interim 2004 compared to interim 2003. CR, PR at Table C-1.

to *** in interim 2004 from *** in interim 2004.[93] Total wages paid similarly declined (down *** percent between 2001 and 2003 and *** percent in comparing the interim periods).[94] Productivity showed declines overall, notwithstanding the shrinking number of workers reported, and unit labor costs increased throughout the period examined.[95] Domestic industry inventories fluctuated somewhat in absolute terms, and increased throughout the period examined as a ratio to total shipments.[96]

The domestic industry's financial indicators worsened substantially over the period examined. The domestic industry saw profitability evaporate as operating income of $*** in 2001 (a *** percent operating margin) fell to $*** in 2002 (a *** percent operating margin), and then turned into an operating loss of $*** in 2003 (a negative *** percent operating margin), and a further loss of $*** in interim 2004 (a negative *** percent operating margin) relative to interim 2003 (a negative *** percent operating margin).[97] *** of the three reporting domestic producers reported operating income *** in 2003 and interim 2004, and *** experienced worsening operating income levels during the period examined.[98] Unit net sales values (AUVs) fell between 2001 and 2003, before recovering somewhat in interim 2004, albeit less rapidly than unit COGS increases in the same interim period.[99] Capital expenditures declined throughout the period examined, and no firm reported research and development expenditures.[100] Finally, the trend of the domestic industry's return on investment (ROI) mirrored the downward decline in its operating income margin during the period examined.[101]

Respondent contends that LTFV imports did not cause the domestic industry's condition, as the domestic industry does not compete with subject imports, which Respondent claims sell in the fastest growing market, that of the mass retailer end users such as Wal-Mart and Target. Respondent claims that the domestic industry has been unwilling or unable to pursue this market, which does not fit into its historical distribution model with a distributor/middleman in the supply chain.[102]

We reject Respondent's causation argument as not supported by the record. Respondent's argument relies upon testimony at the hearing of Deborah Kelley, a senior buyer at Target. Ms. Kelley's responsibilities and her testimony, however, concerned the purchase of tissue paper, not crepe paper.[103]

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93 CR, PR at Table III-6.

94 CR, PR at Table C-1.

95 CR, PR at Table C-1. Productivity (in square meters per hour) was *** in 2001 and *** in 2003, and *** in interim 2004 compared to *** in interim 2003; unit labor costs were $*** in 2001 and $*** in 2003, and $*** in interim 2003 compared to $*** in interim 2004. CR, PR at Table III-5.

96 U.S. producers' inventories were *** square meters in 2001, *** square meters in 2002, and *** square meters in 2003, before leveling off in a comparison of the interim periods, *** square meters in interim 2003 and *** square meters in interim 2004. With declining shipments, the ratio of inventories increased by *** percentage points between 2001 and 2003 and was *** percentage points higher in interim 2004 than in interim 2003. CR, PR at Table C-1.

97 CR, PR at Tables VI-1, C-1.

98 CR, PR at Tables VI-2, VI-3.

99 CR, PR at Tables VI-1, C-1 (AUVs were down *** percent) between 2001 and 2003 before increasing (*** percent) in interim 2004 compared to interim 2003; unit COGS were *** percent higher between 2001 and 2003, and *** percent higher in interim 2004 than in interim 2003).

100 CR, PR at Table VI-4.

101 CR at VI-6, PR at VI-2; CR, PR at Table VI-5 (ROI declined from *** percent in 2001, to *** percent in 2002, and then to negative *** percent in 2003).

102 "An industry that sits back and does not pursue a growing market segment, and then blames imports for their declining market share is not an industry that is being injured 'by reason of' LTFV imports." Respondent's Posthearing Brief at 4.

103 See, e.g., Tr. at 200-201, 210-211 (Ms. Kelley).

The attempt to draw conclusions regarding the domestic industry's sales and marketing of crepe paper from her testimony on tissue paper, a different industry, is erroneous.[104]

Moreover, the actual record data concerning channels of distribution for crepe paper support rather than rebut a finding of direct competition between domestically produced crepe paper and subject imports from China. Indeed, in terms of an overlap of channels, such competition appears to be growing rather than diminishing, with the largest gains during the period examined – for domestic or Chinese crepe paper – occurring in sales to retailers. For example, by 2003, most U.S. producers' domestic shipments were to this channel (*** percent), with an increase to end users as well (*** percent), and steadily diminishing amounts to distributors (*** percent).[105] Thus, the evidence shows that the domestic industry has a significant presence in and expanding focus on the very market in which Respondent claims the domestic industry is "unwilling or unable" to compete. Even in the market for which there appears to be the least amount of overlap, that of sales to distributors, the ***, which were the *** U.S. importers during the period examined, each purchased crepe paper from domestic producers during this period.[106] We therefore conclude that domestically produced crepe paper and subject imports from China compete directly in all channels of distribution.

Based on our findings of significant volume and negative price effects of subject imports, and the weakened state of the domestic industry, we find that subject imports have had a significant adverse impact on the domestic industry.

V. CRITICAL CIRCUMSTANCES

In its final affirmative antidumping duty determination concerning subject merchandise from China, Commerce found that critical circumstances exist for all subject exports from China to the U.S. market.[107] Because we have determined that the domestic crepe paper industry is materially injured by reason of subject imports from China, we must further determine "whether the imports subject to the affirmative [Commerce critical circumstances] determination ... are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[108] The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[109]

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

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

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[104] Insofar as Respondent is suggesting that *** are direct importers of crepe paper and have thus eliminated any "middlemen," Respondent is mistaken. While the two may import tissue paper directly, neither does so with respect to crepe paper. The instant record shows that direct importing of crepe paper is by ***, such as ***. See Questionnaire Responses of ***. The record further shows that *** purchased *** crepe paper during the period examined. See, e.g., Staff Telephone Interview with ***.

[105] The growth in U.S. shipments by importers to retailers in the same period, as noted in our discussion of conditions of competition, exceeded any growth in so-called direct importing. See CR, PR at II-1; Staff Worksheet, EDIS document 220991.

[106] Memorandum INV-CC-001 at 1.

[107] 69 Fed. Reg. at 70234.

[108] 19 U.S.C. § 1673d(b)(4)(A)(i).

[109] SAA at 877.

(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[110]

Consistent with Commission practice,[111] in considering the timing and volume of subject imports, we consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.

The petition in this investigation was filed on February 17, 2004, and suspension of liquidation for subject imports from China occurred on September 21, 2004, when Commerce issued its preliminary determination.[112] We have reviewed subject import data for the period September 2003 through August 2004. Comparing the three-month period preceding the petition's filing, December 2003 through February 2004, with the three month period March 2004 through May 2004, subject imports decreased by 3.0 percent from 7.7 million square meters to 7.5 million square meters. Comparing the six-month period September 2003 through February 2004 with the six-month period March 2004 through August 2004, subject imports increased by 15.1 percent from 14.0 million square meters to 16.1 million square meters.[113] The highest monthly volume during this 12-month period was in the month immediately preceding the petition's filing, January 2004.[114] We do not consider the decrease in subject import volume in the three-month period following the filing of the petition or the increase in subject import volume in the six-month period as likely to undermine seriously the remedial effect of the antidumping duty order.

We also have considered the extent to which there was an increase in inventories of the subject imports. The most relevant data pertains to the interim periods. End-of-period inventories for U.S. importers of subject crepe paper were *** square meters in interim 2003, and *** square meters in interim 2004, an increase of *** percent.[115] Relative to U.S. imports and U.S. shipments of imports, inventories of imported crepe paper were lower in interim 2004 than in interim 2003.[116] On balance, we do not find that there has been a rapid increase in inventories of the subject merchandise following the filing of the petition.

Nor do we find the existence of any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[117]

Based on the record in these investigations, we find that the imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued, and therefore make a negative finding with respect to critical circumstances.

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[110] 19 U.S.C. § 1673d(b)(4)(A)(ii).

[111] See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003); Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 at 12-13 (Aug. 2000).

[112] 69 Fed. Reg. 56407 (September 21, 2004).

[113] CR at IV-6-IV-7, PR at IV-6.

[114] CR at IV-7, PR at IV-6.

[115] CR, PR at Table VII-2.

[116] CR, PR at Table VII-2.

[117] We have denied Petitioners' request that we draw adverse inferences against U.S. importers in considering available import and inventory data. The data collected by the Commission through its questionnaires generally covered all known major importers of crepe paper. See CR, PR at IV-1; CR at VII-3, PR at VII-2 (one major importer was unable to provide inventory data).

CONCLUSION

For the above-stated reasons, we determine that the domestic industry producing crepe paper is materially injured by reason of subject imports of crepe paper from China that are sold in the United States at less than fair value. We make a negative finding with respect to critical circumstances.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Seaman Paper Company of Massachusetts, Inc. ("Seaman"); American Crepe Corporation ("American Crepe"); Eagle Tissue LLC ("Eagle"); Flower City Tissue Mills Co. ("Flower City"); Garlock Printing & Converting, Inc. ("Garlock"); Paper Service Ltd. ("Paper Service"); Putney Paper Co., Ltd. ("Putney"); and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC ("PACE") (collectively "Petitioners") on February 17, 2004, alleging that industries in the United States are materially injured and threatened with material injury by reason of less-than-fair-value ("LTFV") imports of certain tissue paper products and crepe paper products from China.[1] Information relating to the background of the investigation is presented below.[2]

Date	***Action***
February 17, 2004 . . .	Petition filed with Commerce and the Commission; institution of Commission investigation (69 FR 8232, February 23, 2004)
March 15, 2004	Commerce's notice of initiation (69 FR 12128)
April 1, 2004	Commission's preliminary determination (69 FR 20037)
September 21, 2004 . .	Commerce's preliminary determination (69 FR 56407) and scheduling of the final phase of the Commission's investigation (69 FR 60423, October 8, 2004), subsequently revised (69 FR 65632, November 15, 2004)
December 3, 2004 . . .	Commerce's final determination on crepe paper (69 FR 70233)
December 9, 2004 . . .	Commission's hearing on crepe paper and tissue paper[3]
January 6, 2005	Date of Commission's vote on crepe paper
January 18, 2005	Commission determination on crepe paper transmitted to Commerce

Although the original petition in this investigation (731-TA-1070) covered both crepe paper and tissue paper, Commerce only postponed its final determination on the latter product. Therefore, the Commission's investigation on tissue paper from China (investigation No. 731-TA-1070B) is continuing on a later schedule, while the information presented in this report reflects the record compiled in the Commission's investigation of crepe paper from China (investigation No. 731-TA-1070A).

PREVIOUS AND RELATED INVESTIGATIONS

The Commission has not conducted previous antidumping or countervailing duty investigations concerning crepe paper. However, in 2001, the Commission conducted an investigation on another paper product, folding gift boxes from China, issuing a final affirmative determination in December of that year.[4]

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[1] The crepe paper products subject to this investigation are described in the section entitled "The Subject Product" in Part I of this report.

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

[3] A list of witnesses appearing at the hearing is presented in app. B.

[4] *Folding Gift Boxes from China, Inv. No. 731-TA-921 (Final)*, USITC Publication 3480 (December 2001).

ORGANIZATION OF THE REPORT

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

SUMMARY OF DATA PRESENTED IN THE REPORT

A summary of data collected in the investigation is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of three firms that manufacture crepe paper. The questionnaire responses accounted for nearly all U.S. production of certain crepe paper products during 2003. U.S. imports are based on questionnaire data from all known major importers.

THE NATURE AND EXTENT OF SALES AT LTFV

On December 3, 2004, Commerce published its final determination in the *Federal Register*. Commerce's period of investigation for certain crepe paper products was July 1, 2003 through December 31, 2003. In its final determination, Commerce found weighted-average dumping margins of 266.83 percent for all manufacturers and exporters of certain crepe paper products in China.[5]

SUMMARY OF MARKET PARTICIPANTS

The domestic industry producing certain crepe paper consists of four established companies, the largest of which are ***. More than a dozen U.S. companies are known to import certain crepe paper from China, two of which, ***, produced certain crepe paper domestically throughout the period for which data were collected (January 2001-September 2004). The largest importers are ***. There are few importers of certain crepe paper from countries other than China. The largest purchasers of certain crepe paper include ***.[6]

THE SUBJECT PRODUCT

Commerce's Scope

The merchandise covered by this investigation is certain crepe paper products from China. Commerce has defined the scope for certain crepe paper products as follows:

> The crepe paper products subject to this investigation have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is

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[5] See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper from the People's Republic of China*, 69 FR 70233, December 3, 2004.

[6] *Petition*, exhibit 35; Preliminary questionnaire responses of ***, question IV-C, p. 22.

treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this investigation may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.[7]

U.S. Tariff Treatment

As noted in Commerce's scope, crepe paper products subject to this investigation do not have distinct tariff or statistical categories assigned to them under the Harmonized Tariff Schedule of the United States ("HTS") and likewise appear to be imported under one or more of the several different very broad categories covering a range of paper goods by name and/or weight, including but not necessarily limited to the following HTS subheadings: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; and 9505.90.40. As such, the subject crepe paper products from China enter the United States free of duty at normal trade relations ("NTR") rates.[8]

General

The crepe paper products subject to this investigation are produced from flat tissue paper,[9] rather than dry creped tissue paper such as that used for sanitary and other household purposes.[10] The term "tissue paper" refers to a class of lightweight paper that generally exhibits a gauze-like, fairly transparent character and that has a basis weight[11] of less than 29 grams per square meter (18 pounds per 3,000 square feet).[12] The principal upstream product for the subject crepe paper products is flat tissue paper in rolls, which are often referred to as "jumbo rolls." The key performance characteristics of the subject crepe paper products include appearance (e.g., color and design), strength (e.g., tear and water resistance), and durability (e.g., resistance to fading).[13]

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[7] See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper from the People's Republic of China*, 69 FR 70233, December 3, 2004.

[8] All NTR rates in chapter 48 of the HTS are "free."

[9] Flat tissue paper is not creped during the paper making process. ***, interview by USITC Staff, ***, February 27, 2004, and "3.10 Tissue Grades," found at *http://www.paperloop.com/toolkit/paperhelp/3_10.shtml* and retrieved on March 8, 2004.

[10] This includes tissue papers used for toilet or facial tissue, towels, napkins, and other similar uses.

[11] Basis weight is a traditional measure of the weight of paper, expressed as the weight in pounds of a ream of paper (traditionally 500 24-inch by 36-inch sheets). Therefore, the basis is 3,000 square feet (6 square feet per sheet times 500 sheets). However, for certain types of paper, including tissue, 480-sheet reams have become the accepted industry standard, thus confusing comparisons of paper weights. For the purposes of this section, basis weights reflect a basis of 3,000 square feet. Metric paper weights are expressed in terms of grams per square meter.

[12] *The Dictionary of Paper*, American Paper Institute, 4th ed. (Philadelphia: Winchell, 1980), p. 419.

[13] *Petition*, pp. 5, 30.

Physical Characteristics and Uses

Certain crepe paper products are manufactured from flat tissue paper using a wet creping process that imparts a regularly wrinkled surface to the paper. Certain crepe paper products are distinguishable from the dry creped tissue paper used for sanitary and other household purposes[14] and the creped kraft[15] papers used in industrial applications such as air, fuel, and oil filters.[16] Certain crepe paper products may be colored, decorated, or customized in a variety of ways. According to testimony presented at the staff conference, the consistency of color matching and crimping of crepe paper produced in the United States reportedly is superior to that produced in China.[17]

Certain crepe paper generally is slit into narrow rolls,[18] although a small amount of crepe folds are sold for arts and crafts end uses.[19] While tissue paper (defined broadly) is an upstream product in the manufacture of certain crepe paper products, certain crepe paper products have a finely wrinkled (creped) surface, usually are cut into streamers and treated with fire-retardant chemicals, and most often are used for decorative purposes.[20]

Manufacturing Facilities and Production Employees

The domestic industry producing certain crepe paper products is believed to include four established firms, ***, Seaman, also produces certain tissue paper, albeit using a distinct process and with different equipment.[21] As noted above, jumbo rolls of tissue paper are the principal upstream product for the converting operations that produce certain crepe paper products. However, the tissue paper used for the manufacture of certain crepe paper products differs from that used for bulk and consumer tissue paper in that sizing is added to the pulp as the paper is manufactured. The sizing prevents the sheet of paper from disintegrating during the creping operations.

In contrast to the dry creping process that is used in the manufacture of sanitary tissue and toweling, certain crepe paper products undergo a wet creping process.[22] Typically, the first step is to mix a solution of ammonia-based flameproof salts and, if necessary, dyes and other additives (e.g., softeners, mineral-based pearlescent coatings). For dyed crepe papers, proper color matching from batch to batch is critical.[23] Once mixed, the solution is transferred to a creping machine, and a roll of tissue paper is

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[14] This includes tissue papers used for toilet or facial tissue, towels, napkins, and other similar uses.

[15] The term "kraft" refers to the Kraft (sulfate) process, a widely used method for pulping wood fiber, which uses sodium hydroxide and sodium sulfide as the principle cooking agents and which yields a high strength pulp well-suited for the manufacture of a wide variety of papers.

[16] "3.11.10 Filter Papers," found at *http://www.paperloop.com/toolkit/paperhelp/3_11_10_key.shtml* and retrieved on March 8, 2004.

[17] *Conference Transcript*, testimony of Alfred Scott, CEO, Glitterwrap, p. 145. *But see* questionnaire response of *** indicating that some of the colors of crepe paper from China are more vivid.

[18] *Petition*, p. 6.

[19] ***, interview by USITC Staff, ***, February 27, 2004.

[20] *Petition*, p. 32.

[21] *Conference Transcript*, testimony of George Jones, president, Seaman, p. 22.

[22] "3.10 Tissue Grades," found at *http://www.paperloop.com/toolkit/paperhelp/3_10.shtml* and retrieved on March 8, 2004.

[23] ***, interview by USITC Staff, ***, February 27, 2004. Conference testimony suggested that differences in the manufacturing process in China (printing and embossing white crepe paper, as opposed to the U.S. method of dyeing the pulp), contributed to perceived higher quality of U.S.-produced crepe. *Conference Transcript*, testimony (continued...)

mounted in its roll stand. As the sheet is unwound, it is bathed in the solution, which is circulated either in a trough or in the nip of a small roll which presses the sheet onto a large, rotating drum.[24] The moistened sheet adheres to the drum, which is equipped with a doctor blade extending across the surface of the back side of the roll. Crepes are formed as the sheet is crowded against the doctor blade, and a felt picks the sheet off the doctor blade. The relative speeds of the felt and the rotating drum are set such that the felt will not pull the creping out of the sheet. The felt conveys the creped paper to a drier cylinder which drys the sheet. Once dry, the crepe paper is rewound on a roll. The roll of creped paper is then moved to a slitter, which cuts the sheet into streamer widths (typically 1-3/4 inches), winds them to the correct length and diameter, and applies adhesive to the end to keep the streamers from unraveling. The streamers are packed in preformed bags, wholesale bags (if needed), and finally into corrugated cartons.

Interchangeability and Customer and Producer Perceptions

As discussed in greater detail in Part II of the staff report, about one-half of U.S. producers and importers and most U.S. purchasers of certain crepe paper identified items such as garlands, banners, and streamers made from other materials as substitute products for crepe paper in their questionnaire responses. Neither certain tissue paper nor the various forms of dry creped tissue paper (e.g., sanitary and other household tissue paper) is considered by market participants to be a substitute for crepe paper.

Notwithstanding the reportedly higher quality of domestically produced crepe paper by virtue of its crimping and dyeing process, domestically produced crepe paper and crepe paper from China appear to be largely interchangeable. Most U.S. producers, U.S. importers, and U.S. purchasers perceive certain crepe paper produced in the United States and in China to be “always” or “frequently” interchangeable.[25]

Channels of Distribution

According to the petition, certain crepe paper products are sold through both distributors and retailers.[26] Questionnaire responses indicate that, with respect to domestically produced certain crepe paper products, *** percent of U.S. shipments in 2003 were made through distributors, *** percent were made directly to retailers, and *** percent were made directly to final consumers. With respect to certain crepe paper products from China, questionnaire responses indicate that 2 percent of U.S. shipments in 2003 were made through distributors, 83 percent were made directly to retailers, and 15 percent were made directly to final consumers.[27]

Price

Price data collected by the Commission for specified crepe paper streamers appear in Part V of this report. In the aggregate, the average unit values for U.S. shipments of domestically produced certain crepe paper products were *** per thousand square meters in 2001, *** in 2002, *** in 2003, *** in interim 2003, and *** in interim 2004. By comparison, the average unit values for U.S. imports of

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[23] (...continued)
of Alfred Scott, CEO, Glitterwrap, pp. 145-146.

[24] *Conference Transcript*, testimony of George Jones, president, Seaman, p. 22.

[25] For additional details on interchangeability and customer and producer perceptions, please see Part II, “Supply and Demand Considerations” and “Substitutability Issues.”

[26] *Petition*, p. 31.

[27] For additional details on channels of distribution, please see Part II, “Channels of Distribution and Market Segmentation.”

certain crepe paper products from China were $117.64 per thousand square meters in 2001, $116.34 in 2002, $109.68 in 2003, $109.33 in interim 2003, and $117.31 in interim 2004. The average unit values for U.S. shipments of imports of certain crepe paper products from China were *** per thousand square meters in 2001, *** in 2002, and *** in 2003, *** in interim 2003, and *** in interim 2004.[28] Because certain U.S. retailers are themselves direct importers of the subject merchandise from China, both calculations of average unit values are believed to be relevant.

DOMESTIC LIKE PRODUCT ISSUES

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. In this investigation, petitioners have identified one domestic like product, certain crepe paper products,[29] and respondents either have expressed no opposition to, or have expressly agreed with, treating certain crepe paper as a single domestic like product.[30]

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[28] For additional details on prices, please see Part V, "Price Data." For additional details on average unit values, please see Part III and Part IV.

[29] *Petition*, p. 30.

[30] See *Conference Transcript*, testimony of William Perry, counsel on behalf of City Paper et al., p. 193.

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

CHANNELS OF DISTRIBUTION AND MARKET SEGMENTATION

During 2003, data reported by U.S. producers of certain crepe paper products indicate that the majority (*** percent) of their domestic shipments went to retailers, *** percent went to distributors, and *** percent went direct to end users.[1] U.S. producers' shipments to distributors fell from *** square meters in 2001, to *** in 2002, and to *** in 2003. In contrast, U.S. producers' shipments to retailers and end users combined increased from *** square meters in 2001, to *** in 2002, before falling to *** in 2003.

U.S. importers' U.S. shipments of crepe paper from China to distributors, to retailers, and to end users all increased in 2002 and in 2003. During this period, however, the composition of U.S. importers' shipments shifted noticeably. In 2001, the majority – 55 percent – of crepe paper from China was shipped by U.S. importers directly to end users, while 43 percent was shipped to retailers and only 2 percent was shipped to distributors. By 2003, 83 percent of crepe paper from China was shipped by U.S. importers to retailers, while 15 percent was sold directly to end users and only 2 percent was sold to distributors.[2]

According to one U.S. producer, Chinese suppliers began to contact U.S. crepe paper distributors at a trade show in 1999 or 2000. Gradually, companies that had distributed crepe paper produced in the United States began to import crepe paper from China. The U.S. producer identified *** as one of the first major distributors to shift portions of its sourcing requirements from crepe paper produced in the United States to crepe paper produced in China. According to ***, ***. After *** began purchasing Chinese products, other distributors followed. According to the U.S. producer, these distributors then began to compete with U.S. producers for sales to retailers.[3] In its posthearing brief, however, crepe paper importer and distributor Unique contends that U.S. producers have lost sales volume because of their "unwillingness and/or inability to supply directly to mass retailer end users such as Wal-Mart and Target" because these sales do not "fit into their historical distribution model with a distributor /middleman in the supply chain."[4] [5]

Of the three firms that reported their production of crepe paper in the United States, ***; thus all producer responses for crepe paper are for crepe paper alone. Seventeen purchasers[6] of crepe paper products provided questionnaires; 13 of these are retailers, three are distributors, and one, ***, reported being both a distributor and a retailer. Three of these purchasers are also importers: ***. All the firms that purchase crepe paper also purchase tissue paper, and most of the purchasers answered the questions

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[1] Crepe paper end users include individuals and firms that directly purchase the product for use in their entertainment or artistic activities.

[2] This growth in shipments to retailers has continued into 2004. In January-September, 90 percent of U.S. shipments of crepe paper from China by U.S. importers were to retailers, up from 80 percent in January-September 2003.

[3] Staff telephone interview with ***, December 14, 2004. As a result of the antidumping duty investigation, however, the U.S. producer reported that it had regained a number of accounts. *Id.*

[4] Unique's posthearing brief, p. 3.

[5] However, according to a representative from U.S. importer Glitterwrap, "(t)he Petitioners that manufacture crepe all sell direct to the retailers, our customers. We wish not to buy from a competitor due to the channel of distribution conflict. Seaman Tissue and American Crepe want to sell us as well as our customers ... Seaman Tissue and American Crepe could easily undercut us and almost every other company they've listed as crepe importers based upon price, since the price I sell my customer is much higher than the price Seaman Tissue and American Crepe have quoted us." *Conference Transcript*, testimony of Alfred Scott, CEO, Glitterwrap, pp. 142-143.

[6] One of these purchasers ***.

for crepe paper and tissue paper together.[7] Similarly, most importers (nine of 11 responding) import both tissue paper and crepe paper and none of these consistently provided separate answers for crepe paper and tissue paper products.[8]

Certain crepe paper products generally are sold as streamers and typically are used for decorative purposes. In addition, small amounts are sold in sheets to school supply companies, craft stores, or individuals for use in craft projects.[9]

Geographic Markets

All responding producers of crepe paper reported shipping nationwide and nine of 11 importers reported shipping nationwide. The other importers sold to various regions including the Northeast, the Mid-Atlantic, the Midwest, the Southeast, the Southwest, and the Rocky Mountains.

SUPPLY AND DEMAND CONSIDERATIONS[10]

U.S. Supply[11]

Based on available information, U.S. producers of certain crepe paper products have the ability to respond to changes in prices with moderate-to-large changes in the quantity of shipments of U.S.-produced certain crepe paper products to the U.S. market. The main factor contributing to this degree of responsiveness is excess capacity.

Industry Capacity

Data reported by U.S. producers indicate that there is substantial excess capacity with which to expand production of certain crepe paper products in the event of price changes. Domestic capacity utilization for certain crepe paper products declined from *** percent in 2001 to *** percent in 2003. However, for *** the availability of jumbo rolls for creping may limit the producers' ability to increase production in spite of excess capacity. ***.[12]

Although purchasers did not report any shortages or seasonal constraints for certain crepe paper products, they did report that both availability and delivery were very important factors. Only one purchaser reported disqualifying suppliers because of delivery times and reliability that may have been

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[7] Three of the purchasers of tissue paper and crepe paper answered separately for these products, with one answering all the questions in the pricing section separately. *** answered specifically for crepe paper the questions on the importance of the 16 factors listed, most important three factors considered when deciding from whom to purchase, the factors that determine quality of the products, and substitutes. *** answered separately for some of the questions.

[8] All firms were requested to answer the questions in the pricing section separately for tissue paper and crepe paper if their answers differed between the products. However, most importers and purchasers did not provide separate answers for the products and it is not clear if this was because the answers were the same for the two products or if they only reported for the more important product, which typically would be tissue paper.

[9] Staff telephone interview with ***, December 14, 2004.

[10] Reported data on Chinese production capacity, production, capacity utilization, inventories, and exports of certain crepe paper products are shown in detail in Part VII of this report.

[11] Unless otherwise noted, information in this section is compiled from responses to Commission questionnaires and data are presented in Part III (U.S. industry) and Part VII (foreign industry) of this report.

[12] Staff telephone interview with ***, December 14, 2004.

for crepe paper. This firm purchased both tissue paper and crepe paper and did not record the product or name of the supplier.

Inventory Levels

U.S. producers' inventories of certain crepe paper products, as a ratio to total shipments, increased during the period for which data were collected. For certain crepe paper products, inventories as a ratio to total shipments increased from *** percent in 2001 to *** percent in 2003. These data indicate that U.S. producers have some ability to use inventories of certain crepe paper products as a source of increased shipments to the U.S. market. The utility of these inventories, however, depends on the specific type crepe paper required by the market.[13]

Export Markets

Exports represented a small share of the quantity of total shipments of certain crepe paper products, accounting for between *** and *** percent. These numbers suggest that U.S. producers have a limited ability to divert shipments to or from alternate markets in response to changes in the prices of certain crepe paper products.

Production Alternatives

Only one producer reported producing other products, in this case ***, on the same equipment used to produce certain crepe paper products.

U.S. Demand

Based on available information, certain crepe paper products are likely to experience at least moderate changes in overall demand in response to changes in price. The main factor contributing to this degree of price sensitivity is the existence of various substitute products for certain crepe paper products.

Demand Characteristics

Purchasers reported that crepe paper is used to decorate for special events. Seven purchasers of crepe paper reported demand had increased, two reported it had decreased, and eight reported it was unchanged. Importers and producers typically reported that demand for subject crepe paper had not changed since 2001; eight of 10 importers of crepe paper and two of three producers of crepe paper indicated that demand was unchanged. The other producer and one importer reported decreased demand.[14] The producer reported that crepe paper demand had fallen with the increased number of alternative decorations available.

Apparent U.S. consumption of certain crepe paper products decreased irregularly from 62.8 million square meters in 2001 to 61.2 million square meters in 2003. Demand for crepe paper does not tend to be seasonal.

[13] One U.S. producer reported that it was difficult to predict the colors of crepe paper that would be in demand, which could depend on a wide range of variables. Staff telephone interview with ***, December 14, 2004.

[14] The other importer did not report how demand for crepe paper had changed or why.

Substitute Products

Purchasers of crepe paper were asked to list the top three substitutes for the product. Four purchasers reported that no substitutes existed and ten reported that substitutes existed, although some of the substitutes they reported were for tissue paper rather than crepe paper. Substitutes reported for crepe paper included paper, foil, and tinsel garlands; cardboard jointed banners; plastic streamers; and balloons. Only two responding crepe paper purchasers reported that changes in the price of these substitutes had affected demand for crepe paper. One purchaser reported that there were an increasing number of substitutes for crepe paper streamers at similar or lower prices than crepe paper streamers and that the proliferation of these substitutes had caused the price of crepe paper to fall.[15]

*** of three responding U.S. producers and four of nine responding importers reported that there are no direct substitutes for certain crepe paper products. Several importers and *** reported that products such as banners, paper or foil garlands, mylar, and plastic streamers are possible substitutes.

Cost Share

Certain crepe paper products typically are sold as such to purchasers and usually are not used as an intermediate product in the production of another product.[16] Therefore, the issue of cost share is not relevant and these data were not requested in the questionnaire.

SUBSTITUTABILITY ISSUES

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase certain crepe paper products (table II-1). Quality was the factor most frequently reported as "most important," cited by six of the 17 responding crepe paper purchasers. Price was the second most frequently reported factor considered "most important." Fifteen purchasers cited price as one of the top three factors in selecting a crepe paper supplier and ten cited quality.

Purchasers were asked what factors determined the quality of certain crepe paper products. Factors mentioned by the purchasers of crepe paper included: strength, paper weight/thickness, consistency, proper length, proper cut, color, method of dye, water resistance, bleeding, color fade resistance, design, appearance, and packaging.

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest price material. Of the 14 responding firms, one always purchased the lowest priced material, nine usually purchased the lowest priced material, and four sometimes did. Purchasers were also asked if they purchased certain crepe paper products from one source although a comparable product was available at a lower price from another source. Eight purchasers responded affirmatively, reporting reasons for purchasing the more expensive product such as quality, color, packaging, availability, logistics, contract, delivery time, time required to evaluate alternative source, and contractual agreements.

[15] The other purchaser reported that "retails had been reduced."

[16] Some importers reported selling crepe paper streamers with other products in a party package.

Table II-1
Certain crepe paper products: Most important factors in selecting a supplier of crepe paper products, as reported by U.S. purchasers

Factor	First	Second	Third
Quality	6	3	1
Price	5	5	5
Reliability/ability to drop ship	2	1	4
Availability/delivery	1	2	2
Contract/trust	1	0	1
Style/design	0	2	0
Willing to ship small orders	0	1	1
Other [1]	2	1	2

[1] Other included: for first factor, one firm reported value of product must exceed or maintain industry standards and one firm reported provides an exclusive product; for second factor, one firm reported packaging; for third factor, one reported variety and one reported serviceability.

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

Purchasers were asked to rate the importance of 16 factors in their purchasing decisions (table II-2).[17] Fifteen out of 16 responding purchasers rated availability and reliability of supply as very important. Other factors frequently listed as very important by almost all purchasers were delivery time (14), quality meets industry standard (14), lower price (13), and product consistency (13).

Purchasers were asked for a country-by-country comparison on the same 16 factors (table II-3). Most crepe paper purchasers reported that U.S. and Chinese product were comparable in all but three factors. Nine of 11 purchasers reported that the U.S. product was superior in delivery time, 10 of 11 responding purchasers reported that the U.S. product was inferior in terms of lower price, while the responses for reliability of supply were mixed, with four of 11 responding purchasers reporting that U.S. product was superior five reporting that they were equally reliable suppliers, and two reporting Chinese supply was more reliable.

Purchasers were asked if certain types or sizes of certain crepe paper products were only available from a single source. All 14 responding purchasers reported that they were not.[18]

The degree of substitution between domestic and imported certain crepe paper products depends upon such factors as relative prices, quality, decoration, design sets, and conditions of sale. Based on available data, staff believes that there is a high degree of substitution between domestic certain crepe paper products and subject imports. Table II-4 summarizes responses by U.S. producers, importers, and purchasers regarding the perceived degree of interchangeability between certain crepe paper products produced in the United States and product imported from other countries. All the producers and most of

[17] The Commission noted in its *Views* in the preliminary phase of this investigation its intention to explore the issue of certain nonprice characteristics associated with imports of the subject merchandise from China by some purchasers. *See* *Certain Tissue Paper Products and Crepe Paper Products From China, Investigation No. 731-TA-1070 (Preliminary)*, USITC Publication 3682, April 2004, p. 18 n.138. Accordingly, Part II of this report presents the relative importance of a range of purchase factors and compares purchasers' views regarding U.S.- and Chinese-produced products.

[18] One other purchaser reported differences but this was for tissue.

Table II-2
Certain crepe paper products: Importance of purchase factors, as reported by purchasers of crepe paper

Factor	Very important	Somewhat important	Not important
Availability	15	1	0
Delivery terms	10	4	1
Delivery time	14	2	0
Discounts offered	5	7	3
Extension of credit	4	9	3
Lower price	13	2	0
Minimum quantity requirements	5	9	3
Packaging	9	5	1
Product consistency	13	3	0
Product range	5	10	1
Quality meets industry standards	14	2	0
Quality exceeds industry standards	4	10	2
Reliability of supply	15	1	0
Responsiveness to customers' product requests	9	5	2
Technical support/service	2	10	4
U.S. transportation costs	6	7	4
Other[1]	1	0	0

[1] Other factor was "complying with purchaser standards."

Note.–Not all companies gave responses for all factors. ***.

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

Table II-3
Certain crepe paper products: Comparisons of Chinese and U.S. product, as reported by purchasers of crepe paper[1]

Factor	U.S. vs Chinese		
	U.S. superior	Both comparable	U.S. inferior
Availability	3	8	0
Delivery terms	4	5	0
Delivery time	9	2	0
Discounts offered	1	7	2
Extension of credit	4	6	1
Lower price	1	0	10
Minimum quantity requirements	2	7	1
Packaging	2	7	2
Product consistency	3	8	0
Product range	0	8	3
Quality meets industry standards	1	10	0
Quality exceeds industry standards	2	8	1
Reliability of supply	4	5	2
Responsiveness to customers' product requests	3	6	1
Technical support/service	4	6	1
U.S. transportation costs	2	8	1

[1] One firm compared U.S. product with product from nonsubject countries and reported that they were comparable for all factors except the U.S. product was inferior on lower price, packaging, product range, quality exceeds industry standards, and responsiveness to customer's request. The same firm reported that Chinese and nonsubject product were comparable in all factors.

Note.–Not all companies gave responses for all factors.

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

Table II-4
Certain crepe paper products: U.S. producers', importers', and purchasers' perceived degree of interchangeability between crepe paper products produced in the United States and in other countries in sales of crepe paper products in the U.S. market

	Producers				Importers				Purchasers			
Country pair	**A**	**F**	**S**	**N**	**A**	**F**	**S**	**N**	**A**	**F**	**S**	**N**
U.S. vs. China	3	0	0	0	6	3	1	1	9	4	1	0
U.S. vs. nonsubject	1	0	0	0	2	1	0	0	2	1	0	0
China vs. nonsubject	1	0	0	0	2	1	0	0	2	1	0	0

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

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

the responding purchasers (9 of 14) reported that the U.S. and Chinese products were always interchangeable, while nine of the 11 responding importers reported that U.S. and Chinese product were either always or frequently interchangeable. Table II-5 summarizes U.S. producers' and importers' responses regarding the perceived importance of differences in factors other than price. While all U.S. producers reported that there were never differences other than price, eight of the 11 responding importers reported that there were sometimes or always differences other than price.

Table II-5
Certain crepe paper products: Perceived importance of differences in factors other than price between crepe paper products produced in the United States and in other countries in sales of crepe paper products in the U.S. market

	Producers				Importers			
Country pair	**A**	**F**	**S**	**N**	**A**	**F**	**S**	**N**
U.S. vs. China	0	0	0	3	2	0	6	3
U.S. vs. nonsubject	0	0	0	1	1	0	2	0
China vs. nonsubject	0	0	0	1	1	0	1	0

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

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

Purchasers were asked if they required certification or prequalification for certain crepe paper products. Eleven of the 16 crepe paper purchasers reported that they did not require certification/ prequalification. The remaining purchasers required certification/prequalification including factory visits, lab test, test for thickness and strength, test orders, supply validation of packaging and colors, ability to produce types of packages including color and pattern combinations, and ability of the producers to produce the amount required. Six purchasers reported qualification times for new suppliers ranging from one week to "several months."

Lead Times

Lead times typically depend on whether a product is in stock or not. Producers and importers were asked if they typically sold from inventories or produced to order. Importers were much more likely to sell from inventories than the U.S. producers. Five of the eight responding importers sold all their product from inventories, while no U.S. producer sold all from inventories. *** of the three responding U.S. producers and one importer sold most but not all of their product from inventories. The other *** and two importers produced mostly to order. Lead times for in-stock product ranged from *** for domestic producers with two of the three firms supplying within ***. Lead times for in-stock product from importers ranged from one to 90 days with seven of nine reporting lead times of a week or less. Lead times for material not in stock ranged from *** for U.S. producers, with two of the three responding firms reporting times of ***. For importers, lead times for material not in stock ranged from two to four months with two of three importers selling to order reporting lead times of two to three months.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were requested to provide comments on these estimates in their briefs. None suggested different elasticities for crepe paper.

U.S. Supply Elasticity[19]

The domestic supply elasticity for certain crepe paper products measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of certain crepe paper products. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced certain crepe paper products. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 6 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for certain crepe paper products measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain crepe paper products. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the certain crepe paper products in the production of any downstream products. Based on the available information, the aggregate demand elasticity for certain crepe paper products is likely to be in a range of -1.0 to -1.5.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[20] Product differentiation, in turn, depends upon such factors as quality (e.g., appearance, strength, etc.) and conditions of sale (availability, sales terms/discounts/promotions,

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[19] A supply function is not defined in the case of a non-competitive market.

[20] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

etc.). Staff estimates that the elasticity of substitution between U.S.-produced certain crepe paper products and imported certain crepe paper products is likely in the range of 3 to 5.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the final margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of three firms that accounted for nearly all of U.S. production of certain crepe paper products during 2003.[1]

U.S. PRODUCERS

Certain crepe paper is produced in the United States by integrated producers and by converters.[2] Of the four known fully operational U.S. producers of crepe paper (American Crepe, Cindus, Seaman, and Beistle), three reported information and data on their crepe paper operations to the Commission. Of these companies, Seaman also produces jumbo rolls of flat tissue paper, the basic raw material for certain crepe paper products. Table III-1 presents U.S. producers' plant locations, products produced, related companies, positions on the petition, and shares of total reported U.S. production in 2003.[3]

Although the fundamentals of manufacturing jumbo rolls of tissue paper remain essentially the same, the process is continually refined,[4] and paper mills have evolved into complex, technically sophisticated operations. Innovations, which may result from research conducted by industry associations, universities, paper firms, and/or equipment suppliers, are manifest by constructing new mills or upgrading existing ones.[5] Research is typically directed toward increasing production speed, improving process control, improving product quality, or reducing effluent.[6]

Likewise, printing and converting operations are increasingly sophisticated. Computers have revolutionized the design, plate-making, and printing processes;[7] Seaman's crepe paper printing operations, for example, include state-of-the-art laser plate making equipment and presses.[8] Converting operations are fundamentally simple but nonetheless generally are performed with purpose-built,

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[1] Beistle, which was unable to complete the entire questionnaire, produces certain crepe paper products and ***. The production and U.S. shipments of this producer are believed to account for a modest share of the U.S. market.

[2] *Petition*, p. 10 n.2. The conversion of jumbo rolls into crepe paper is estimated to generate *** percent value added. *Petitioners' Postconference Brief*, app. 1. Of the major producers of certain crepe paper products, Seaman is an integrated producer while Cindus and American Crepe are converters.

[3] Subsequent to the filing of the petition, Glitterwrap *** and reportedly began crepe paper production in September 2004. The company was issued a producers' questionnaire but provided no additional details on its new operation.

[4] U.S. International Trade Commission, *Industry & Trade Summary, Wood Pulp and Waste Paper*, USITC publication 3490, 2002, p. 11.

[5] For example, Seaman's paper mill, which dates to the early 20th century, is not state-of-the-art, but the speed of the paper machines has been increased by more than *** percent since the 1980s through upgrades to the head boxes and press sections. ***, interview by USITC Staff, ***, February 27, 2004.

[6] U.S. International Trade Commission, *Industry & Trade Summary, Wood Pulp and Waste Paper*, USITC publication 3490, 2002, p. 11.

[7] Richter, Jochen, "Flexo Printing Keeps Advancing," *Official Board Markets*, Vol. 79, No. 36, Sep. 6, 2003, p. 1, and USITC staff interviews with industry officials, Lynn, MA, March 14, 2001 and City of Industry, CA, May 15, 2002.

[8] ***, interview by USITC Staff, ***, February 27, 2004.

high-speed, automated equipment that is subjected to the same process of continual refinement.[9] The technical expertise required for printing and converting operations is reasonably high, although somewhat lower than that which is necessary to operate the paper mill.

Table III-1
Certain crepe paper products: U.S. producers, their positions on the petition, plant locations, ownership, number of products produced, and share of total reported U.S. production, 2003

Firm	Position on petition	Plant location(s)	Related companies	Number of products produced[1]	Share of total reported U.S. production (*in percent*)
American Crepe	Support/ Petitioner	Montoursville, PA	None	5	***
Beistle[2]	***	Shippensburg, PA	None	26	***
Cindus[3]	Support	Cincinnati, OH	None	2	***
Seaman	Support/ Petitioner	Otter River, MA Gardner, MA	MBW Inc.; Specialized Paper Converting, Inc.; Garlock Printing & Converting Inc.	407	***

[1] The number of distinct products is based on differences in the number and/or size of product in the package and/or the combination of different colors and/or patterns.
[2] ***.
[3] ***. The reason the company decided to ***.

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

Petitioners

Two petitioners, American Crepe and Seaman, produce certain crepe paper products. American Crepe produces crepe paper under its own label and for other paper product distributors both in the United States and internationally.[10]

Seaman is a privately owned paper manufacturer. The mill was originally purchased by Seaman Paper Company of Chicago in November 1945. In 1994, Seaman purchased the decorative crepe tissue division of Avery Dennison and formed Dennecrepe Corporation. Currently Dennecrepe operates four creping machines and seven crepe packaging lines in an 80,000 square foot facility in Gardner, MA. The remaining petitioners do not produce certain crepe paper products.[11]

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[9] ***, interview by USITC Staff, ***, February 27, 2004.

[10] Retrieved from American Crepe's website *http://www.americancrepe.com*.

[11] Other petitioners include Eagle, Flower City, Garlock, Paper Service, and Putney, all of which produce flat tissue paper products.

Non-Petitioning Firms

Beistle is reportedly the oldest and largest manufacturer of decorations and party goods, with more than 3,000 items in its product line. Beistle *** crepe rolls in three lengths, 30, 85, and 500 feet.[12] The firm also performs custom manufacturing for "in-store P-O-P displays," as well as private label manufacturing.[13]

Cindus, located in Cincinnati, OH, is a paper converting company that has been in operation since 1923. The firm's primary product line is crepe paper, and it manufactures both subject crepe paper and industrial crepe paper that is not within the scope of this investigation.[14]

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

Table III-2 presents U.S. production capacity, production, and capacity utilization for certain crepe paper products during 2001-03, January-September 2003, and January-September 2004. U.S. capacity was stable until 2004 when *** idled *** of its capacity. U.S. production declined by nearly *** between 2001 and 2003 and was lower in interim 2004 than in interim 2003. ***'s production level fell by more than *** between 2001 and 2003, and ***'s production level in interim 2004 was approximately *** of its production level in interim 2003. The domestic industry's capacity utilization decreased in each successive period (annual and interim) relative to the comparable prior period.

Table III-2
Certain crepe paper products: U.S. production capacity, production, and capacity utilization, 2001-03, January-September 2003, and January-September 2004

* * * * * * *

Table III-3 presents U.S. domestic shipments and exports of certain crepe paper products during 2001-03, January-September 2003, and January-September 2004. Both the quantity and value of U.S. shipments and exports of crepe paper by the domestic industry decreased in each successive period (annual and interim) relative to the comparable prior period. All three responding U.S. producers reported ***. The decline in shipments between 2001 and 2002 was primarily a reflection of diminished sales by ***,[15] while the decline in 2003 and January-September 2004 primarily reflected reduced sales by ***.[16]

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[12] Beistle did not ***.

[13] Retrieved from Beistle's website *http://www.beistle.com/*. E-mail from ***.

[14] Retrieved from Cindus' website *http://www.cindus.com/*.

[15] ***'s crepe paper volume declined from 2001 on. In response to Staff's questions, *** suggested that the decline was linked to intense marketing of crepe paper from China beginning *** in 1999 or 2000 when a number of customers were approached. *** reported that it experienced *** volume loss in 2002 as *** shifted distributor sales away from *** in favor of new supply alternatives. This trend continued in 2003, as *** began to lose other distributor sales *** as well as retail sales, as those same distributors began to sell to retail accounts that had formerly looked to ***. ***, telephone interview by USITC Staff, December 15, 2004.

[16] *** reported that it lost its business to *** because *** was evaluating its crepe program and was considering importing. *** further reported that it lost its business from ***. Finally, *** indicated that *** ordered all of its crepe paper requirements for *** from China.

Table III-3
Certain crepe paper products: U.S. producers' shipments, by type, 2001-03, January-September 2003, and January-September 2004

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Table III-4 presents end-of-period inventories for certain crepe paper products during the period for which data were collected. Although the absolute levels of inventories held did not fluctuate greatly, inventories increased continuously as a ratio to production and shipments.

Table III-4
Certain crepe paper products: U.S. producers' end-of-period inventories, 2001-03, January-September 2003, and January-September 2004

* * * * * * *

U.S. PRODUCERS' EMPLOYMENT, COMPENSATION, AND PRODUCTIVITY

Tables III-5 presents employment-related data for certain crepe paper products during the period for which data were collected. Both the number of workers and the hours worked in the production of crepe paper decreased in each successive period (annual and interim) relative to the comparable prior period, and *** reported decreasing employment.[17] However, *** indicated *** that it was experiencing a shortage of workers for its crepe paper operations. Wage rates increased between 2001 and 2003 but were lower in the interim 2004 than in interim 2003. Productivity fluctuated with a generally downward trend, while unit labor costs increased throughout the period for which data were collected.

Table III-5
Certain crepe paper products: U.S. producers' employment-related data, 2001-03, January-September 2003, and January-September 2004

* * * * * * *

[17] For example, according to ***'s preliminary questionnaire response, ***.

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

The Commission sent questionnaires to 189 firms identified by the petition and a review of Customs data for all HTS items included in Commerce's scope descriptions for tissue paper and crepe paper. The Commission received usable data on imports of certain crepe paper products from 13 firms, including all companies that provided usable data to the Commission in the preliminary phase of the investigation.[1] Of those firms, six were importing subject crepe paper from China in 2001. Two firms began importing crepe paper from China in 2002 and five began importing in 2003. Table IV-1 presents information on the importing firms that responded to the Commission's importers' questionnaire.[2]

U.S. IMPORTS

Data in this section regarding the quantity and value of U.S. imports of certain crepe paper products are based on questionnaire responses and are presented in table IV-2. *** accounted for more than *** of reported subject imports of crepe paper products in 2003. *** accounted for a substantial portion of the growth in crepe paper imports in 2002, as did *** in 2003 and *** in 2004. No imports of subject crepe paper from other countries were reported.[3]

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Tables IV-3 and IV-4 present U.S. producers' U.S. shipments, U.S. shipments of imports, apparent U.S. consumption, and market shares. Apparent U.S. consumption of crepe paper, whether measured by quantity or by value, increased between 2001 and 2002, declined in 2003, but was higher in interim 2004 than in interim 2003. U.S. shipments of domestically produced crepe paper decreased throughout the period, while U.S. shipments of crepe paper from China increased, resulting in a *** shift in market shares over the period for which data were collected.

The ratio of U.S. imports to U.S. production of certain crepe paper was *** percent in 2001, *** percent in 2002, and *** percent in 2003. During interim 2003 the ratio of imports to production was *** percent; by interim 2004 the ratio reached *** percent.

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[1] Coverage estimates are complicated because the HTS categories identified in Commerce's scope contain tissue paper products as well as other products not subject to the investigation on crepe paper. Nonetheless, staff believe that the data collected by the Commission through its questionnaires cover all known major importers of crepe paper.

[2] Subsequent to the filing of the petition, Glitterwrap *** and reportedly began crepe paper production in September 2004. This firm was a party to the investigation until November 19, 2004.

[3] One firm, ***, initially reported minor volumes of ***. The product ***. The firm indicated that it was a ***. *** imported the product ***. The width of the paper was ***. Unlike conventional crepe paper, the crepes ***.

Table IV-1
Certain crepe paper products: Selected importer questionnaire respondents, sources of imports, number of products imported, and share of imports, 2003

Firm	Source	Number of products	Share of reported U.S. imports from China in 2003 (*in percent*)
***	China	18	***
***	China	([2])	***
***	China	1	***
***	China	2	***
***	China	207	***
***	China	1	***
***	China	1	***
***	China	([2])	***
***	China	([2])	***
***	China	([2])	***
***	China	35	***
***	China	15	***
***	China	24	***
***	China	3	***

[1] Former, current, or prospective domestic producer of crepe paper.
[2] Company did not provide the information requested.

Note: Number of products refers to the number of different varieties of crepe paper imported by a U.S. importer in 2003.

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

Table IV-2
Certain crepe paper products: U.S. imports, by sources, 2001-03, January-September 2003, and January-September 2004

Source	Calendar year			January-September	
	2001	2002	2003	2003	2004
	Quantity (*1,000 square meters*)				
China	3,819	12,156	20,769	14,962	25,816
Other sources	0	0	0	0	0
Total	3,819	12,156	20,769	14,962	25,816
	Value (*1,000 dollars*)				
China	449	1,414	2,278	1,636	3,028
Other sources	0	0	0	0	0
Total	449	1,414	2,278	1,636	3,028
	Unit value (*per 1,000 square meters*)				
China	$117.64	$116.34	$109.68	$109.33	$117.31
Other sources	([1])	([1])	([1])	([1])	([1])
Average	117.64	116.34	109.68	109.33	117.31
	Share of quantity (*percent*)				
China	100.0	100.0	100.0	100.0	100.0
Other sources	0.0	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)				
China	100.0	100.0	100.0	100.0	100.0
Other sources	0.0	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

Note.–Because of rounding, figures may not add to the totals shown.

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

Table IV-3
Certain crepe paper products: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 2001-03, January-September 2003, and January-September 2004

Item	Calendar year			January-September	
	2001	2002	2003	2003	2004
	Quantity (*1,000 square meters*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	0	0	0	0	0
All countries	***	***	***	***	***
Apparent U.S. consumption	62,832	67,535	61,203	46,481	49,604
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports[1] from--					
China	***	***	***	***	***
Nonsubject countries	0	0	0	0	0
All countries	***	***	***	***	***
Apparent U.S. consumption	11,274	12,385	11,047	8,547	8,900

[1] Landed, duty paid.

Note.–Because of rounding, figures may not add to the totals shown.

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

Table IV-4
Certain crepe paper products: Apparent U.S. consumption and market shares, 2001-03, January-September 2003, and January-September 2004

Item	Calendar year			January-September	
	2001	2002	2003	2003	2004
	Quantity (*1,000 square meters*)				
Apparent U.S. consumption	62,832	67,535	61,203	46,481	49,604
	Value (*1,000 dollars*)				
Apparent U.S. consumption	11,274	12,385	11,047	8,547	8,900
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
All countries	***	***	***	***	***
	Share of value (*percent*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
All countries	***	***	***	***	***

Note.–Because of rounding, figures may not add to the totals shown.

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

CRITICAL CIRCUMSTANCES

In its final determination regarding certain crepe paper from China, Commerce made an affirmative critical circumstance determination with respect to all imports of crepe paper products from China.[4] If the Commission makes a final affirmative determination in this investigation, the Commission must further consider "whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[5]

The statute provides that in making a finding with respect to critical circumstances, the Commission shall consider, among other factors it considers relevant:

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[4] *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper From the People's Republic of China*, 69 FR 70233 (December 3, 2004).

[5] The statutory provision on critical circumstances instructs the Commission, should Commerce find critical circumstances under 19 U.S.C. § 1673d(a)(3), to include in its final determination "a finding as to whether the imports subject to the affirmative determination under subsection (a)(3) of this section are likely to undermine seriously the remedial effect of the antidumping duty order to be issued under section 1673e of this title." 19 U.S.C. § 1673d(b)(4)(A)(i).

(I) the timing and the volume of the imports,
(II) a rapid increase in inventories of the imports, and
(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[6]

Relevant data regarding the timing and volume of imports are presented below. Data regarding inventories of imports appear in Part VII of this report. Other circumstances bearing on the remedial effect of any antidumping duty order - namely prices - are discussed in Part V of this report.

Petitioners filed the petition that led to the initiation of this investigation on February 17, 2004. Accordingly, the tabulation below provides subject import data for the period September 2003 through August 2004 (in thousands of square meters).

Product	09/03 - 11/03	12/03 - 02/04	03/04 - 05/04	06/04 - 08/04
Crepe paper	6,255	7,715	7,484	8,599

For crepe paper, comparing the three-month period December 2003 - February 2004 with the three-month period March 2004 - May 2004, subject imports decreased from 7.7 million square meters to 7.5 million square meters, or by 3.0 percent. However, comparing the six-month period September 2003 -February 2004 with the six-month period March 2004 - August 2004, subject imports increased from 14.0 million square meters to 16.1 million square meters, or by 15.1 percent. The highest monthly volume during this 12-month period was in January 2004 (3.8 million square meters), followed in descending order by July (3.2 million square meters), April (3.1 million square meters), and June 2004 (3.1 million square meters).

[6] 19 U.S.C. § 1673d(b)(4)(A)(ii).

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

U.S. Inland Transportation

Transportation costs of certain crepe paper products for delivery within the United States vary from firm to firm but tend to account for a relatively small percentage of the total cost of the product. U.S. producers *** reported that transportation costs accounted for *** percent and *** percent, respectively, of the total cost of certain crepe paper products. Five importers reported transportation costs that ranged from less than 2.5 percent to 12.5 percent of the total cost of the product, with three of these firms reporting costs between 2.5 and 5 percent.[1]

Crepe paper products frequently are shipped over relatively long distances, though the importers typically shipped shorter distances than the U.S. producers. Crepe paper producers reported shipping between *** percent of their product within 100 miles of their facilities, *** percent from 101 to 1,000 miles of their facility, and *** percent more than 1,000 miles. Among importers, one of nine shipped half its crepe paper 100 miles or less, with the other eight shipping 20 percent or less. Six importers shipped half or more of their products from 101 to 1,000 miles of their facilities. One importer reported shipping most its product more than 1,000 miles.

Exchange Rates

The nominal value of the Chinese yuan relative to the U.S. dollar has remained virtually unchanged since the first quarter of 1997 at 8.28 yuan per dollar. Producer price data for China are not available; therefore, real exchange rates cannot be calculated.

PRICING PRACTICES

Pricing Methods

Questionnaire responses reveal that most U.S. producers and importers of certain crepe paper products in the United States determine prices on a transaction-by-transaction basis based on current market conditions, with some firms reporting contracts for multiple shipments and the use of set price lists. Some importers, ***, are themselves retailers.

Most selling is done on a spot basis rather than using a contract. Among U.S. producers, ***.

All seven responding importers reported typically selling on a spot basis. Four importers reported using contracts, although they reported selling at most 10 percent using contracts.[2] One importer reported contracts were for a year and three reported contracts of less than six months. All four responding importers reported that contracts fixed price (three reported that they also fixed quantities).

Sales Terms and Discounts

U.S. producers and importers reported that payment typically is required within 30 days and that prices typically are quoted on an f.o.b. warehouse or delivered basis. The majority of responding firms

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[1] Two importers misunderstood the question and reported 100 percent; these have been excluded from the totals.

[2] In an earlier question, however, only two of these reported that they sold product using contracts; the other two reported selling exclusively using spot sales.

reported that they did not provide discounts. Quantity discounts were provided by *** and one importer, with three other importers reporting discounts on a case-by-case basis.

Internet Reverse Auctions

No producer, importer, or purchaser reported selling or purchasing crepe paper products using internet reverse auctions.[3]

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and value of sales of one crepe paper product to unrelated U.S. customers. Importers that sell to consumers were asked to report the quantity and value of their purchases of the product.[4] These data were used to determine the weighted-average price in each quarter. Data were requested for the period January 2001 through September 2004 for "crepe paper in streamers, 1.75-2.00" width x 81 feet."

As discussed in section II, certain distributors of U.S.-produced crepe paper products shifted toward importation while continuing to act as distributors.[5] U.S. producers' shipments of crepe paper to distributors declined throughout the period for which data were collected. Shipments by U.S. importers to retailers likewise grew noticeably, while shipments to distributors remained a very small portion of U.S. importers' total crepe paper shipments.

The petitioners requested that the Commission consider the pricing data from the preliminary phase of this investigation (2001-03), arguing that these data were more accurate.[6] Staff notes, however, that the pricing data gathered in the final phase of this investigation are largely complete and correct at least two instances of non-trivial misreporting in the preliminary phase of the investigation.[7]

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[3] In an internet reverse auction, potential suppliers bid against each other, reducing the price, for the opportunity to sell an order to a purchaser. The purchaser may limit the firms bidding and the auction can be for a single product or a range of products.

[4] The Commission noted in its *Views* in the preliminary phase of this investigation its intention to explore further prices of product imported directly by retailers. *See Certain Tissue Paper Products and Crepe Paper Products From China, Investigation No. 731-TA-1070 (Preliminary)*, USITC Publication 3682, April 2004, pp. 18 and 22-23, nn.132 and 166. Accordingly, Part V of this report includes data for direct imports by retailers for the same pricing items for which U.S. producers and nonretail importers reported selling prices.

[5] *** and *** provided the net value of their landed, duty-paid imports. These data appear in appendix D.

[6] Petitioners' posthearing brief, p. 4.

[7] *** provided its purchase prices in the preliminary phase of this investigation rather than its selling prices. *** revised its data in the final phase of this investigation to exclude ***.

Price Comparisons

Data on prices and quantities of the requested pricing item are presented in table V-1, and prices are presented in figure V-1. Table V-2 summarizes the pricing data and table V-3 summarizes the data on margins of underselling and overselling. In 2003, crepe paper sales price data accounted for *** percent of U.S. producers' shipments and *** percent of shipments of imports from China; purchase price data accounted for *** percent of shipments of imports from China.[8] [9]

LOST SALES AND LOST REVENUE

The petitioners provided information on *** lost sales and lost revenue allegations for certain crepe paper products. The investigated lost revenue allegations total $*** and the investigated lost sales allegations total $***.[10] A summary of the information obtained is shown in tables V-4 and V-5.[11] Additional comments are presented in the text that follows.

***

***[12]

***[13]

***.

Purchasers responding to lost sales and lost revenue allegations also were asked whether they shifted their purchases of certain crepe paper products from U.S. producers to suppliers of such products from China. In addition, they were asked whether U.S. producers reduced their prices in order to compete with suppliers of Chinese imports. Purchasers' responses to these questions are shown in table V-6. Four of the five purchasers reported that since January 2001 they shifted purchases from U.S. producers to Chinese imports. Two of these reported that price was the reason for the shift. Two purchasers stated that since January 2001 U.S. producers reduced their prices in order to compete with prices of Chinese imports.

[8] In their posthearing brief, the petitioners report that the price data from *** were *** and caused the overall prices charged by the importers to be ***. Petitioners' posthearing brief, pp. 5-7. ***.

[9] ***.

[10] The complete list of lost sales and lost revenue allegations is provided in exh. 35 of the petition.

[11] In addition, staff received a response from ***, which reported that it did not have the information to respond to the allegations. *** did not provide a purchaser questionnaire.

[12] Actual purchase price data for *** appear in appendix D.

[13] Actual purchase price data for *** appear in appendix D.

Table V-1
Certain crepe paper products: Weighted-average f.o.b. prices and quantities of domestic and imported crepe paper streamers[1] and margins of underselling/(overselling), by quarters, January 2001-September 2004

Period	Sales					Purchases[2]	
	United States		China[3]			China	
	Price (*per streamer*)	Quantity (*1,000 streamers*)	Price (*per streamer*)	Quantity (*1,000 streamers*)	Margin (*percent*)	Price (*per streamer*)	Quantity (*1,000 streamers*)
2001: Jan.-Mar.	$0.19	4,460	$***	***	***	$***	***
Apr.-June	0.21	5,164	***	***	***	-	-
July-Sept.	0.19	5,694	***	***	***	***	***
Oct.-Dec.	0.18	4,943	***	***	***	***	***
2002: Jan.-Mar.	0.20	4,342	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2003: Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	0.23	2,067	***	***	***
2004: Jan.-Mar.	***	***	0.23	3,114	***	***	***
Apr.-June	***	***	0.23	3,248	***	***	***
July-Sept.	***	***	0.23	3,496	***	***	***

[1] Crepe paper, streamers, 1.75-2.00" width x 81 feet.
[2] These data represent purchase prices paid by retail firms that import crepe paper for resale to consumers (i.e. direct importers).
[3] The quantity and value data from *** have been excluded from these numbers. *** data were excluded because its prices ranged from $*** per streamer to $*** per streamer. This indicated that either the data were in error or the product which the data were reported was not the crepe paper streamers requested. If the quantities it reported are correct, the exclusion of this small supplier from the pricing data should have little impact on the average prices. ***.

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

Figure V-1
Certain crepe paper products: Weighted-average f.o.b. sales prices of domestic and imported crepe paper streamers, by quarters, January 2001-September 2004

* * * * * * *

Table V-2
Certain crepe paper products: Summary of weighted-average f.o.b. prices for crepe paper streamers, by countries

Country	Number of quarters	Highest price	Lowest price	Change in price
		Per streamer	*Per streamer*	*Percent*
United States	15	***	***	***
China- sales	15	***	***	***
China- purchases	14	***	***	***

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

Table V-3
Certain crepe paper products: Summary of underselling/overselling

Country/period	Number of quarters of underselling	Number of quarters of overselling	Simple average margin of underselling/ (overselling)	Weighted average margin of underselling/ (overselling)[1]
China:				
2001	0	4	***	***
2002	0	4	***	***
2003	0	4	***	***
Jan.-Sept. 2004	0	3	***	***
Total	0	15	***	***

[1] Margins are weighted by the volume of sales by importers.

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

Table V-4
Certain crepe paper products: Lost revenue allegations

* * * * * * *

Table V-5
Certain crepe paper products: Lost sales allegations

* * * * * * *

Table V-6
Certain crepe paper products: Purchaser responses

* * * * * * *

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

OPERATIONS ON CERTAIN CREPE PAPER PRODUCTS

Three U.S. producers[1] supplied financial data on their operations on certain crepe paper products. These data account for virtually all reported U.S. production of certain crepe paper products in 2003.

Income-and-loss data for the U.S. producers on their certain crepe paper products operations are presented in table VI-1. Selected financial data, by firm, are presented in table VI-2. The domestic industry's aggregate operating income decreased from *** in 2001 to *** in 2002 and decreased further to a negative *** in 2003. The aggregate operating loss was *** in January-September 2004 compared to an operating loss of *** in January-September 2003. The aggregate operating income margin declined from *** percent in 2001 to *** percent in 2002 and then turned into an operating loss margin of *** percent in 2003. The aggregate operating loss margin was *** percent in January-September 2004 compared to an operating loss margin of *** percent in January-September 2003.

The quantity of net sales increased by *** percent from 2001 to 2002 but then decreased by *** percent from 2002 to 2003. From 2001 to 2002, on a unit basis, average selling price declined by slightly more than the decline in average cost of goods sold, resulting in a *** lower gross profit; when combined with the increase in selling, general, and administrative ("SG&A") expenses, operating income declined. From 2002 to 2003, again on a unit basis, average selling price decreased while the average cost of goods sold increased, resulting in a lower gross profit; when combined with the increase in SG&A expenses (because of lower volume), the result was an operating loss. From January-September 2003 to January-September 2004, the quantity of net sales declined by *** percent; on a unit basis, cost of goods sold and SG&A expenses together rose by more than the increase in the average selling price, resulting in an increase in operating loss.

Table VI-1
Results of operations of U.S. producers in the production of certain crepe paper products, fiscal years 2001-03, January-September 2003, and January-September 2004

*   *   *   *   *   *   *

Table VI-2
Results of operations of U.S. producers in the production of certain crepe paper products, by firm, fiscal years 2001-03, January-September 2003, and January-September 2004

*   *   *   *   *   *   *

Two firms reported operating losses in 2003, compared with none in 2001 and 2002. Two firms reported operating losses in January-September 2003 and in January-September 2004. With one exception, operating income/loss performances *** in each successive period (annual or interim) relative to the comparable prior period.

A variance analysis for the three U.S. producers of certain crepe paper products is presented in table VI-3. The information for this variance analysis is derived from table VI-1. There were no transfers to related firms or internal consumption. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. The analysis shows that the decrease in operating income from 2001 to 2003 is attributable to the ***. The increase in operating loss from January-September 2003 to January-September 2004 is attributable to the *** and a ***.

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[1] U.S. producers and their fiscal year ends are American Crepe (December 31), Cindus (December 31), and Seaman (June 30).

Table VI-3
Variance analysis for the certain crepe paper products operations of U.S. producers, fiscal years 2001-03, January-September 2003, and January-September 2004

*　　*　　*　　*　　*　　*　　*

Capital Expenditures and Research and Development Expenses

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table VI-4. Capital expenditures declined from *** in 2001 to *** in 2003. Capital expenditures were *** in January-September 2004 compared to *** in January-September 2003. None of the firms reported R&D expenses.

Table VI-4
Capital expenditures and research and development expenses of U.S. producers of certain crepe paper products, fiscal years 2001-03, January-September 2003, and January-September 2004

*　　*　　*　　*　　*　　*　　*

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of certain crepe paper products to compute return on investment ("ROI"). Although ROI can be computed in many different ways, a commonly used method is income divided by total assets. Therefore, ROI is calculated as operating income divided by total assets used in the production, warehousing, and sale of certain crepe paper products.

Data on the U.S. certain crepe paper products producers' total assets and their ROI are presented in table VI-5. The total assets utilized in the production, warehousing, and sales of certain crepe paper products decreased from *** in 2001 to *** in 2003. The ROI declined from *** percent in 2001 to *** percent in 2002 and then turned into negative *** percent in 2003. The trend of ROI was the same as the trend of the operating income margin in table VI-1 during the reporting period.

Table VI-5
Value of assets and return on investment of U.S. producers in the production of certain crepe paper products, fiscal years 2001-03

*　　*　　*　　*　　*　　*　　*

In order to put the foregoing data into some historical perspective, table VI-6 computes the ROI for North American Industry Classification System ("NAICS") code 322299, based upon data contained in the Risk Management Association's ("RMA") *Annual Statement Studies.* Exact comparisons between the questionnaire data and RMA data are not recommended due to several reasons.

RMA defines NAICS code 322299 as "(t)his U.S. industry comprises establishments primarily engaged in converting paper or paperboard into products (except containers, bags, coated and treated egg cartons, food trays, and other food containers from molded pulp." This code includes Standard Industrial Classification ("SIC") codes 2675 and 2679. RMA started reporting data on NAICS code 322299 for April 1, 2002 to March 31, 2003. Data for earlier periods are reported on SIC code 2679 only. Thus, whereas the questionnaire data strictly relate to certain crepe paper products, the RMA data include data on the broad range of converting paper product manufacturing or converting pulp into pulp products and, therefore, may not be comparable.

Table VI-6
Risk Management Association data on the number of firms and their sales, assets, operating income margins, and return on investment on operations for NAICS 322299 (all other converted paper product manufacturing) for 7 one-year periods ending March 31, 1997 to March 31, 2003

Period	Number of companies	Sales value (*$1,000*)	Asset value (*$1,000*)	Operating margin (*percent*)	ROI[1] (*percent*)
4/1/96 - 3/31/97	61	1,499,124	798,847	6.5	12.2
4/1/97 - 3/31/98	55	1,208,804	579,902	6.6	13.8
4/1/98 - 3/31/99	72	1,673,560	954,225	5.0	8.8
4/1/99 - 3/31/00	72	1,707,790	985,489	4.8	8.3
4/1/00 - 3/31/01	66	1,988,404	991,789	3.9	7.8
4/1/01 - 3/31/02	94	2,827,354	1,494,352	4.0	7.6
4/1/02 - 3/31/03	85	2,856,781	1,529,879	4.6	8.6

[1] ROI was calculated using RMA data.

Moreover, the questionnaire data for 2003 represent data of only three companies with $*** in sales and $*** in assets whereas the RMA data for the 12-month period ending March 31, 2003, consist of data from 85 companies with $2.9 billion in sales and $1.5 billion in assets. Thus, the questionnaire data represent less than *** percent of the RMA data.

Finally, since the Commission is not privy to the names of companies that provided data to RMA, it is not known whether any of the domestic producers provided data to RMA. Thus, the questionnaire data may not be a subset of the RMA data at all. Accordingly, while the historical RMA data might prove useful to put the certain crepe paper products data into some historical context, they cannot be used to make absolute comparisons.

Capital and Investment

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

PART VII: THREAT CONSIDERATIONS

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

The Commission sent foreign producer questionnaires to 78 firms identified in the petition and internet searches as possible manufacturers or exporters of tissue paper or crepe paper. Two producers (Guilen Quifeng Paper Co., Ltd., and Max Fortune Industrial, Ltd.) completed and returned the Commission's questionnaire for their production operations in China, as did one exporter (Constant China Import Export, Ltd.) for its trading operations. The remainder did not respond to the Commission's questionnaires in the final phase of the investigation.[1] Only one of the responding foreign producers, ***, reported production of certain crepe paper products in the final phase of this investigation.

BACKGROUND

There are more than 4,000 paper mills in China,[2] of which approximately 750 produce tissue paper (broadly defined).[3] China's tissue industry is growing to meet the expanding per capita consumption of tissue products in China,[4] and in 2002, China produced approximately 3 million metric tons of tissue paper.[5] As in the United States, the vast majority of tissue production in China is dry-creped tissue for sanitary and household purposes. Reportedly, existing tissue paper machines in China are typically 62 to 69 inches wide, which is considered small by industry standards.[6] It is expected that smaller mills will be displaced from the sanitary and household tissue markets[7] as new mills are constructed[8] and will provide an abundant supply of flat tissue paper rolls that are the primary raw material for certain crepe paper products.

Chinese tissue paper mills may use wood pulp or recycled fiber to manufacture rolls of flat tissue paper.[9] The Chinese paper machines (whether fourdriniers or cylinder machines) currently engaged in the manufacture of flat tissue paper are reported to be slower and narrower (40 to 60 inches wide) than Chinese machines that manufacture sanitary tissue paper and U.S. machines that manufacture flat tissue

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[1] Staff contacted counsel on behalf of certain Chinese producers, Hunton & Williams, who indicated that they no longer represented any party in the ITC proceeding. E-mail from ***, November 9, 2004. Subsequently, on December 8, 2004, Hunton & Williams withdrew its appearance request.

[2] Rodden, Graeme, "Chinese Board Set to Boom," *Pulp & Paper International*, Vol. 45, no. 7 (Jul. 2003), p. 30.

[3] Rooks, Alan, "Tissue: Hitting Them High and Low," *Solutions!*, Vol. 87, no. 3 (March 2004), p. 28.

[4] Oinonen, Hannu and Esko Uutela, "Chinese Tissue Industry Handles Domestic Demand, Targets Exports," *Solutions!*, Vol. 87, no. 3 (March 2004), p. 30.

[5] Pulp & Paper International 2003 Annual Review.

[6] Oinonen, Hannu and Esko Uutela, "Chinese Tissue Industry Handles Domestic Demand, Targets Exports," *Solutions!*, Vol. 87, no. 3 (March 2004), p. 30.

[7] Rodden, Graeme, "Chinese Board Set to Boom," *Pulp & Paper International*, Vol. 45, no. 7 (July 2003), p. 30.

[8] Oinonen, Hannu and Esko Uutela, "Chinese Tissue Industry Handles Domestic Demand, Targets Exports," *Solutions!*, Vol. 87, no. 3 (March 2004), p. 30.

[9] *Conference Transcript*, testimony of Robert Moreland, president, City Paper, p. 186.

paper.[10] [11] Reportedly, the color of American-made crepe paper is generally brighter and more consistent than the color of Chinese paper, and American crepe paper is typically made using paper weighing 17 grams per square meter as opposed to Chinese crepe paper which is made using 14 grams per square meter.[12] A major U.S. importer of crepe paper from China testified that the crimping of Chinese crepe paper was not as consistent as U.S. crepe paper because Chinese manufacturers use an embossing process rather than a creping process as described in Part I.[13]

THE INDUSTRY IN CHINA

As indicated at the beginning of Part VII, few of the known producers in China responded to the Commission's request for information. Accordingly, foreign industry data presented in this section are from the preliminary phase of the Commission's investigation. Chinese crepe paper manufacturers' and exporters' capacity, production, inventories, and shipments during 2001-03, as well as their projections for 2004-05, are presented in table VII-1.[14] One firm reported producing certain crepe paper products in China in 2001, three in 2002, and three in 2003. No firms reported producing products other than crepe paper on the same production lines used to produce the subject merchandise. No firm indicated an intention to increase or decrease capacity in 2004-05. Capacity projections show a slight decrease from 2003 to 2004 because one firm, ***, reported that it "***."

U.S. IMPORTERS' INVENTORIES

Table VII-2 presents data on U.S. importers' end-of-period inventories of imported certain crepe paper products from China. U.S. importers' reported stocks of crepe paper from China increased throughout the period for which data were collected. The increase in the quantity of such inventories largely reflects increased holdings by *** in 2002, by *** in 2003, and by *** in January-September 2004. *** was unable to provide inventory data. Relative to U.S. imports and U.S. shipments of imports, reported aggregate inventories of imported crepe paper declined throughout the period for which data were collected.

U.S. IMPORTERS' CURRENT ORDERS

Four U.S. importers of certain crepe paper products reported that they had imports scheduled for delivery after September 2004.

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known antidumping duty orders on certain crepe paper products from China in third-country markets.

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[10] *Petition*, Exh. 5.

[11] The petitioners noted their direct experience with Chinese cylinder machines. *Petition*, Exh. 5.

[12] *Conference Transcript*, testimony of Alfred Scott, CEO, Glitterwrap, p. 151.

[13] *Conference Transcript*, testimony of Alfred Scott, CEO, Glitterwrap, p. 151.

[14] Reported exports to the United States are noticeably smaller than U.S. imports presented in table IV-2, which indicates that reported foreign industry data are a subset of actual foreign industry data.

Table VII-1
Certain crepe paper products: Chinese production capacity, production, shipments, and inventories, 2001-03 and projected 2004-05

* * * * * * *

Table VII-2
Certain crepe paper products: U.S. importers' end-of-period inventories of imports, 2001-03, January-September 2003, and January-September 2004

Source	Calendar year			January-September	
	2001	2002	2003	2003	2004
Imports from China:					
Inventories (*1,000 square meters*)	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from all other sources:					
Inventories (*1,000 square meters*)	0	0	0	0	0
Ratio to imports (*percent*)	0	0	0	0	0
Ratio to U.S. shipments of imports (*percent*)	0	0	0	0	0
Imports from all sources:					
Inventories (*1,000 square meters*)	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***

Note.–Because of rounding, figures may not add to the totals shown.

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

APPENDIX A

FEDERAL REGISTER NOTICES

of U.S. Patent No. 5,713,292 (the '292 patent); and claims 16, 19, 35 and 38 of U.S. Patent No. 6,0079,343 (the '343 patent). The complaint names as respondents Esquel Apparel, Inc. and Esquel Enterprises Limited (collectively ''Esquel.'')

On September 1, 2004, TAL filed a motion to amend the complaint and notice of institution to correct the list of asserted claims as follows: (1) For the '779 patent, claims 1, 4, 20 and 23 are being asserted, while claim 22 is not being asserted; (2) for the '615 patent, claims 1, 11, 19 and 27 are being asserted, while claim 26 is not being asserted; (3) for the '292 patent, claims 1, 3, 13 and 15 are being asserted, while claim 16 is not being asserted; and (4) for the '343 patent, claims 16, 19, 35 and 37 are being asserted, while claim 38 is not being asserted. TAL also moved to amend the complaint to assert claims 39, 41, 49 and 51 of an additional related patent, U.S. Patent No. 5,775,394 (the '394 patent.)

The Commission investigative attorney supported the motion to amend the complaint in all respects. Esquel did not oppose the amendment of the complaint to clarify the asserted claims of the originally named patents, but it did oppose the amendment to add the allegations concerning the '394 patent, unless the target date for completion of the investigation were extended.

On September 15, 2004, the presiding administrative law judge issued an ID (Order No. 4) granting TAL's motion to amend the complaint. He found that an extension of the target date is not warranted at this time. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.42(h) of the Commission Rules of Practice and Procedure, 19 CFR 210.42(h).

By order of the Commission.

Issued: October 4, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–22693 Filed 10–7–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070 (Final)]

Certain Tissue Paper Products and Crepe Paper Products From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1070 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether industries in the United States are materially injured or threatened with material injury, or the establishment of industries in the United States are materially retarded, by reason of less-than-fair-value imports from China of certain tissue paper products and certain crepe paper products, provided for in subheadings 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4823.90; 4820.50.00; 4802.90.00; 4805.91.90; and 9505.90.40 (tissue paper products) and subheadings 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; and 9505.90.40 (crepe paper products) of the Harmonized Tariff Schedule of the United States.[1]

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise, tissue paper products and crepe paper products, as follows: ''The *tissue paper products* subject to investigation are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this investigation may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this investigation is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this investigation may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles. Excluded from the scope of this investigation are the following tissue paper products: (1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.,* disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers.''

''*Crepe paper products* subject to investigation have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this investigation may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.''

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

EFFECTIVE DATE: September 21, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Forstall ((202) 205–3443), Office of Industries, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. The final phase of this investigation is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain tissue paper products and certain crepe paper products from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on February 17, 2004, by Seaman Paper Company of Massachusetts, Inc.; American Crepe Corp.; Eagle Tissue LLC; Flower City Tissue Mills Co.; Garlock Printing & Converting, Inc.; Paper Service Ltd.; Putney Paper Co., Ltd.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO, CLC.

Participation in the investigation and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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 the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on November 24, 2004, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on December 9, 2004, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 2, 2004. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 6, 2004, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 2, 2004. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadlines for filing posthearing briefs are December 16, 2004 (for certain crepe paper products), and January 5, 2005 (for certain tissue paper products); witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before December 16, 2004 (for certain crepe paper products), or January 5, 2005 (for certain tissue paper products). On January 3, 2005 (for certain crepe paper products), and March 1, 2005 (for certain tissue paper products), the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 5, 2005 (for certain crepe paper products), and March 3, 2005 (for certain tissue paper products), but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: October 4, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–22694 Filed 10–7–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–55,582]

American Falcon Corporation, Auburn, ME; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 10, 2004 in response to a petition filed by a company official on behalf of workers at American Falcon Corporation, Auburn, ME.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 23rd day of September, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2543 Filed 10–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,585]

Blue Ridge Paper Products, Morristown, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 10, 2004 in response to a petition filed by a state agency representative on behalf of workers at Blue Ridge Paper Products, Morristown, New Jersey.

All workers were separated from the subject facility more than one year before the date of the petition. Section 223 (b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further

Activity/Operator	Location	Date
Vintage Petroleum, Inc., Structure Removal SEA ES/SR 04–137.	Main Pass, Block 125, Lease OCS–G 04913, located 20 miles from the nearest Louisiana shoreline.	9/23/2004
Maritech Resources, Inc., Structure Removal SEA ES/SR 04–136.	East Cameron, Block 38, Lease OCS–G 02562, located 8 miles from the nearest Louisiana shoreline.	9/28/2004
Maritech Resources, Inc., Structure Removal SEA ES/SR 04–135.	Eugene Island, Block 28, Lease OCS–G 05478, located 12 miles from the nearest Louisiana shoreline.	9/28/2004
ATP Oil & Gas Corporation, Structure Removal SEA ES/SR 04–134.	High Island (East South), Block A354, Lease OCS–G 17212, located 110 miles from the nearest Texas shoreline.	9/28/2004
Veritas DGC, Inc., Geological & Geophysical Exploration Plan SEA L04–62.	Located in the central Gulf of Mexico south of Fourchon, Louisiana	9/30/2004

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about SEAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact MMS at the address or telephone listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: October 7, 2004.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 04–25242 Filed 11–12–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for its Technical Evaluation customer surveys has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost. The OMB control number for this collection of information is 1029–0114 and is on the forms along with the expiration date.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by December 15, 2004, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to *jtreleas@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information contained in a series of technical evaluation customer surveys. OSM is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0114.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on June 24, 2204 (69 FR 35391). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Technical Evaluations Series.

OMB Control Number: 1029–0114.

Summary: The series of surveys are needed to ensure that technical assistance activities, technology transfer activities and technical forums are useful for those who participate or receive the assistance. Specifically, representatives from State and tribal regulatory and reclamation authorities, representatives of industry, environmental or citizen groups, or the public, are the recipients of the assistance or participants in these forums. These surveys will be the primary means through which OSM evaluates its performance in meeting the performance goals outlined in its annual plans developed pursuant to the Government Performance and Results Act.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 26 State and tribal governments, industry organizations and individuals who request information or assistance.

Total Annual Responses: 300.

Total Annual Burden Hours: 25.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Please send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, electronically to *OIRA_DOCKET@omb.eop.gov,* or via facsmile at (202) 395–6566. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210–SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

Dated: September 7, 2004.

Sarah E. Donnelly,

Acting Chief, Division of Regulatory Support.

[FR Doc. 04–25319 Filed 11–12–04; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070 (Final)]

Certain Tissue Paper Products and Crepe Paper Products From China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: November 5, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Forstall ((202) 205–3443), Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On October 4, 2004, the Commission issued a schedule for the conduct of the final phase of the subject investigation (69 FR 60423, October 8, 2004). Subsequently, counsel on behalf of petitioners in this investigation [1] requested that the Commission extend the deadline for filing posthearing briefs on issues related to tissue paper (also applicable to the deadline for the submission of a written statement of information on issues related to tissue paper by any person who has not entered an appearance as a party to the investigation) by one week or more (letter from Collier Shannon Scott, PLLC to Marilyn R. Abbott, Secretary, October 21, 2004). Upon consideration of the reasons stated for the request, including an overlapping deadline with a related filing on crepe paper from China, the Commission is revising its schedule to extend the deadline for filing posthearing briefs and written statements by non-parties on issues related to tissue paper from January 5, 2005, to January 12, 2005.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

[1] Petitioners are Seaman Paper Company of Massachusetts, Inc.; American Crepe Corp.; Eagle Tissue LLC; Flower City Tissue Mills Co.; Garlock Printing & Converting, Inc.; Paper Service Ltd.; Putney Paper Co., Ltd.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO, CLC.

By order of the Commission.

Issued: November 8, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–25255 Filed 11–12–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Cingular Wireless Corporation, SBC Communications Inc., BellSouth Corporation, and AT&T Wireless Services, Inc.; Competitive Impact Statement, Proposed Final Judgment, Complaint, Preservation of Assets Stipulation and Order

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a Complaint, proposed Final Judgment, Preservation of Assets Stipulation and Order, and Competitive Impact Statement have been filed with the U.S. District Court for the District of Columbia in *United States* v. *Cingular Wireless Corps.*, Civil Case No. 1:04CV01850 (RBW). On October 25, 2004, the United States, along with the Attorneys General from the states of Connecticut and Texas, filed a complaint alleging that the proposed acquisition of AT&T Wireless Services, Inc. (''AT&T Wireless'') by Cingular Wireless Corp. (''Cingular''), which is jointly owned by BellSouth Corporation (''BellSouth'') and SBC Communications, Inc. (''SBC''), would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in the provision of mobile wireless telecommunications services and mobile wireless broadband services. The proposed Final Judgment, filed at the same time as the Complaint and Preservation of Assets Stipulation and Order, requires Cingular to divest assets in eleven states—Connecticut, Georgia, Kansas, Kentucky, Louisiana, Massachusetts, Missouri, Michigan, Oklahoma, Tennessee, and Texas—in order to proceed with Cingular Wireless's $41 billion cash acquisition of AT&T Wireless. A Competitive Impact Statement filed by the United States on October 29, 2004 describes the Complaint, the proposed Final Judgment, the industry, and the remedies available to private litigants who may have been injured by the alleged violation.

Copies of the Complaint, proposed Final Judgment, Preservation of Assets Stipulation and Order, the Competitive Impact Statement, and all further papers filed with the Court in connection with the Complaint will be available for inspection at the Antitrust Documents Group, Antitrust Division, Liberty Place Building, Room 215, 325 7th Street, NW., Washington, DC 20530 (202–514–2481), and at the Office of the Clerk of the U.S. District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments in writing regarding the proposed consent decree to the United States. Such comments must be received by the Antitrust Division within sixty (60) days and will be filed with the Court by the United States. Comments should be addressed to Nancy Goodman, Chief, Telecommunications & Media Enforcement Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 8000, Washington, DC 20530 (202–514–5621). At the conclusion of the sixty (60) day comment period. The U.S. District Court for the District of Columbia may enter the proposed consent decree upon finding that it serves the public interest.

J. Robert Kramer II,

Director of Operations, Antitrust Division.

In the United States District Court for the District of Columbia

United State of America, State of Connecticut and State of Texas, Plaintiffs, v. Cingular Wireless Corporation, SBC Communications Inc., Bellsouth Corporation and AT&T Wireless Services, Inc., Defendants; Competitive Impact Statement

Civil No. 1:04CV01850 (RBW).

Filed: October 29, 2004.

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants Cingular Wireless Corporation (''Cingular''), SBC Communications Inc. (''SBC''), BellSouth Corporation (''BellSouth''), and AT&T Wireless Services, Inc. (''AT&T Wireless Services'') entered into an Agreement and Plan of Merger dated February 17, 2004, pursuant to which Cingular will acquire AT&T Wireless. Plaintiff United States and the states of Connecticut and Texas (''plaintiff states'') filed a civil antitrust Complaint on October 25, 2004, seeking to enjoin the proposed acquisition. The briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). The Department will issue the final results of these preliminary results, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent); (2) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 2.59 percent, the ''all others'' rate established in the LTFV investigation. *See Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 59565 (November 29, 2001).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–3459 Filed 12–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–895]

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper From the People's Republic of China

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

DATES: *Effective Date:* December 3, 2004.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva at (202) 482–3208 or Hallie Noel Zink at (202) 482–6907; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary determination in this investigation was published on September 21, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products and Certain Crepe Paper Products From The People's Republic of China*, 69 FR 56407 (September 21, 2004) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination*, the following events have occurred.

On October 21, 2004 Fujian Xinjifu Enterprises Co. Ltd. (''Fujian Xinjifu'') submitted to the Department a letter confirming their decision not to participate in the verification of its Section A response in the above-referenced investigation.

On October 26, 2004 the Department notified all interested parties that briefs for the final determination in this investigation were due on November 1, 2004 and that rebuttal briefs were to be submitted by November 8, 2004. The Department did not receive either briefs or rebuttal briefs from any interested parties. *See Preliminary Determination* for a history of all previous comments submitted in this case.

Scope of Investigation

Crepe paper products subject to this investigation have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this investigation may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this investigation does not have specific classification numbers assigned to it under the Harmonized Tariff System of the United States (''HTSUS''). Subject merchandise may be under one or more of several different HTSUS subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this investigation is dispositive.

Period of Investigation (''POI'')

The POI is July 1, 2003, through December 31, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (February 17, 2004). *See* 19 CFR 351.204(b)(1).

Facts Available

In the *Preliminary Determination*, we based the dumping margin for the mandatory respondents, Fuzhou Light Industry Import and Export Co., Ltd (''Fuzhou Light'') and Fuzhou Magicpro Gifts Co., Ltd. (''Magicpro''), on adverse facts available pursuant to sections 776(a)(2) and (b) of the Tariff Act of 1930, as amended (''the Act''). *See Preliminary Determination*, 69 FR at 56412. The use of adverse facts available was warranted in this investigation because both Fuzhou Light and Magicpro informed the Department that they no longer wished to participate in this investigation. *Id.* Fuzhou Light and Magicpro's withdrawal resulted in the failure to provide information by the deadline or in the form or manner requested and, therefore, the Department used facts otherwise available pursuant to section 776(a)(2) of the Act in reaching the applicable determination. Furthermore, Fuzhou Light's and Magicpro's withdrawals constituted failures to cooperate to the best of their ability in the investigation and, therefore, the Department applied an adverse inference pursuant to section 776(b) of the Act in selecting from the facts available. As adverse facts available, we assigned Fuzhou Light and Magicpro the People's Republic of China (''PRC'')-wide rate. *Id.* A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the *Preliminary Determination. See Preliminary Determination*, 69 FR at 56412–56414. Since the publication of the *Preliminary Determination*, no interested parties have commented on our application of adverse facts available to the mandatory respondents with respect to the *Preliminary Determination.* Accordingly, for the final determination, we continue to use the margin listed in the *Preliminary Determination,* for the reasons stated therein. The ''PRC-wide'' rate remains unchanged as well.

The Department explained in the *Preliminary Determination* that there were no other estimated margins available for the Section A respondents, apart from the single price-to-normal value dumping margin in the petition. Therefore, we applied the petition margin of 266.83 percent as the rate for the crepe paper Section A respondents. *See Preliminary Determination*, 69 FR at 56414. No interested parties commented on our application of the petition margin to the crepe paper Section A respondents. As a result, we continue to use the margin listed in the *Preliminary Determination*, for the reasons stated therein.

As noted above, Fujian Xinjifu did not participate in the verification of its Section A response. As a result, Fujian Xinjifu has not overcome the presumption that it is part of the PRC-wide entity and, therefore, will be subject to the PRC-wide rate. *See Memorandum to the File*, dated October 22, 2004. The Department did not verify the responses of the other Section A respondents, Everlasting Business and Industry Co. Ltd., Fujian Nanping Investment and Enterprise Co., Ltd., and Ningbo Spring Stationary Co., Ltd. Nevertheless, the Department continues to grant a separate rate to each of these Section A respondents because determining otherwise would hold them accountable for the Department's inability to verify them. Specifically, the Department intended to verify the three largest respondents, by volume, in this investigation, Fuzhou Light and Magicpro, the mandatory respondents, and Fujian Xinjifu, the largest Section A respondent. As stated above, the mandatory respondents withdrew their participation in the investigation, and Fujian Xinjifu declined to participate in verification. Fujian Xinjifu's letter declining participation in verification came shortly before verification was scheduled to begin, which prevented the Department from scheduling verification of any of the three remaining Section A respondents. In light of these circumstances, and the fact that no information has been presented to cast doubt on the veracity of the responses of the Section A respondents, the Department determines that the three remaining Section A respondents continue to be entitled to separate rates. As stated above, the separate rate for each of the Section A respondents remains equal to the petition margin of 266.83 percent, as in the *Preliminary Determination.*

Critical Circumstances

On June 18, 2004 Seaman Paper Company of Massachusetts, Inc.; American Crepe Corporation; Eagle Tissue LLC; Garlock Printing and Converting, Inc.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO, CLC (''Petitioners'') submitted an allegation of critical circumstances with respect to the antidumping duty investigation of certain crepe paper from the PRC. On September 21, 2004, the Department issued its *Preliminary Determination* that it had reason to believe or suspect critical circumstances exist with respect to imports of certain crepe paper from the PRC. *See Preliminary Determination*, 69 FR at 56409 and 56417–56418. The Department did not receive any briefs or rebuttal briefs from interested parties. Therefore, for the reasons set forth in the *Preliminary Determination*, we continue to find that critical circumstances exist for all imports of certain crepe paper from the PRC including imports from the mandatory respondents, the Section A respondents and the PRC-wide entity.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all entries of crepe paper from the PRC that are entered, or withdrawn from warehouse, for consumption on or after 90 days before the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

We determine that the following dumping margins exist for the POI:

Manufacturer/exporter	Margin (percent)
Fuzhou Light	266.83
Magicpro	266.83
Everlasting Business and Industry Co. Ltd	266.83
Fujian Nanping Investment and Enterprise Co., Ltd	266.83
Ningbo Spring Stationary Co., Ltd	266.83
PRC-Wide Rate	266.83

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from the PRC are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of

APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–3458 Filed 12–2–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 04–00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the Rocky Mountain Instrument Company (''RMI''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR 325 (2004).

Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the Certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

I. Export Trade

Products

Laser and imaging optical components, coatings, assemblies, electro-optical systems, and laser marking systems.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

With respect to the export of its products, RMI may:

1. Enter into arrangements with foreign distributors or customers to:

(a) Establish exclusive relationships; and

(b) Establish specific territorial sales restrictions.

2. Enter into agreements with primary customers to allow RMI to sell custom-built products to third-party customers.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: November 29, 2004.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. 04–26593 Filed 12–2–04; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Request for an Extraordinary Challenge Committee

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Request for an Extraordinary Challenge Committee to review the binational NAFTA Panel decisions of September 5, 2003; April 19, 2004; and August 31, 2004 in the matter of Certain Softwood Lumber Products from Canada—Final Affirmative Threat of Material Injury Determination, Secretariat File No. USA/CDA–2002–1904–07.

SUMMARY: On November 24, 2004, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review decisions as stated above with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Committee review was requested of the final affirmative threat of material injury made by the International Trade Commission, respecting Certain Softwood Lumber Products From Canada. These determinations were published in the **Federal Register**. The NAFTA Secretariat has assigned Case Number ECC–2004–1904–01USA to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A Request for an Extraordinary Challenge Committee was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 24, 2004, requesting panel review of the final affirmative threat of material injury as described above.

The Rules provide that:

(a) A Party or participant in the panel review who proposes to participate in the extraordinary challenge proceeding shall file with the responsible Secretariat a Notice of Appearance within 10 days after the filing of the first Request for Extraordinary Challenge Committee (the deadline for filing a Notice of Appearance is December 6, 2004); and

(b) All briefs shall be filed within 21 days after the Request for Extraordinary Challenge Committee (the deadline for filing briefs is December 15, 2004);

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject:	Certain Tissue Paper Products and Crepe Paper Products from China
Inv. No.:	731-TA-1070 (Final)
Date and Time:	December 9, 2004 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

<u>OPENING REMARKS:</u>

Petitioner (**David A. Hartquist**, Collier Shannon Scott, PLLC)
Respondents (**Frederick L. Ikenson**, Blank Rome LLP)

<u>In Support of the Imposition of Antidumping Duties:</u>

Collier Shannon Scott, PLLC
Washington, D.C.
<u>on behalf of</u>

Seaman Paper Company of Massachusetts, Inc.

George D. Jones, III, President, Seaman Paper Company of Massachusetts, Inc.
James B. Jones, Vice President, Seaman Paper Company of Massachusetts, Inc.
Ted Tepe, Vice President, Sales, Seaman Paper Company of Massachusetts, Inc.
Peter Garlock, President, Garlock Printing & Converting

William Shafer, IV, Vice President, Flower City Tissue Mills Co.
Robert Costa, President, Eagle Tissue LLC
Patrick J. Magrath, Managing Director, Georgetown Economic Services, LLC
Gina E. Beck, Economic Consultant, Georgetown Economic Services, LLC

David A. Hartquist)
Kathleen W. Cannon) – OF COUNSEL
Adam H. Gordon)

In Opposition to the Imposition of Antidumping Duties:

Blank Rome LLP
Washington, D.C.
on behalf of

Cleo Inc.
Crystal Creative Products, Inc.

Andrew W. Kelly, President, Cleo Inc.
Michael D. Bradley, Professor of Economics, The George Washington University

Frederick L. Ikenson)
) – OF COUNSEL
Roberta Kienast Daghir)

Neville Peterson LLP
Washington, D.C.
on behalf of

Target Corporation

Deborah Kelley, Senior Buyer**,** Target Stores
George Vollmer, Product Manager, Target Sourcing Services
Toni Demski-Brandl, Senior Counsel, Target Brands, Inc.
Hollie McFarland, Paralegal, Target Brands, Inc.

George W. Thompson) – OF COUNSEL

REBUTTAL/CLOSING REMARKS

Petitioners (**David A. Hartquist**, Collier Shanonn Scott, PLLC)
Respondents (**George W. Thompson**, Neville Peterson LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Certain crepe paper products: Summary data concerning the U.S. market, 2001-03, January-September 2003, and January-September 2004

(Quantity=*1,000 square meters*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per 1,000 square meters*; and period changes=*percent*, except where noted)

Item	Calendar year			January-September		Period changes			
	2001	2002	2003	2003	2004	2001-2003	2001-2002	2002-2003	Jan.-Sept. 2003-Jan.-Sept. 2004
U.S. consumption quantity: Amount	62,832	67,535	61,203	46,481	49,604	-2.6	7.5	-9.4	6.7
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1] China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	11,274	12,385	11,047	8,547	8,900	-2.0	9.9	-10.8	4.1
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1] China	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S.shipments of imports from China: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
Other sources: Quantity	0	0	0	0	0	0.0	0.0	0.0	0.0
Value	0	0	0	0	0	0.0	0.0	0.0	0.0
Unit value	$0.00	$0.00	$0.00	$0.00	$0.00	0.0	0.0	0.0	0.0
Ending inventory	0	0	0	0	0	0.0	0.0	0.0	0.0
All sources: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
U.S. producers'-- Capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***	***	***	***
U.S. shipments: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1
Certain crepe paper products: Summary data concerning the U.S. market, 2001-03, January-September 2003, and January-September 2004

(Quantity=*1,000 square meters*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per 1,000 square meters*; and period changes=*percent*, except where noted)

Item	Calendar year			January-September		Period changes			
	2001	2002	2003	2003	2004	2001-2003	2001-2002	2002-2003	Jan.-Sept. 2003-Jan.-Sept. 2004
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments[1]	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (*1,000 hours*)	***	***	***	***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (*square meters per hour*)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
COGS	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income (loss)	***	***	***	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales[1]	***	***	***	***	***	***	***	***	***

[1] Period changes are in percentage points.
[2] Not meaningful.

Note.–Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown.

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

APPENDIX D

U.S. IMPORTERS' COSTS AS REPORTED BY ***

Table D-1
Certain crepe paper products: Weighted-average net values and quantities of imported crepe paper streamers, by company, by quarters, January 2001-September 2004

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APPENDIX E

ALLEGED EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of certain crepe paper products from China, on their return on investment or their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or their scale of capital investments undertaken as a result of such imports. The responses are as follows:

Actual Negative Effects

American Crepe

***.

Cindus

***.

Seaman

***.

Anticipated Negative Effects

American Crepe

***.

Cindus

***.

Pacon

***.

Seaman

***.