

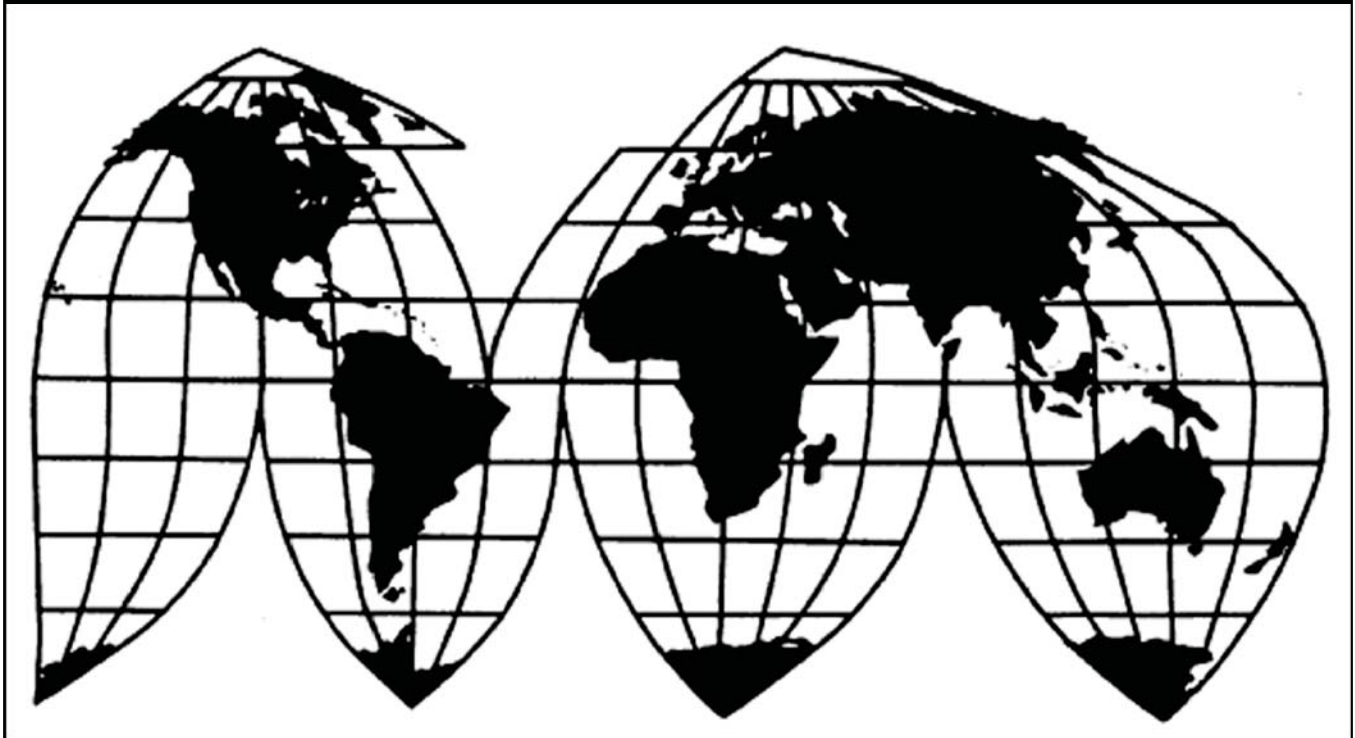
# **Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand**

Investigation Nos. 731-TA-1043-1045 (Review)

**Publication 4160**

**June 2010**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# **U.S. International Trade Commission**

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**Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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





# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1043-1045 (Review)

POLYETHYLENE RETAIL CARRIER BAGS FROM CHINA, MALAYSIA, AND THAILAND

## DETERMINATIONS

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

## BACKGROUND

The Commission instituted these reviews on July 1, 2009 (74 F.R. 31750, July 2, 2009) and determined on October 5, 2009 that it would conduct full reviews (74 F.R. 54069, October 21, 2009). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on November 23, 2009 (74 F.R. 61172). The hearing was held in Washington, DC, on April 27, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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



## VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping duty orders on subject imports of polyethylene retail carrier bags (“PRCBs”) from China, Malaysia, and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. BACKGROUND

#### A. The Original Investigations

On August 3, 2004, the Commission determined that an industry in the United States was materially injured by reason of less than fair value (“LTFV”) imports of PRCBs from China, Malaysia, and Thailand.<sup>1</sup> Consequently, on August 9, 2004, the U.S. Department of Commerce (“Commerce”) imposed antidumping duty orders on PRCBs from China, Malaysia, and Thailand.<sup>2</sup>

Because it found de minimis antidumping duty margins for three subject producers in the original investigations, Commerce excluded from the scope of the antidumping duty orders two foreign producers in China, Hang Lung Plastic Manufactory, Limited, and Nantong Huasheng Plastic Products Co., Ltd., and one foreign producer in Malaysia, Bee Lian Plastic Industries Sdn. Bhd.<sup>3</sup>

#### B. The Current Reviews

The Commission instituted these reviews of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand effective July 1, 2009.<sup>4</sup> The Commission found that the domestic interested party group response to the notice of institution, and the Malaysian interested party group response to the notice of institution, were adequate, and therefore determined to conduct full reviews of all the orders, in the interest of administrative efficiency.<sup>5</sup>

Participating in the reviews are the Polyethylene Retail Carrier Bag Committee and its individual members Hilex Poly Co., LLC; Superbag Corporation; Unistar Plastics, LLC; Command Packaging; Roplast Industries, Inc.; and Genpak LLC (collectively, the “domestic interested parties”). Also participating in the reviews is the Task Force of Polyethylene Retail Carrier Bag Manufacturers of the Malaysian Plastic Manufacturers Association and its members in their capacity as Malaysian producers and exporters of PRCBs (collectively, the “Malaysian interested parties”). No respondent interested party from either China or Thailand has participated in the reviews as parties.

In these reviews, the Commission received usable domestic producers’ questionnaire responses from 12 domestic firms that accounted for virtually all U.S. production and sales of PRCBs in 2009.<sup>6</sup> The

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<sup>1</sup> Confidential Staff Report (“CR”) at I-2; Public Staff Report (“PR”) at I-2.

<sup>2</sup> CR at I-2; PR at I-2.

<sup>3</sup> CR/PR at IV-1 n.4.

<sup>4</sup> CR at I-1; PR at I-1.

<sup>5</sup> See CR/PR at Appendix A.

<sup>6</sup> CR at I-30; PR at I-20; CR/PR at Table I-10. Omega Plastics Corporation (“Omega”), accounting for approximately \*\*\* percent of domestic production in 2009, provided a questionnaire response late in the reviews. CR at I-30 n.37; PR at I-20 n.37. Due to \*\*\* in Omega’s questionnaire response, see Domestic Interested Parties’ Final Comments, at 13-14, we do not rely on these data. We note, however, that the inclusion of Omega’s reported  
(continued...)

Commission also received importers' questionnaire responses from 52 firms, which accounted for approximately 48 percent of subject imports in 2009,<sup>7</sup> and purchasers' questionnaire responses from 48 firms, which accounted for \*\*\* percent of the value of apparent U.S. consumption over the period of review.<sup>8</sup>

The Commission received foreign producers' questionnaire responses from two Chinese producers, 16 Malaysian producers, and five Thai producers.<sup>9</sup> Responding Malaysian producers estimated that they accounted for \*\*\* percent of Malaysian PRCB production, and \*\*\* percent of Malaysian PRCB exports to the United States in 2009.<sup>10</sup> Data coverage of the Chinese and Thai PRCB industries, however, is more limited. One responding Chinese producer estimated that it accounted for \*\*\* percent of Chinese PRCB exports to the United States in 2009, and both responding Chinese PRCB producers reported combined PRCB exports to the United States equivalent to \*\*\* percent of subject imports from China.<sup>11</sup> Responding Thai producers estimated that they accounted for \*\*\* percent of Thai PRCB production, but \*\*\* percent of Thai PRCB exports to the United States, in 2009.<sup>12</sup> The exports to the United States reported by these Thai firms in 2009 were equivalent to \*\*\* percent of the quantity of subject imports from Thailand that year.<sup>13</sup>

### **C. Other Investigations/Reviews/Orders Involving the Same or Related Products**

The Commission recently completed antidumping duty investigations of PRCBs from Indonesia, Taiwan, and Vietnam, and a countervailing duty investigation of PRCBs from Vietnam, which involved the same scope of merchandise as these reviews, and determined that a U.S. industry is threatened with material injury by reason of imports of PRCBs from Vietnam that Commerce determined are subsidized, and by reason of imports from Indonesia, Taiwan, and Vietnam that Commerce determined are sold in the U.S. market at LTFV.<sup>14</sup> Consequently, on May 4, 2010, Commerce issued a countervailing duty order on PRCBs from Vietnam, and antidumping duty orders on PRCBs from Indonesia, Taiwan, and Vietnam.<sup>15</sup>

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<sup>6</sup> (...continued)

data in domestic industry data has no significant effect on domestic industry trends. Compare CR/PR at Table C-1 with id. at Table C-2. Our conclusions would be the same were Omega's data included in our analysis.

<sup>7</sup> CR at IV-1; PR at IV-1.

<sup>8</sup> CR at II-1; PR at II-1.

<sup>9</sup> CR at IV-11, 14, 18; PR at IV-7, 8, 11.

<sup>10</sup> CR at IV-15; PR at IV-8. Responding Malaysian producers \*\*\* to the United States during the period of review. Id.

<sup>11</sup> CR at IV-12; PR at IV-7. Neither responding Chinese producer provided a useful estimate of its share of Chinese PRCB production in 2009. Id.

<sup>12</sup> CR at IV-18; PR at IV-11.

<sup>13</sup> CR at IV-18; PR at IV-11.

<sup>14</sup> CR at I-15; PR at I-8; see also PRCBs from Indonesia, Taiwan, and Vietnam, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144 (April 2010).

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

## II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Tariff Act, the Commission defines “the domestic like product” and the “industry.”<sup>16</sup> The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>17</sup> The Commission’s practice in five-year reviews is to look to the like product definition from the original determinations and any completed reviews and consider whether the record indicates any reason to revisit the prior finding(s).<sup>18</sup>

### A. Product Description

Commerce has defined the imported merchandise within the scope of these reviews as follows:<sup>19</sup>

The merchandise subject to these investigations is [PRCBs], which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of these investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.<sup>20</sup>

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<sup>16</sup> 19 U.S.C. § 1677(4)(A).

<sup>17</sup> 19 U.S.C. § 1677(10); see, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Dep’t of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>18</sup> See, e.g., Internal Combustion Industrial Forklift Trucks From Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); Crawfish Tail Meat From China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (Jul. 2003); Steel Concrete Reinforcing Bar From Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

<sup>19</sup> We note that the scope of the recent investigations of PRCBs from Indonesia, Taiwan, and Vietnam was identical to the scope of these reviews.

<sup>20</sup> CR at I-23; PR at I-15. Since publication of the antidumping duty orders, Commerce has issued several scope rulings, determining that a variety of specific products are not within the scope of one or more of the orders. See CR at I-23 n.23; PR at I-15 n.23.

Imports of merchandise included within the scope of these investigations are currently reported under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States.<sup>21</sup>

PRCBs are bags with handles made of polyethylene film that are intended to be provided by retailers to their customers free of charge for packaging and carrying purchased goods home from the point of sale.<sup>22</sup> PRCBs come in several varieties. T-shirt bags, so called due to their resemblance to tank-top styled undershirts, are made of thinner, typically 1 mil or less, denser polyethylene film and are generally printed with simple designs of one or two, but up to four, colors.<sup>23</sup> So-called higher-end PRCBs range from medium-scale die-cut bags to higher-scale die-cut, drawstring, and soft-loop handle bags, which can possess flat bottoms and detailed higher-quality multicolored printing and graphics.<sup>24</sup>

## **B. The Original Investigations**

In the original investigations, the Commission defined a single domestic like product encompassing a continuum of PRCBs made in a wide range of shapes and sizes with a variety of features.<sup>25</sup> The Commission rejected respondents' argument that certain high-end PRCBs be defined as a separate domestic like product because the argument "[did] not account for the vast array of PRCBs that fall in the middle of the continuum."<sup>26</sup>

## **C. The Current Reviews**

For purposes of these reviews, we define the domestic like product in the same manner as in the original investigations. The record of these reviews contains no information that would dictate a reconsideration of the domestic like product definition from the original determinations.<sup>27</sup> No party urged the Commission to adopt a different like product definition. We therefore define a single domestic like product comprised of a continuum of PRCB products, coextensive with the scope of the reviews.

## **III. DOMESTIC INDUSTRY**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>28</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the

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<sup>21</sup> CR at I-24; PR at I-16.

<sup>22</sup> CR at I-25; PR at I-16.

<sup>23</sup> CR at I-25-26; PR at I-17; see also PRCBs from Indonesia, Taiwan, and Vietnam, USITC Pub. 4144 at 5.

<sup>24</sup> CR at I-26; PR at I-17.

<sup>25</sup> See PRCBs from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 (August 2004) ("Original Views"), at 9.

<sup>26</sup> Original Views, at 9.

<sup>27</sup> Moreover, in the recent investigations of PRCBs from Indonesia, Taiwan, and Vietnam, which involved the same scope of merchandise as these reviews, CR at I-15; PR at I-8, the Commission defined a single domestic like product, comprised of a continuum of PRCB products. PRCBs from Indonesia, Taiwan, and Vietnam, USITC Pub. 4144, at 7.

<sup>28</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 apply to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

domestic merchant market.<sup>29</sup> In the original investigations, the Commission defined the domestic industry to include all domestic producers of PRCBs.<sup>30</sup> For purposes of these reviews, based on our definition of the domestic like product, we again define the domestic industry to include all domestic producers of PRCBs.

Under the related parties provision of the statute, 19 U.S.C. § 1677 (4)(B), the Commission may, under appropriate circumstances, exclude certain producers from the domestic industry that import subject merchandise or have a corporate affiliation with importers or exporters of subject merchandise. In the original investigations, the Commission found that 14 domestic producers qualified as related parties, but concluded that circumstances did not warrant the exclusion of any of them from the domestic industry.<sup>31</sup>

In these reviews, six domestic producers, \*\*\*, qualify as related parties because they were importers of subject merchandise from China, Malaysia, or Thailand during the period of review.<sup>32</sup> In addition, \*\*\* is related to a subject foreign producer of PRCBs and an importer of subject PRCBs.<sup>33</sup>

We find that circumstances do not warrant the exclusion of any related party for the following reasons. Five of the six related parties, \*\*\*, reported that their ratio of subject imports to domestic production remained \*\*\* throughout the period of review, never exceeding \*\*\* percent in any one year.<sup>34</sup> Moreover, \*\*\* reported a lower ratio of subject imports to domestic production in 2009 than in 2004.<sup>35</sup> Although \*\*\* ratio of subject imports to domestic production was higher than that of other related parties, \*\*\* reported that its ratio of subject imports to domestic production \*\*\* at \*\*\* percent in 2006, and was lower in 2009, at \*\*\* percent, than in 2004, at \*\*\* percent.<sup>36</sup> Thus, the record indicates that all related parties are more interested in domestic production than in importing subject merchandise.

Further, there is no evidence that the six related parties derived a significant financial benefit from their importation of PRCBs from subject countries, since the operating profit margins of each producer did not differ significantly from the operating profit margins of domestic producers that did not

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<sup>29</sup> See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>30</sup> Original Views at 12.

<sup>31</sup> See Original Views at 10-12.

<sup>32</sup> See CR/PR at Table III-6; 19 U.S.C. § 1677(4)(B). Although \*\*\* and \*\*\* purchased subject imports from China, see CR/PR at Table III-6, we find that neither company qualifies as a related party because neither party controls large volumes of subject imports. Specifically, there is no evidence that either company was “responsible for a predominant proportion of an importer’s purchases.” See id.

<sup>33</sup> CR at I-31; PR at I-21; CR/PR at Table I-10.

<sup>34</sup> CR/PR at Table III-6.

<sup>35</sup> See CR/PR at Table III-6. \*\*\* ratio of subject imports to domestic production was higher in 2009, at \*\*\* percent, than in 2004, at \*\*\* percent, though the ratio remained \*\*\* and \*\*\* from \*\*\* percent in 2006 and \*\*\* percent in 2007 and 2008. Id.

<sup>36</sup> CR/PR at Table III-6.

import from subject countries.<sup>37 38 39</sup> For this reason, the inclusion of data from these producers would not skew data for the rest of the industry. Indeed, the inclusion of related party data is essential for a complete picture of the domestic industry's performance, given that related parties accounted for \*\*\* percent of domestic industry production in 2009.<sup>40</sup> Furthermore, no party argues that any related party should be excluded from the domestic industry.

In conclusion, we define the domestic industry as all domestic producers of PRCBs, and do not find appropriate circumstances exist to exclude any related parties from the domestic industry.

#### **IV. CUMULATION**

##### **A. The Original Investigations**

In the original investigations, the Commission found a reasonable overlap of competition among the subject imports from China, Malaysia, and Thailand, and between subject imports from each source and the domestic like product, and therefore cumulated subject imports from all three sources.<sup>41</sup> In support of its cumulation determination, the Commission found that there was a high degree of substitutability between subject imports from China, Malaysia, and Thailand, and between subject imports from each source and the domestic like product; that subject imports from all three sources and the domestic like product were generally sold throughout the United States; that subject imports from all sources were simultaneously present in the U.S. market, during the period examined; and that there was sufficient overlap in the channels of distribution through which subject imports from all three sources and the domestic like product were sold, despite some differences in such channels.<sup>42</sup>

##### **B. Legal Standards**

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows: the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of

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<sup>37</sup> See CR/PR at Table III-9.

<sup>38</sup> Consistent with her practice in past investigations and reviews, Commissioner Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

<sup>39</sup> Commissioner Pinkert does not rely upon companies' financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry in these reviews. The record is not sufficient to infer from their profitability on U.S. operations whether they have derived a specific benefit from importing. See Allied Mineral Products v. United States, 28 C.I.T. 1861, 1865-1867 (2004). He notes that in these reviews, unlike the recent final phase antidumping investigations of PRCBs from Indonesia, Taiwan, and Vietnam, the Commission does not have financial data regarding the domestic producers' import operations.

<sup>40</sup> See CR/PR at Table I-10. The three largest of these producers, \*\*\*, accounted for \*\*\* percent of domestic production that year. Id.

<sup>41</sup> Original Views at 16.

<sup>42</sup> Original Views at 14-16.



imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>43</sup>

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(I) of the Act.<sup>44</sup> The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

The statutory threshold for cumulation is satisfied in these reviews, because the reviews of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand were all initiated on the same day.

We consider three issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among imports of PRCBs from the subject countries and the domestic like product; and (3) other considerations, such as whether there are similarities and differences in the likely conditions of competition under which subject imports are likely to compete in the U.S. market for PRCBs.<sup>45</sup> In so doing, we take into account the various arguments by the parties.<sup>46</sup>

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<sup>43</sup> 19 U.S.C. § 1675a(a)(7).

<sup>44</sup> 19 U.S.C. § 1677(7)(G)(i); see also, e.g., Allegheny Ludlum Corp. v. United States, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); Nucor v. United States, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008); United States Steel Corp. v. United States, Slip Op. 08-82 (Aug. 5, 2008).

<sup>45</sup> Vice Chairman Pearson and Commissioner Okun note that while they consider the same issues discussed in this section in determining whether to exercise their discretion to cumulate the subject imports, their analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, they next proceed to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis they intend to exercise their discretion to cumulate one or more subject countries, they analyze whether they are precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). Accord Nucor Corp. v. United States, 605 F. Supp. 2d 1361, 1372 (Ct. Int'l Trade 2009); Nucor Corp. v. United States, 594 F. Supp. 2d 1302, 1345-47 (Ct. Int'l Trade 2008), aff'd, Slip. Op. 2009-1234 (Fed. Cir. Apr. 7, 2010).

<sup>46</sup> In these reviews, the domestic interested parties argue that the Commission should exercise its discretion to consider subject imports from China, Malaysia, and Thailand on a cumulated basis because there would likely be a reasonable overlap of competition between subject imports from all three sources after revocation and subject imports from all three sources would likely face similar conditions of competition in the U.S. market. See Domestic Interested Parties' Prehearing Br. at 19-21; Domestic Interested Parties' Posthearing Br. at 3-9. Malaysian interested parties argue that the Commission cannot cumulate subject imports from Malaysia with subject imports from China and Thailand because subject imports from Malaysia would likely have no discernible adverse impact on the domestic industry after revocation. See Malaysian Interested Parties' Prehearing Br. at 1, 4-6. Even if the

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Based on the record, we find that subject imports from each of the three countries would not be likely to have no discernible adverse impact on the domestic industry were the antidumping duty orders revoked. We also find a likely reasonable overlap of competition among the subject imports and between the subject imports and the domestic like product were the orders revoked. We do not find significant differences in the likely conditions of competition affecting subject imports from China, Malaysia, and Thailand.<sup>47</sup> We therefore exercise our discretion to cumulate subject imports from all three countries.

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

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>48</sup> Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>49</sup> With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.

Our analysis for each of the subject countries takes into account the nature of the product and the behavior of subject imports in the original investigations and during the current reviews. The record of these reviews indicates that there would likely be a high degree of substitutability between subject imports from China, Malaysia, and Thailand, respectively, and between subject imports from each source and the domestic like product, after revocation.<sup>50</sup> Such competition is likely to be based, at least in part, on price, due to the importance of price in purchasing decisions.<sup>51</sup> For sales of PRCBs, subject imports from each of the subject countries undersold the domestic like product in a majority of pricing comparisons during the original investigations, and subject imports from China and Thailand undersold the domestic like product with even greater frequency during the period covered by these reviews, despite the discipline of the antidumping duty orders.<sup>52</sup>

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

Commission were to find that subject imports from Malaysia would likely have a discernible adverse impact after revocation, Malaysian interested parties argue, the Commission should nevertheless exercise its discretion to not cumulate subject imports from Malaysia for two reasons. First, Malaysian interested parties claim that subject imports from Malaysia could not possibly contribute to any “hammering effect” after revocation, which is the primary purpose of cumulation in their view, because it is “inconceivable” that the Commission would revoke the orders on PRCBs from China and Thailand. See Malaysian Interested Parties’ Prehearing Br. at 8; Malaysian Interested Parties’ Posthearing Br. at 9. Second, Malaysian interested parties argue that subject imports from Malaysia would likely face different conditions of competition in the U.S. market after revocation, as compared to subject imports from China and Thailand. See Malaysian Interested Parties’ Posthearing Br. at 5-8.

<sup>47</sup> As explained in footnote 102 below, Commissioners Lane and Pinkert, applying a different analytical framework, have cumulated subject imports from China, Malaysia, and Thailand.

<sup>48</sup> 19 U.S.C. § 1675a(a)(7).

<sup>49</sup> SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

<sup>50</sup> CR at II-16.

<sup>51</sup> See CR at II-16-18; PR at II-11-13; CR/PR at Tables II-8-9.

<sup>52</sup> See CR/PR at Tables V-11, 13. No pricing data were reported for imports from Malaysia. CR at V-10; PR at V-5.

*China.* During the original period of investigation, subject imports from China increased from \*\*\* bags in 2001, or \*\*\* percent of apparent U.S. consumption, to \*\*\* bags in 2002, or \*\*\* percent of apparent U.S. consumption, and \*\*\* bags in 2003, or \*\*\* percent of apparent U.S. consumption.<sup>53</sup>

Over the period of review, subject Chinese producers maintained a significant, if reduced, presence in the U.S. market notwithstanding imposition of the antidumping duty order. Subject imports from China declined to \*\*\* bags in 2004, or \*\*\* percent of apparent U.S. consumption, but then increased to \*\*\* bags in 2005, or \*\*\* percent of apparent U.S. consumption, and \*\*\* bags in 2006, or \*\*\* percent of apparent U.S. consumption.<sup>54</sup> Subject imports from China declined \*\*\* to \*\*\* bags in 2007, or \*\*\* percent of apparent U.S. consumption, increased to \*\*\* bags in 2008, or \*\*\* percent of apparent U.S. consumption, and declined to \*\*\* bags in 2009, or \*\*\* percent of apparent U.S. consumption.<sup>55</sup> These data indicate that subject Chinese producers remain interested in the U.S. market and capable of serving U.S. customers.<sup>56</sup>

The limited questionnaire data concerning the Chinese PRCB industry in these reviews<sup>57</sup> indicates that responding Chinese producers have significant capacity and were \*\*\* over the period of review. Reported Chinese PRCB capacity was \*\*\* bags from 2004 through 2007, increasing to \*\*\* bags in 2008 and 2009.<sup>58</sup> Reported Chinese PRCB production increased from \*\*\* bags in 2004 to \*\*\* bags in 2005, \*\*\* bags in 2006, \*\*\* bags in 2007, and \*\*\* bags in 2008, and remained at \*\*\* bags in 2009.<sup>59</sup> Reported Chinese industry capacity utilization rates increased throughout the period of review, from \*\*\* percent in 2004 to \*\*\* percent in 2005, \*\*\* percent in 2006, \*\*\* percent in 2007, \*\*\* percent in 2008, and \*\*\* percent in 2009.<sup>60</sup> Reported Chinese PRCB exports increased from \*\*\* bags in 2004 to \*\*\* bags in 2005, \*\*\* bags in 2006, \*\*\* bags in 2007, and \*\*\* bags in 2008, remaining at \*\*\* bags in 2009.<sup>61</sup> Responding Chinese PRCB producers reportedly exported \*\*\* shipments throughout the period of review.<sup>62</sup>

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<sup>53</sup> CR/PR at Table I-1.

<sup>54</sup> CR/PR at Table I-2.

<sup>55</sup> CR/PR at Table I-2.

<sup>56</sup> We find further support for this finding in evidence that the volume of nonsubject imports from China was also significant over the period of review, increasing irregularly from \*\*\* bags in 2006, or \*\*\* percent of apparent U.S. consumption, to \*\*\* bags in 2009, or \*\*\* percent of apparent U.S. consumption. CR/PR at Tables I-11-12. Were the order on PRCBs from China revoked, we find it likely that subject producers in China would exhibit a similar degree of interest in serving the U.S. market, and a similar capability of doing so, as nonsubject producers in China demonstrated over the period of review.

<sup>57</sup> The Commission sent foreign producers' questionnaires to 182 firms in China believed to be PRCB producers, but received only two responses. CR at IV-11; PR at IV-7. Neither firm provided a useful estimate of its share of Chinese PRCB production in 2009, but one estimated that it accounted for \*\*\* percent of Chinese PRCB exports to the United States in 2009. CR at IV-12; PR at IV-7. In 2009, responding Chinese PRCB producers reported PRCB exports to the United States equivalent to \*\*\* percent of subject imports from China. CR at IV-12; PR at IV-7. The seeming disparity between the reported capacity and production of subject Chinese producers and the volume of subject imports from China stems from the fact that only \*\*\* of subject Chinese producers reported capacity and production data, while subject import volume data are derived from comprehensive proprietary Customs data and official Commerce statistics.

<sup>58</sup> CR/PR at Table IV-4. The \*\*\* apparent increase in the capacity, production, and exports of responding Chinese producers between 2007 and 2008 resulted from the fact that \*\*\*. See CR/PR at Table IV-4, note.

<sup>59</sup> CR/PR at Table IV-4.

<sup>60</sup> CR/PR at Table IV-4.

<sup>61</sup> CR/PR at Table IV-4.

<sup>62</sup> CR/PR at Table IV-4.

Given the extremely low questionnaire response rate of Chinese producers, however, we also rely on public information concerning the Chinese PRCB industry submitted by the domestic interested parties. This information indicates that Chinese PRCB capacity was approximately 36.3 billion bags in 2009, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>63</sup> Thus, Chinese producers possess significant PRCB capacity with which to increase exports to the U.S. market after revocation, and also an incentive to increase exports to the U.S. market after revocation, given the Chinese government's recent imposition of restrictions on PRCB usage in China.<sup>64</sup>

Based on this evidence, as well as the high degree of substitutability between subject imports from China and the domestic like product and the importance of price, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the antidumping duty order on PRCBs from China were revoked.

*Malaysia.* During the original period of investigation, subject imports from Malaysia increased from \*\*\* bags in 2001, or \*\*\* percent of apparent U.S. consumption, to \*\*\* bags in 2002, or \*\*\* percent of apparent U.S. consumption, and \*\*\* bags in 2003, or \*\*\* percent of apparent U.S. consumption.<sup>65</sup>

Over the period of review, subject Malaysian producers maintained a presence in the U.S. market notwithstanding imposition of the antidumping duty order, with an increased presence in 2008 and 2009. Subject imports from Malaysia were \*\*\* bags in 2004, or \*\*\* percent of apparent U.S. consumption, declining to \*\*\* bags in 2005, or \*\*\* percent of apparent U.S. consumption, and to \*\*\* bags in 2006 and \*\*\* bags in 2007.<sup>66</sup> Subject imports from Malaysia then \*\*\* to \*\*\* bags in 2008, or \*\*\* percent of apparent U.S. consumption, before declining to \*\*\* bags in 2009, or \*\*\* percent of apparent U.S. consumption.<sup>67</sup> These data indicate that subject Malaysian producers remain interested in the U.S. market and capable of serving U.S. customers.

It also is noteworthy that nonsubject Malaysian producers maintained a significant and increasing presence in the U.S. market during the period of review. Nonsubject imports from Malaysia increased from \*\*\* bags in 2004, or \*\*\* percent of apparent U.S. consumption, to \*\*\* bags in 2005, or \*\*\* percent of apparent U.S. consumption, before declining to a still significant \*\*\* bags, \*\*\* bags, and \*\*\* bags in 2006, 2007, and 2008, respectively, or about \*\*\* to \*\*\* percent of apparent U.S. consumption in each of those years, and then increasing to \*\*\* bags in 2009, or \*\*\* percent of apparent U.S. consumption. Were the order on PRCBs from Malaysia revoked, we find it likely that subject producers in Malaysia would exhibit a similar degree of interest in serving the U.S. market, and a similar capability of doing so, as nonsubject producers in Malaysia demonstrated over the period of review.<sup>68</sup>

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<sup>63</sup> Domestic Interested Parties' Prehearing Br. at 34, Exhibit 16; CR/PR at Table I-12.

<sup>64</sup> See CR at II-15, IV-9-11; PR at II-11, IV-6-7. Effective June 1, 2008, the Chinese government imposed a new regulation requiring retailers to charge customers for plastic shopping bags or face fines. CR at IV-9; PR at IV-6. Retailers may set their own prices for plastic bags, provided that the prices are greater than the retailers' cost of the bags. *Id.* In addition, the Chinese government has promulgated standards specifying that plastic shopping bags must be at least 0.025 millimeters (1 mil) in thickness, among other requirements, which have reportedly hurt Chinese producers that supplied ultra-thin bags under 0.025 millimeters (1 mil). CR at IV-9-10; PR at IV-6-7.

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

<sup>66</sup> CR/PR at Table I-2.

<sup>67</sup> CR/PR at Table I-2.

<sup>68</sup> The Malaysian interested parties argue that Malaysia will likely continue its historic role as a "minor player" in the U.S. market given that Malaysia's share of apparent U.S. consumption was low during the original period examined, never exceeding \*\*\* percent of apparent U.S. consumption, and also during the period of review, never exceeding \*\*\* percent of apparent U.S. consumption. Malaysian Interested Parties' Prehearing Br. at 1, 4-5. Subject imports from Malaysia had a continued presence in the U.S. market, particularly in 2008-2009, although we

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Subject Malaysian producers also possessed significant excess capacity with which to increase exports to the U.S. market after revocation.<sup>69</sup> Reported Malaysian PRCB capacity increased throughout the period of review, from 7.8 billion bags in 2004 to 8.3 billion bags in 2005, 9.1 billion bags in 2006, 10.5 billion bags in 2007, 11.3 billion bags in 2008, and 13.8 billion bags in 2009.<sup>70</sup> Reported Malaysian PRCB production also increased throughout the period, from 7.2 billion bags in 2004 to 7.5 billion bags in 2005, 8.3 billion bags in 2006, 9.8 billion bags in 2007, 10.1 billion bags in 2008, and 11.7 billion bags in 2009.<sup>71</sup> Reported Malaysian industry capacity utilization rates, however, fluctuated over the period, declining from 92.5 percent in 2004 to 89.8 percent in 2005, increasing to 91.1 percent in 2006 and 93.3 percent in 2007, and then declining to 89.5 percent in 2008 and 84.8 percent in 2009.<sup>72</sup> Thus, in 2009, responding Malaysian producers reported excess capacity of a significant 2.1 billion bags, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>73</sup>

Responding Malaysian producers were highly dependent on exports throughout the period of review, with the European Union their primary market.<sup>74</sup> Reported Malaysian PRCB exports increased

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<sup>68</sup> (...continued)

recognize that they accounted for a lower share of apparent U.S. consumption than subject imports from China or Thailand during the original period of investigation and the period of review. CR/PR at Tables I-1, 12. The significant and increasing presence of nonsubject imports from Malaysia in the U.S. market, however, indicates that nonsubject producers in Malaysia, unrestrained by any antidumping duty discipline, have not remained “minor players” in the U.S. market. Were the order on PRCBs from Malaysia revoked, we find it likely that subject producers in Malaysia would exhibit a similar degree of interest in serving the U.S. market, and a similar capability of doing so, as nonsubject producers in China demonstrated over the period of review.

<sup>69</sup> The Malaysian interested parties argue that subject Malaysian producers operated at a high level of capacity utilization over the period of review, and are incapable of fully utilizing their production capacity. Malaysian Interested Parties’ Prehearing Br. at 5; Hearing Tr. at 145 (Macrory). Even so, responding Malaysian producers reported excess capacity of 2.1 billion bags in 2009, equivalent to \*\*\* percent of apparent U.S. consumption that year, which is significant. CR/PR at Tables I-12, IV-5. That Malaysian producers reported capacity utilization rates ranging from \*\*\* to \*\*\* percent during the original period of investigation indicates that the Malaysian industry is capable of operating at high capacity utilization levels. See Original Confidential Staff Report at Table VII-4.

<sup>70</sup> CR/PR at Table IV-5. The Commission sent foreign producers’ questionnaires to 27 firms in Malaysia believed to be PRCB producers, and received 16 usable responses. CR at IV-14; PR at IV-8. Responding Malaysian producers estimated that they accounted for \*\*\* percent of Malaysian PRCB production, and \*\*\* percent of Malaysian PRCB exports to the United States, in 2009. CR at IV-14; PR at IV-9. Responding Malaysian producers \*\*\* to the United States during the period of review. CR at IV-14; PR at IV-9.

<sup>71</sup> CR/PR at Table IV-5.

<sup>72</sup> CR/PR at Table IV-5.

<sup>73</sup> See CR/PR at Tables I-12, IV-5.

<sup>74</sup> The Malaysian interested parties argue that subject Malaysian producers are unlikely to reduce their focus on the EU market given that their exports to the EU surged from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2009 as they capitalized on the opportunity for increased sales that resulted from the EU’s imposition of antidumping duty orders on competing PRCBs from China and Thailand. See Malaysian Interested Parties’ Prehearing Br. at 5-6. However, the recent orders imposed by the United States on imports of PRCBs from Indonesia, Taiwan, and Vietnam will likely increase competition in the EU market, as producers in Indonesia, Taiwan, and Vietnam redirect exports from the U.S. market to third country markets and reduce competition in the U.S. market. Increased competition in the EU market and reduced competition in the U.S. market, in turn, would likely give subject Malaysian producers an incentive to shift exports from the EU market to the U.S. market were the antidumping order on PRCBs from Malaysia to be revoked. Moreover, Malaysian producers were able to increase capacity and production rapidly when they saw a market opportunity in the EU and have given no persuasive reason why they would not increase capacity and production to serve the U.S. market just as quickly. Thus, we are unpersuaded by the Malaysian interested parties’ argument that subject Malaysian producers would likely remain focused on the EU

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from 6.4 billion bags in 2004 and 2005 to 7.2 billion bags in 2006, and 9.1 billion bags in 2007, declined to 9.0 billion bags in 2008, and then increased to 10.6 billion bags in 2009.<sup>75</sup> In 2009, responding Malaysian producers reportedly exported 91.3 percent of their total shipments.<sup>76</sup>

Based on this evidence, as well as the high degree of substitutability between subject imports from Malaysia and the domestic like product and the importance of price, we do not find that subject imports from Malaysia would likely have no discernible adverse impact on the domestic industry if the antidumping duty order on PRCBs from Malaysia were revoked.

*Thailand.* During the original period of investigation, subject imports from Thailand increased from \*\*\* bags in 2001, or \*\*\* percent of apparent U.S. consumption, to \*\*\* bags in 2002, or \*\*\* percent of apparent U.S. consumption, and \*\*\* bags in 2003, or \*\*\* percent of apparent U.S. consumption.<sup>77</sup>

Over the period of review, Thai producers maintained a significant presence in the U.S. market notwithstanding imposition of the antidumping duty order. Subject imports from Thailand declined to 5.8 billion bags in 2004, or \*\*\* percent of apparent U.S. consumption, before increasing sharply to 11.0 billion bags in 2005, or \*\*\* percent of apparent U.S. consumption, and 17.0 billion bags in 2006, or \*\*\* percent of apparent U.S. consumption.<sup>78</sup> Subject imports from Thailand then declined to 5.9 billion bags in 2007, or \*\*\* percent of apparent U.S. consumption, before increasing to 7.8 billion bags in 2008, or \*\*\* percent of apparent U.S. consumption, and declining to 3.7 billion bags in 2009, or \*\*\* percent of apparent U.S. consumption.<sup>79</sup> These data indicate that Thai producers remain interested in the U.S. market and capable of serving U.S. customers.

The limited questionnaire data on the Thai PRCB industry indicate that Thai producers possess significant excess capacity with which to increase exports to the U.S. market after revocation.<sup>80</sup> Reported Thai PRCB capacity fluctuated between 2004 and 2006, increasing from \*\*\* bags in 2004 to \*\*\* bags in 2005 before declining to \*\*\* bags in 2006, \*\*\* bags in 2007, \*\*\* bags in 2008, and \*\*\* bags in 2009.<sup>81</sup> Reported Thai PRCB production increased from \*\*\* bags in 2004 to \*\*\* bags in 2005, declined to \*\*\* bags in 2006 and \*\*\* bags in 2007, increased to \*\*\* bags in 2008, and declined to \*\*\* bags in 2009.<sup>82</sup> Reported Thai industry capacity utilization rates fluctuated over the period of review, increasing from \*\*\* percent in 2004 to \*\*\* percent in 2005, declining to \*\*\* percent in 2006 and

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<sup>74</sup> (...continued)  
market after revocation.

<sup>75</sup> CR/PR at Table IV-5.

<sup>76</sup> CR/PR at Table IV-5.

<sup>77</sup> CR/PR at Table I-1.

<sup>78</sup> CR/PR at Table I-2.

<sup>79</sup> CR/PR at Table I-2.

<sup>80</sup> The Commission sent foreign producers' questionnaires to 33 firms in Thailand believed to be PRCB producers, and received five usable responses. CR at IV-18; PR at IV-11. Responding Thai producers estimated that they accounted for \*\*\* percent of Thai PRCB production, and \*\*\* percent of Thai PRCB exports to the United States, in 2009. *Id.* The exports to the United States reported by these firms in 2009 were equivalent to \*\*\* percent of the quantity of subject imports from Thailand that year. *Id.* The seeming disparity between the reported capacity and production of subject Thai producers and the volume of subject imports from Thailand stems from the fact that only \*\*\* of subject Thai producers reported capacity and production data, while subject import volume data reflect comprehensive official Commerce statistics.

<sup>81</sup> CR/PR at Table IV-6.

<sup>82</sup> CR/PR at Table IV-6.

\*\*\* percent in 2007, increasing to \*\*\* percent in 2008, and declining to \*\*\* percent in 2009.<sup>83</sup> Thus, in 2009, responding Thai producers alone possessed \*\*\* bags of excess capacity, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>84</sup>

Responding Thai producers also reported a high degree of export orientation. Reported Thai PRCB exports increased from \*\*\* bags in 2004 to \*\*\* bags in 2005, before declining to \*\*\* bags in 2006, \*\*\* bags in 2007, \*\*\* bags in 2008, and \*\*\* bags in 2009.<sup>85</sup> Responding Thai PRCB producers reportedly exported \*\*\* percent of their total shipments in 2009.<sup>86</sup>

Based on this evidence, as well as the high degree of substitutability between subject imports from Thailand and the domestic like product and the importance of price, we do not find that subject imports from Thailand would likely have no discernible adverse impact on the domestic industry if the antidumping duty order on PRCBs from Thailand were revoked.

#### **D. Likelihood of a Reasonable Overlap of Competition**

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.<sup>87</sup> Only a “reasonable overlap” of competition is required.<sup>88</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.<sup>89</sup>

In the original investigations, the Commission found a reasonable overlap of competition among the subject imports from China, Malaysia, and Thailand, and between subject imports from each source and the domestic like product, and therefore cumulated subject imports from all three sources.<sup>90</sup> In these reviews, no party has argued that circumstances have changed so as to warrant a different result concerning the likely overlap of competition for cumulation purposes.

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<sup>83</sup> CR/PR at Table IV-6.

<sup>84</sup> See CR/PR at Table I-12.

<sup>85</sup> CR/PR at Table IV-6.

<sup>86</sup> CR/PR at Table IV-6.

<sup>87</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>88</sup> See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle From Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812 to 813 (Prelim.), USITC Pub. 3155 at 15 (Feb. 1999), aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-761 to 762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>89</sup> See generally Cheflene Corp. v. United States, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

<sup>90</sup> Original Views at 16.

With respect to fungibility,<sup>91</sup> the record of these reviews indicates that there would likely be a high degree of substitutability among subject imports from China, Malaysia, and Thailand and between subject imports from each source and the domestic like product, after revocation.<sup>92</sup> Almost all responding domestic producers and a majority of responding importers and purchasers reported that PRCBs from China, Malaysia, and Thailand, respectively, are “always” or “frequently” interchangeable with the domestic like product.<sup>93</sup> Moreover, almost all responding domestic producers, importers, and purchasers reported that PRCBs from China, Malaysia, and Thailand are “always” or “frequently” interchangeable with each other.<sup>94</sup> A majority of responding purchasers reported that subject imports from China, Malaysia, and Thailand, respectively, are generally comparable with the domestic like product in terms of 14 of 18 purchasing factors, including availability, customization, quality meets industry standards, and U.S. transportation costs.<sup>95</sup> When asked whether factors other than price were ever significant for purchasers choosing among PRCBs from China, Malaysia, and Thailand, and the domestic like product, a majority of responding domestic producers and importers responded “sometimes” or “never.”<sup>96</sup>

The record also indicates that there would likely be a reasonable overlap of competition among subject imports from China, Malaysia, and Thailand, and between these imports and the domestic like product, in terms of geographic markets, channels of distribution, and simultaneous presence in the U.S. market. During the period of review, subject imports from China, Malaysia, and Thailand entered the United States through multiple ports of entry, dispersed across the country, and responding importers reported that they served customers throughout the United States.<sup>97</sup> Responding domestic producers also reported that they served customers throughout the United States.<sup>98</sup> Domestic producers and importers

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<sup>91</sup> Commissioner Lane notes that, with respect to fungibility, her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Invs. Nos. 701-TA-451 and 731-TA-1126-1128 (Prelim.), USITC Pub. 3964 at 32-33 (Nov. 2007).

<sup>92</sup> CR at II-16; PR at II-11.

<sup>93</sup> CR at II-20-21; PR at II-16; CR/PR at Table II-11.

<sup>94</sup> CR/PR at Table II-11.

<sup>95</sup> CR/PR at Table II-13. Fewer responding purchasers were in agreement with respect to delivery time, price, reliability of supply, and technical support and service. With respect to delivery time, a plurality of responding purchasers reported that the domestic like product was superior to subject imports from China, Malaysia, and Thailand, respectively. Id. With respect to price, a plurality of responding purchasers reported that the domestic like product was comparable to subject imports from China and Thailand, respectively, but inferior (i.e., higher in price) with respect to subject imports from Malaysia. Id. With respect to reliability of supply, a majority of responding purchasers reported that the domestic like product was comparable with respect to subject imports from China and Malaysia, respectively, while a plurality of responding purchasers reported that the domestic like product was comparable to subject imports from Thailand. Id. With respect to technical support and service, a majority of responding purchasers reported that the domestic like product was comparable to subject imports from China and Thailand, respectively, while a plurality reported that the domestic like product was comparable to subject imports from Malaysia. Id.

<sup>96</sup> CR at II-21-22; PR at II-16; CR/PR at Table II-12.

<sup>97</sup> CR at II-4, IV-5; PR at II-3, IV-4-5; CR/PR at Table II-3. In addition, responding importers reported that 46.7 percent of their shipments were shipped less than 100 miles, 29.6 percent of their shipments were shipped from 101 to 1,000 miles, and 23.7 percent of their shipments were shipped over 1,000 miles. CR at V-3; PR at V-2.

<sup>98</sup> CR at II-4; PR at II-3; CR/PR at Table II-3. In addition, responding domestic producers reported that 12.5 percent of their shipments were shipped less than 100 miles, 56.4 percent of their shipments were shipped from 101

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of PRCBs from Malaysia and Thailand reported selling most PRCBs directly to end users, with the balance sold to distributors.<sup>99</sup> Importers of PRCBs from China, however, reported selling most PRCBs to distributors, with the balance sold to end users, in every year of the period of review but 2009, when they reported selling most PRCBs to end users with the balance sold to distributors.<sup>100</sup> Subject imports from China, Malaysia, and Thailand were imported into the United States during the last 12 months for which data were collected.<sup>101</sup>

Based on the four reasonable overlap in competition factors that the Commission considers, we conclude that subject imports from the subject countries likely would be fungible, move in the same channels of distribution, and compete simultaneously in the same geographic markets if the antidumping duty orders were revoked. No party has asserted an argument that a reasonable overlap of competition is not likely. Accordingly, we conclude that there likely would be a reasonable overlap of competition between subject imports and the domestic like product, and among the subject imports themselves, if the antidumping duty orders were revoked.

#### **E. Other Considerations**<sup>102 103</sup>

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether the subject imports from China, Malaysia, and Thailand are likely to compete under similar or different conditions in the U.S. market after revocation of the orders.<sup>104</sup> We find that subject imports from each country would be likely to compete under similar conditions of competition in the U.S. market after revocation, based on the following considerations.

First, subject imports from all three sources maintained a presence in the U.S. market throughout the period of review, as addressed in section IV.C above, indicating that subject producers in all three

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<sup>98</sup> (...continued)

to 1,000 miles, and 31.1 percent of their shipments were shipped over 1,000 miles. CR at V-2; PR at V-2.

<sup>99</sup> See CR/PR at Table II-1.

<sup>100</sup> See CR/PR at Table II-1.

<sup>101</sup> CR at IV-6; PR at IV-5.

<sup>102</sup> Commissioners Lane and Pinkert do not join in this section and explain their analysis of other considerations as follows. Where, in a five-year review, they do not find that the subject imports would be likely to have no discernible adverse impact on the domestic industry if the orders were revoked, and find that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, they cumulate such imports unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted.

Based on the record in these reviews, they find that there is no such condition or propensity with respect to the subject imports. The subject Malaysian producers' recent focus on the European Union does not rise to the level of such a condition or propensity – it is simply a trend. It does not reduce their ability to direct more exports to the U.S. market, which they could do out of unused capacity and/or current exports to the European Union (whose market for PRCBs is likely to see increased competition as a result of recent orders imposed by the United States on imports of PRCBs from Indonesia, Taiwan, and Vietnam).

<sup>103</sup> Commissioner Pinkert rejects the Malaysian interested parties' "hammering effects" argument as it would have the Commission perform its sunset analysis backwards. See Malaysian Interested Parties' Prehearing Br. at 8; Malaysian Interested Parties' Posthearing Br. at 9. In accordance with 19 U.S.C. § 1675a(a)(7), he does not make five-year review likelihood of injury determinations for each country before determining whether to cumulate subject imports from various countries.

<sup>104</sup> See, e.g., Allegheny Ludlum Corp., 475 F. Supp. 2d at 1378 (recognizing the wide latitude the Commission has in selecting the type of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); Nucor v. United States, 569 F. Supp. 2d at 1337-38; United States Steel, Slip Op. 08-82.

countries have an interest in serving the U.S. market and the ability to do so. There is no evidence on the record that subject imports from China, Malaysia, and Thailand differed significantly in terms of product mix.

Subject imports from China and Thailand exhibited similar patterns of over- and underselling over the period of review, although no pricing data were reported for subject imports from Malaysia, given their smaller volumes. Subject imports from China undersold the domestic like product in 115 of 179 quarterly comparisons, or 64.2 percent of the time, with an average underselling margin of 26.4 percent, while subject imports from Thailand undersold the domestic like product in 81 of 124 quarterly comparisons, or 65.3 percent of the time, with an average underselling margin of 17.2 percent.<sup>105</sup>

Responding subject producers in China, Malaysia, and Thailand reported a similar dependence on exports and lack of a significant home market. In 2009, responding Chinese producers reported exporting \*\*\* percent of their total shipments, responding Malaysian producers reported exporting 91.3 percent of their total shipments, and responding Thai producers reported exporting \*\*\* percent of their total shipments.<sup>106</sup>

Responding producers in Malaysia and Thailand also reported \*\*\* excess capacity in 2009, at \*\*\* bags and \*\*\* bags, respectively.<sup>107</sup> Although questionnaire data on Chinese excess capacity are limited, public information placed on the record by the domestic interested parties indicates that Chinese PRCB producers possess an enormous capacity of approximately \*\*\* bags, and these producers confront significant government restrictions on PRCB usage in their home market.<sup>108</sup> Thus, subject producers in China, Malaysia, and Thailand would likely have similar capabilities and incentives to increase their exports to the United States after revocation of the orders.

In sum, we find that the similarities in the likely conditions of competition outweigh the differences and have exercised our discretion to cumulate subject imports from China, Malaysia, and Thailand for our analysis in these reviews.<sup>109</sup>

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<sup>105</sup> CR/PR at Table V-11.

<sup>106</sup> CR/PR at Tables IV-4-6. As addressed in section IV.C above, we are unpersuaded by the Malaysian interested parties' argument that subject Malaysian producers would likely remain focused primarily on the EU market after revocation of the order.

<sup>107</sup> CR/PR at Tables IV-5-6.

<sup>108</sup> See Domestic Interested Parties' Prehearing Br. at Exhibit 16; CR at IV-9-11; PR at IV-6-7.

<sup>109</sup> The Malaysian interested parties assert that subject imports from Malaysia could not possibly contribute to any "hammering effect" after revocation, which is the primary purpose of cumulation in their view, because it is "inconceivable" that the Commission would revoke the orders on PRCBs from China and Thailand. See Malaysian Interested Parties' Prehearing Br. at 8; Malaysian Interested Parties' Posthearing Br. at 9.

We note that the Court of Appeals for the Federal Circuit and the U.S. Court of International Trade have both rejected the view that the Commission's exercise of its discretion to cumulate in sunset reviews should be guided by the likelihood of "hammering effects" from subject imports originating in different countries. See Nucor Corp. v. United States, Court Nos. 2009-1234, -1235, slip. op. at 10 (Fed. Cir. Apr. 7, 2010); Nucor Corp. v. United States, 605 F. Supp. 2d 1361, 1372 (Ct. Int'l Trade 2009) (holding that "[i]f Congress had intended the Commission to consider 'hammering effect' as an independent factor in its discretionary cumulation analysis, it would have done so" but "did not" and instead "gave the Commission wide discretion in the types of factors to consider").

Further, our reviewing courts have rejected the notion that the Commission may engage in a "circular analysis, relying on the same factors to refuse to cumulate as for an ultimate negative injury determination," such as volume or market share alone. Neenah Foundry Co. v. United States, 155 F. Supp. 2d at 771-777. See also Nucor Corp. v. United States, 605 F. Supp. 2d 1361, 1370 n. 12 (Ct. Int'l Trade 2009) (referencing "an impermissible circular analysis" by basing an exercise of discretion not to cumulate solely on the likely volume of subject imports); Allegheny Ludlum Corp. v. United States, 475 F. Supp. 2d 1370, 1379 (Ct. Int'l Trade 2006) (the Commission decision not to cumulate was valid because it "did not rely only on low volume figures and pre-order imports in

(continued...)

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

### A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>110</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>111</sup> Thus, the likelihood standard is prospective in nature.<sup>112</sup> The CIT has found that “likely,” as used in the five-year review provisions of the Tariff Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>113 114 115</sup>

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<sup>109</sup> (...continued)

making its cumulation determination, but also based its analysis [of differing conditions of competition] on product-mix trends, production capacity trends, and volume trends” and “provided sufficient evidence and ‘further justification’ not to cumulate” beyond low volume and price impact).

Thus, the Malaysian interested parties’ “hammering effects” argument would have the Commission engage in a circular analysis and perform its sunset analysis backwards, first determining that revocation of the orders on PRCBs from China and Thailand would likely result in the continuation or recurrence of material injury and then determining, on that basis, to exercise its discretion to decumulate subject imports from Malaysia. Under the statute, however, the Commission must consider the issue of cumulation first, before considering the likelihood of the continuation or recurrence of material injury after revocation. See 19 U.S.C. § 1675a(a)(7) (providing that the Commission must first consider “if such imports would be likely to compete with each other and with domestic like products in the United States market” before it “may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day”).

<sup>110</sup> 19 U.S.C. § 1675a(a).

<sup>111</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” Id. at 883.

<sup>112</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>113</sup> See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>114</sup> For a complete statement of Commissioner Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362

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The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>116</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>117</sup>

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effects, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>118</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, whether the industry is vulnerable to material injury if the order were revoked, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>119</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>120</sup>

In evaluating the likely volume of imports of subject merchandise if the orders under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>121</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors, as follows: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>122</sup>

In evaluating the likely price effects of subject imports if the orders under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to

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<sup>114</sup> (...continued)

(Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

<sup>115</sup> Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape From Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (Jun. 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

<sup>116</sup> 19 U.S.C. § 1675a(a)(5).

<sup>117</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

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

<sup>119</sup> 19 U.S.C. § 1675a(a)(1).

<sup>120</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>121</sup> 19 U.S.C. § 1675a(a)(2).

<sup>122</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>123</sup>

In evaluating the likely impact of imports of subject merchandise if the orders under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>124</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders were revoked.<sup>125</sup>

In these reviews, a limited number of subject foreign producers in China and Thailand responded to the Commission's questionnaires, as addressed above. Accordingly, we have relied on the facts otherwise available when appropriate in these reviews, which consist primarily of information from the original investigations, information available from published sources, and information submitted in these reviews, including by the domestic interested parties and other questionnaire respondents.<sup>126 127</sup>

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<sup>123</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

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

<sup>125</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>126</sup> 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(I). The verification requirements in 19 U.S.C. § 1677m(I) only apply to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2002) (“the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.”).

<sup>127</sup> Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

## **B. Conditions of Competition and Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>128</sup>

In the original investigations, the Commission identified several conditions of competition that were relevant to its analysis. With respect to demand conditions, the Commission found that apparent U.S. consumption had increased steadily from 77 billion bags in 2001 to 87.5 billion bags in 2003, and noted that, despite the many types of PRCBs, 90 percent of the U.S. market was comprised of t-shirt and die-cut handle PRCBs.<sup>129</sup> With respect to supply conditions, the Commission noted that 22 domestic producers had completed domestic producers’ questionnaire responses; that subject imports were diffused among many importers; that PRCBs are imported directly by large retailers, purchased from importers and domestic producers, and purchased from distributors; that nonsubject import market share increased from 1.5 percent in 2001 to 4.4 percent in 2003; and that subject imports and domestic producers alike served the higher end of the PRCB market.<sup>130</sup> With respect to substitutability, the Commission found that there was a high degree of substitutability between subject imports and the domestic like product, and that price was an important factor in purchasing decisions.<sup>131</sup>

The Commission noted that polyethylene resin was the primary raw material input for PRCB production, and that petitioners argued that 50 to 80 percent of their sales volume was subject to formal or informal agreements to adjust PRCB prices in tandem with resin price trends.<sup>132</sup> The Commission also found that domestic producers and importers increasingly sold PRCBs over the internet during the period examined, sometimes through reverse auctions that, according to purchasers, tended to focus competition on price.<sup>133</sup>

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

### **1. Demand Conditions**

Apparent U.S. consumption for PRCBs increased from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2005 and \*\*\* billion bags in 2006 before declining to \*\*\* billion bags in 2007, \*\*\* billion bags in 2008, and \*\*\* billion bags in 2009, a level still \*\*\* percent higher than in 2004.<sup>134</sup> When asked how demand for PRCBs in the U.S. market has changed since 2004, 24 responding producers, importers, and purchasers reported a decrease, 23 reported no change, 20 reported an increase, and 16 reported that demand fluctuated.<sup>135</sup> Reasons given by questionnaire respondents for the decline in PRCB demand

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<sup>128</sup> 19 U.S.C. § 1675a(a)(4).

<sup>129</sup> Original Views at 16-17.

<sup>130</sup> Original Views at 17-18.

<sup>131</sup> Original Views at 18-19.

<sup>132</sup> Original Views at 19.

<sup>133</sup> Original Views at 19-20.

<sup>134</sup> CR/PR at Tables I-11, C-1.

<sup>135</sup> CR/PR at Table II-4. Specifically, six responding producers reported an increase, four reported a decrease, one reported no change, and two reported that demand fluctuated; thirteen responding importers reported no change, nine reported a decrease, nine reported that demand fluctuated, and two reported an increase; twelve responding purchasers reported an increase, eleven reported a decrease, nine reported no change, and five reported that demand fluctuated. Id.

since 2006 included the increased use of alternative bag types and bans or taxes on PRCBs related to environmental concerns.<sup>136</sup>

Petitioners project that PRCB demand has undergone a structural decline since 2006 that is likely to continue into the foreseeable future, as environmental concerns will likely spawn additional measures designed to reduce PRCB consumption.<sup>137</sup> When asked how demand in the U.S. market is likely to change, 31 responding producers, importers, and purchasers reported that they project no change, 25 reported that they project declining demand, 13 reported that they project increasing demand, and 9 reported that they project fluctuating demand.<sup>138</sup>

The record indicates that laws and regulations taxing, banning, or limiting the use of PRCBs have been enacted in San Francisco, CA; Westport, CT; the Outer Banks of North Carolina; Seattle, WA; and Washington, DC, and have been considered, but not implemented, in 32 states and localities throughout the United States.<sup>139</sup> When asked whether they expect the passage of laws regulating PRCB use and disposal to affect PRCB demand, 28 of 45 responding purchasers answered yes, with an average projected decline in demand of 19.5 percent.<sup>140</sup>

## 2. Supply Conditions

API, Hilex, Intoplast, and Superbag were \*\*\* domestic producers during the period of investigation, accounting for \*\*\* percent, \*\*\* percent, \*\*\* percent, and \*\*\* percent of domestic PRCB production in 2009, respectively.<sup>141</sup> All other domestic producers combined accounted for only \*\*\* percent of domestic production that year.<sup>142</sup> Since the original investigations, \*\*\* ceased operations and dissolved in late 2009, Vanguard was acquired by Hilex in October 2005, and four PRCB production facilities were closed, one by \*\*\* and three by Hilex.<sup>143</sup>

Imports from subject and nonsubject sources accounted for \*\*\* percent of apparent U.S. consumption in 2009, by volume.<sup>144</sup> The principal sources of nonsubject imports were China, Vietnam, Malaysia, Taiwan, Indonesia, and Canada,<sup>145</sup> with PRCBs from Indonesia and Taiwan subject to antidumping duty orders, and PRCBs from Vietnam subject to antidumping and countervailing duty

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<sup>136</sup> CR at II-10; PR at II-7.

<sup>137</sup> Domestic Interested Parties' Prehearing Br. at 16-17.

<sup>138</sup> CR/PR at Table II-4. Specifically, five responding producers project a decline, four project no change, three project an increase, and none project fluctuating demand; twelve responding imports project a decline, twelve project no change, four project an increase, and three project fluctuating demand; fifteen responding purchasers project no change, eight project a decline, six project an increase, and six project fluctuating demand. *Id.* \*\*\* projects that U.S. demand for high-density polyethylene ("HDPE") bags will increase about \*\*\* percent annually over the 2008-2013 period, though we note that HDPE bags include bags other than PRCBs. CR at II-11; PR at II-8.

<sup>139</sup> CR at II-13-14; PR at II-9. The record also indicates that the 5-cent per-bag tax imposed on PRCBs in Washington, DC has had a significant impact on PRCB demand there. CR at II-14; PR at II-9.

<sup>140</sup> CR/PR at Table II-5.

<sup>141</sup> CR/PR at Table I-10.

<sup>142</sup> CR/PR at Table I-10.

<sup>143</sup> CR at I-32-33; PR at I-21-22. On May 6, 2008, Hilex, the dominant domestic producer of PRCBs, voluntarily filed for relief under Chapter 11 of the U.S. Bankruptcy code, reportedly to reduce its overall debt and strengthen its balance sheet. CR at III-25 n.15; PR at III-5 n.15. Hilex emerged from bankruptcy protection in July 2008. *Id.*

<sup>144</sup> CR/PR at Table I-12.

<sup>145</sup> CR at II-6; PR at II-5; CR/PR at Table I-11.

orders, as of May 2010.<sup>146</sup> Nonsubject import volume increased from 5.1 billion bags in 2004, equivalent to \*\*\* percent of apparent U.S. consumption, to 9.5 billion bags in 2005, equivalent to \*\*\* percent of apparent U.S. consumption, 18.4 billion bags in 2006, equivalent to \*\*\* percent of apparent U.S. consumption, and 25.0 billion bags in 2007, equivalent to \*\*\* percent of apparent U.S. consumption.<sup>147</sup> Nonsubject import volume then declined to 22.7 billion bags in 2008, equivalent to \*\*\* percent of apparent U.S. consumption, and 21.6 billion bags in 2009, equivalent to \*\*\* percent of apparent U.S. consumption.<sup>148</sup>

### 3. Substitutability and Other Conditions of Competition

As addressed in section IV.D above, the record indicates that there is a high degree of substitutability between PRCBs, regardless of the source.<sup>149</sup> The record also indicates that price is an important consideration in purchasing decisions.<sup>150</sup> When asked whether factors other than price were ever significant for purchasers choosing among PRCBs from China, Malaysia, and Thailand, and the domestic like product, a majority of responding domestic producers and importers responded “sometimes” or “never.”<sup>151</sup> When asked to identify the three major factors considered in selecting among different suppliers of PRCBs, 47 of 48 responding purchasers ranked price among their top three factors, more than any other factor, and 19 responding purchasers reported that price was the most important factor.<sup>152</sup> Twenty-seven of 46 responding purchasers reported that they always or usually purchase the lowest-priced PRCBs.<sup>153</sup> When asked to rate the importance of 18 factors relevant to selecting among different suppliers of PRCBs, more responding purchasers (41 of 42) reported that price was a “very important” factor than any other factor, followed by product consistency (39 of 42 responding purchasers).<sup>154</sup>

Two additional conditions of competition inform our analysis in these reviews. First, at the hearing, witnesses from Hilex and Superbag testified that their PRCB production facilities must operate around the clock to reduce unit costs to an economical level, and that this factor has compelled them to defend their key high-volume customers, their “baseload business,” by meeting low subject import

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<sup>146</sup> CR at I-15; PR at I-8.

<sup>147</sup> CR/PR at Table I-11.

<sup>148</sup> CR/PR at Tables I-11-12.

<sup>149</sup> See CR at II-16; PR at II-11; CR/PR at Tables II-11-3.

<sup>150</sup> See CR at II-21, 22-23; PR at II-15-16. The record also indicates that bidding events, including bidding events conducted over the internet, were a factor in the U.S. market during the period examined, and that price was often the determinative factor in such events. See CR at V-3; PR at V-2. Fifteen of 48 responding purchasers reported that they had participated in bidding events and provided data on 34 bidding events, whose winning bids accounted for 5.4 percent of apparent U.S. consumption over the period of review. CR at V-4-5; PR at V-3. The country with the lowest bidder was the country with the winning bid in 23 of the 28 bidding events for which such data were reported. CR at V-5; PR at V-3; CR/PR at Table V-1.

<sup>151</sup> CR at II-21-22; PR at II-16; CR/PR at Table II-12.

<sup>152</sup> CR at II-16; PR at II-11; CR/PR at Table II-8.

<sup>153</sup> CR at II-17; PR at II-12.

<sup>154</sup> CR/PR at Table II-9.



prices.<sup>155</sup> Customers lost to subject imports, the domestic interested parties claim, may only be regained by undercutting the new incumbent supplier's price.<sup>156</sup>

Second, we note that raw materials, principally polyethylene resin, accounted for \*\*\* percent of the total cost of goods sold reported by domestic producers in 2009, and \*\*\* percent when resin prices peaked in 2008.<sup>157</sup> The price of polyethylene resin was volatile over the period of review, increasing irregularly from 2004 through early 2006, declining irregularly during 2006 and into early 2007, and then increasing irregularly through August 2008, when it reached a period high.<sup>158</sup> The price of polyethylene resin then decreased rapidly through January 2009 before trending higher into early 2010, as confirmed by multiple responding domestic producers.<sup>159</sup> Two responding producers reported that for certain contracts, prices adjust with changes in resin prices.<sup>160</sup>

### **C. Revocation of the Antidumping Duty Orders Under Review Is Likely to Lead to Continuation or Recurrence of Material Injury**

#### **1. Likely Volume of Cumulated Subject Imports**

##### **a. The Original Investigations**

In the original investigations, the Commission found that subject import volume increased significantly from 8.7 million bags in 2001, or 10.5 percent of apparent U.S. consumption, to 11.6 million bags in 2002, or 13.5 percent of apparent U.S. consumption, and to 17.0 million bags in 2003, or 18.6 percent of apparent U.S. consumption.<sup>161</sup> The Commission also found that the increase in subject import market share came at the expense of the domestic industry, which lost 11.0 percentage points of market share, although the Commission recognized that nonsubject imports captured market share from the domestic industry as well.<sup>162</sup>

##### **b. The Current Reviews**

Several factors support our conclusion that cumulated subject import volume is likely to be significant in the event of revocation.

First, the volume of subject imports from the cumulated subject countries increased rapidly in the original investigations, both absolutely and relative to apparent U.S. consumption and production.<sup>163</sup> Notwithstanding imposition of the antidumping duty orders, cumulated subject imports maintained a significant presence in the U.S. market over the period of review. Specifically, cumulated subject import volume increased from 12.6 billion bags in 2004, equivalent to \*\*\* percent of apparent U.S. consumption, to 17.6 billion bags in 2005, equivalent to \*\*\* percent of apparent U.S. consumption, and 23.5 billion bags in 2006, equivalent to \*\*\* percent of apparent U.S. consumption, declined to 10.6

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<sup>155</sup> Hearing Tr. at 16-17, 21 (Bazbaz), 33 (Rizzo); see also id. at 8 (Dorn); Domestic Interested Parties' Prehearing Br. at 12-13.

<sup>156</sup> Domestic Interested Parties' Prehearing Br. at 13.

<sup>157</sup> CR at V-1; PR at V-1.

<sup>158</sup> CR at V-1; PR at V-1; CR/PR at Figure V-1.

<sup>159</sup> CR at V-1; PR at V-1; CR/PR at Figure V-1.

<sup>160</sup> CR at V-3; PR at V-2.

<sup>161</sup> Original Views at 20-21. Ratios to apparent U.S. consumption are based on U.S. importers' U.S. shipments.

<sup>162</sup> Original Views at 21.

<sup>163</sup> CR/PR at Table I-1.

billion bags in 2007, equivalent to \*\*\* percent of apparent U.S. consumption, increased to 13.7 billion bags in 2008, equivalent to \*\*\* percent of apparent U.S. consumption, and declined to 8.9 billion bags in 2009, equivalent to \*\*\* percent of apparent U.S. consumption.<sup>164</sup> These data indicate that subject foreign producers remain interested in serving the U.S. market and are capable of doing so.<sup>165</sup>

We find further support for this finding in the significant and increasing presence of imports from China and Malaysia in the U.S. market from producers excluded from the antidumping duty orders over the period of review. Nonsubject imports from China and Malaysia increased from 1.0 billion bags in 2004, equivalent to \*\*\* percent of apparent U.S. consumption, to 4.8 billion bags in 2005, equivalent to \*\*\* percent of apparent U.S. consumption, and 5.6 billion bags in 2006, equivalent to \*\*\* percent of apparent U.S. consumption, declined slightly to 5.5 billion bags in 2007, equivalent to \*\*\* percent of apparent U.S. consumption, and 5.2 billion bags in 2008, equivalent to \*\*\* percent of apparent U.S. consumption, and then increased to 7.6 billion bags in 2009, equivalent to \*\*\* percent of apparent U.S. consumption, a level 641.9 percent higher than in 2004.<sup>166</sup> Thus, nonsubject producers in China and Malaysia rapidly increased their penetration of the U.S. market over the period of review, and we find it likely that subject producers in China and Malaysia would be no less interested in serving the U.S. market were the orders to be revoked.

Second, there is significant and increasing production capacity in the subject countries. Collectively, responding subject foreign producers in China, Malaysia, and Thailand, reported a \*\*\* percent increase in their capacity over the period of review, from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2009, and the actual capacity of subject foreign producers is likely much higher in light of the limited questionnaire coverage of the Chinese and Thai industries.<sup>167</sup> Public information submitted by the domestic interested parties indicates that subject Chinese producers possess a capacity of approximately 36.3 billion bags, and that at least 21 new PRCB production facilities have been commissioned in China since the original investigations, representing an additional annual capacity of approximately 206.6 million bags.<sup>168</sup> It also indicates that Suiping Huaqiang, which had been China's largest PRCB producer with an annual capacity of 250,000 metric tons, closed after the Chinese government imposed certain restrictions on PRCB usage in June 2008, but then reopened as Suiping Huiqiang Plastic Co., with an annual capacity of 180,000 metric tons or 31.7 billion bags.<sup>169</sup> With respect to Thailand, public information submitted by the domestic interested parties indicates that a single Thai producer, King Pac Industrial Co. Ltd., reportedly possesses a capacity of 16.9 billion bags, with plans to increase its capacity to 38.0 billion bags and become one of the top PRCB producers in the world.<sup>170</sup>

Third, there is significant unused capacity in the subject countries. Collectively, responding subject foreign producers reported a capacity utilization rate of \*\*\* percent in 2009, resulting in excess

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<sup>164</sup> CR/PR at Tables I-11-12.

<sup>165</sup> The record also contains evidence that importers and purchasers would be receptive to purchasing increased volumes of subject imports after revocation. Six responding importers reported that they would likely increase their imports of subject imported PRCBs were the orders to be revoked, and nine responding purchasers reporting that they would likely increase their purchases of subject imported PRCBs were the orders to be revoked. See CR/PR at Appendix D.

<sup>166</sup> CR/PR at Tables I-11-12.

<sup>167</sup> CR/PR at Tables IV-4-6.

<sup>168</sup> Domestic Interested Parties' Prehearing Br. at 38-39, Exhibit 25.

<sup>169</sup> Domestic Interested Parties' Prehearing Br. at 39-40, Exhibits 29-30.

<sup>170</sup> See Domestic Interested Parties' Prehearing Br. at Exhibits 16 (conversion factor of 12.5 pounds per 1,000 bags and 2,204.6 pounds per metric ton), 45.

capacity of \*\*\* bags, equivalent to \*\*\* percent of apparent U.S. consumption that year.<sup>171</sup> Moreover, given the low questionnaire coverage of the subject Chinese and Thai industries, actual cumulated excess capacity in the subject countries is likely to be far higher. The enormous capacity of the Chinese PRCB industry coupled with significant restrictions on PRCB usage in the Chinese market suggest that cumulated excess capacity in the subject countries is likely far higher than reported by responding subject foreign producers.

Fourth, responding subject foreign producers reported that they are highly export oriented, with a relatively low proportion of their sales directed at home market customers. In 2009, responding Chinese producers reported exporting \*\*\* percent of their total shipments, responding Malaysian producers reported exporting 91.3 percent of their total shipments, and responding Thai producers reported exporting \*\*\* percent of their total shipments.<sup>172</sup>

Fifth, competition in major third country markets is likely to intensify in the reasonably foreseeable future given the likelihood of stagnant or declining demand in the Chinese and EU markets and the recent imposition of antidumping duty orders on imports of PRCBs from Indonesia, Taiwan, and Vietnam, and a countervailing duty order on imports of PRCBs from Vietnam, in the United States earlier this year. When asked how PRCB demand is likely to change outside the United States, 23 responding domestic producers, importers, and purchasers projected that demand will remain unchanged, 19 projected a decline in demand, 4 projected an increase in demand, and 3 projected that demand will fluctuate.<sup>173</sup> PRCB demand in China will likely remain adversely affected by government restrictions on PRCB usage.<sup>174</sup> PRCB demand in the EU market, which is the principal export market for subject Malaysian producers, is likely to be subjected to similar pressure from taxes, bans, or voluntary initiatives to limit PRCB use in numerous member countries, including Belgium, Denmark, Ireland, France, Germany, Norway, and the United Kingdom.<sup>175</sup> At the same time, PRCB producers in Indonesia, Taiwan, and Vietnam, which collectively possessed a reported capacity of \*\*\* bags in 2008, have become subject to antidumping discipline, and in the case of Vietnamese producers, countervailing duty discipline, in the U.S. market, which will likely displace a significant volume of their exports from the U.S. market into third country markets.<sup>176</sup> For all of these reasons, subject producers in China, Malaysia, and Thailand are likely to experience intensified competition for their exports to third country markets in the reasonably foreseeable future, creating an incentive for them to shift exports from third country markets to the U.S. market after revocation.

Finally, the antidumping duty orders recently imposed on PRCBs from Indonesia, Taiwan, and Vietnam, and the countervailing duty order imposed on PRCBs from Vietnam, would likely create an

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<sup>171</sup> CR/PR at Tables I-11, IV-4-6.

<sup>172</sup> CR/PR at Tables IV-4-6.

<sup>173</sup> CR/PR at Table II-4.

<sup>174</sup> See CR at II-15, IV-9-11; PR at II-11, IV-6-7. Effective June 1, 2008, the Chinese government imposed a new regulation requiring retailers to charge customers for plastic shopping bags or face fines. CR at IV-9; PR at IV-6. Retailers may set their own prices for plastic bags, provided that the prices are greater than the retailers' cost of the bags. *Id.* The Chinese government also has promulgated standards specifying that plastic shopping bags must be at least 0.025 millimeters (1 mil) in thickness, among other requirements. CR at IV-9; PR at IV-6. These actions by the Chinese government have had an adverse impact on PRCB demand in China, as evidenced by the 60 percent decline in plastic bag use in Chinese-owned supermarkets and the 80 percent reduction in plastic bag use by foreign-owned stores like Walmart and Carrefour. See CR at II-15, IV-9-10; PR at II-11, IV-6-7.

<sup>175</sup> CR at II-15; PR at II-10-11. \*\*\* projects that EU demand for HDPE film and sheet will increase about \*\*\* percent annually over the 2008-2013 period, though we note that HDPE film and sheet may also be used in applications other than PRCBs. CR at II-11; PR at II-8.

<sup>176</sup> PRCBs from Indonesia, Taiwan, and Vietnam, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), Memorandum INV-HH-037 (Apr. 14, 2010) at Table VII-4.

additional incentive for subject producers in China, Malaysia, and Thailand to increase exports to the U.S. market after revocation.<sup>177</sup> Given antidumping duty margins ranging from 36.54 to 95.81 percent and countervailing duty margins ranging from 5.28 to 52.56 percent, these orders will likely result in a significant decline in nonsubject imports from Indonesia, Taiwan, and Vietnam in the reasonably foreseeable future, which would reduce competition and increase PRCB prices in the U.S. market.<sup>178</sup> Reduced competition and higher prices in the U.S. market, in turn, would likely create an incentive for subject foreign producers in China, Malaysia, and Thailand to increase exports to the U.S. market after revocation, particularly in light of the likely intensification of competition in third country markets.<sup>179</sup> In addition, subject producers in China and Thailand are subject to antidumping duty orders imposed by the EU, which limit their access to the EU market.<sup>180</sup>

Accordingly, based on the demonstrated ability of subject foreign producers to increase exports to the U.S. market rapidly and their continued presence in the U.S. market even after imposition of the antidumping duty orders; the significant and increasing presence of nonsubject imports from China and Malaysia in the U.S. market over the period of review; the subject foreign producers' substantial production capacity and significant excess capacity; their high degree of export orientation and lack of significant home market sales; the likely intensification of competition for their exports to third country markets; and the likely attractiveness of the U.S. market relative to third country markets, we find that the likely volume of cumulated subject imports, in absolute terms and relative to both U.S. production and consumption, would be significant in the event of revocation.<sup>181</sup>

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<sup>177</sup> CR at I-15; PR at I-8.

<sup>178</sup> See CR at I-15 n.14; PR at I-8 n.14; see also Polyethylene Retail Carrier Bags from Vietnam: Countervailing Duty Order, 76 Fed. Reg. 23670 (May 4, 2010).

<sup>179</sup> The Malaysian interested parties argue that Malaysian producers are unlikely to reduce their focus on the EU market after revocation because the antidumping duty orders imposed by the EU on PRCBs from China and Thailand in 2006 have provided Malaysian producers with a competitive advantage in the EU market, permitting them to double their exports to the EU between 2004 and 2009. Malaysian Interested Parties' Prehearing Br. at 10. We see no reason, however, why subject Malaysian producers would not similarly capitalize on the U.S. orders covering PRCBs from Indonesia, Taiwan, and Vietnam by increasing their exports to the U.S. market after revocation, just as they capitalized on the EU orders on PRCBs from China and Thailand by increasing their exports to the EU market. Indeed, subject Malaysian producers would likely have an incentive to shift exports from the EU market to the U.S. market after revocation, as competition in the EU market intensifies due to demand pressure and PRCBs from Indonesia, Taiwan, and Vietnam displaced from the U.S. market. Moreover, Malaysian producers were able to increase capacity and production rapidly when they saw a market opportunity in the EU and have given no persuasive reason why they would not increase capacity and production to serve the U.S. market just as quickly.

<sup>180</sup> CR at IV-20; PR at IV-11.

<sup>181</sup> We note that all but two responding subject producers in Malaysia reported that they could switch from the production of other products to the production of PRCBs in response to a relative change in the price of PRCBs, with the reported cost of doing so ranging from minimal to high. CR at II-8; PR at II-6. One responding subject producer in China also reported that it could shift production from other products to PRCBs with minimal expense. CR at II-7; PR at II-6. The other responding subject producer in China and all responding subject producers in Thailand, however, reported that they are unable to switch from the production of other products to the production of PRCBs. CR at II-9; PR at II-5-6.

With respect to existing inventories of subject merchandise, U.S. importers' end-of-period inventories of subject and nonsubject imports from China, Malaysia, and Thailand were \*\*\* bags in 2009, equivalent to \*\*\* percent of U.S. shipments of such imports that year. CR/PR at Table IV-2. For the same year, responding subject producers in China reported end-of-period inventory of \*\*\* bags, equivalent to \*\*\* percent of their total shipments that year, responding subject producers in Malaysia reported end-of-period inventory of 658.3 million bags, equivalent to 5.7 percent of their total shipments that year, and subject producers in Thailand reported end-of-period inventory of \*\*\* bags, equivalent to \*\*\* percent of their total shipments that year. CR/PR at Tables IV-4-6. We note that inventories

(continued...)

## 2. Likely Price Effects of Cumulated Subject Imports

### a. The Original Investigations

In the original investigations, the Commission began its analysis of pricing by noting that subject imports and the domestic like product were largely substitutable, and that price was the most important factor in purchasing decisions.<sup>182</sup> The Commission then found subject import underselling significant based on evidence that subject imports undersold the domestic like product in 72 of 84 quarterly comparisons.<sup>183</sup> Finally, the Commission found that subject imports had depressed and suppressed domestic like product prices to a significant degree.<sup>184</sup> The Commission also found that the record did not support the respondents' arguments that subject import underselling reflected a price premium commanded by the domestic like product, and that the depression of domestic like product prices resulted from internet reverse auctions rather than subject import competition.<sup>185</sup>

### b. The Current Reviews

As addressed in section V.B.3 above, the record indicates that there is a high degree of substitutability between subject imports and the domestic like product and that price is an important consideration in purchasing decisions.<sup>186</sup> The record also indicates that bidding events, including bidding events conducted over the internet, were a factor in the U.S. market during the period examined, and that price was often the determinative factor in such events.<sup>187</sup>

Even with the orders in place, the record of these reviews indicates that subject import underselling remained significant during the period of review. Thirteen domestic producers, 11 importers of PRCBs from China, and 9 importers of PRCBs from Thailand provided usable quarterly net U.S. f.o.b. selling price data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>188</sup> No sales price data were reported for PRCBs imported from Malaysia.<sup>189</sup> Pricing data reported by these firms accounted for approximately 62.4 percent of the domestic industry's U.S. shipments of PRCBs, 10.6 percent of PRCBs imported from China, and 31.5 percent of PRCBs imported from Thailand over the 2004-2009 period, by value.<sup>190</sup> These data indicate that subject imports from China and Thailand undersold the domestic like product in 196 of 303 quarterly comparisons, with an average underselling margin of 22.6 percent, and oversold the domestic

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<sup>181</sup> (...continued)

held by importers and subject foreign producers, like inventories held by domestic producers, are largely customized for specific customers. See PRCBs from Indonesia, Taiwan, and Vietnam, USITC Pub. 4144 at 25 n.157. Thus, we recognize that subject merchandise inventoried by importers and foreign producers may be earmarked for specific customers pursuant to sales that have already taken place.

<sup>182</sup> Original Views at 22.

<sup>183</sup> Original Views at 22.

<sup>184</sup> Original Views at 22-23.

<sup>185</sup> Original Views at 23.

<sup>186</sup> See CR at II-16; PR at II-11; CR/PR at Tables II-11-13.

<sup>187</sup> See CR at V-4-5; PR at V-2-3; CR/PR at Table V-1.

<sup>188</sup> CR at V-10; PR at V-5.

<sup>189</sup> CR at V-10; PR at V-5.

<sup>190</sup> CR at V-10; PR at V-5.

like product in 107 of 303 quarterly comparisons, with an average overselling margin of 22.3 percent.<sup>191</sup> Subject imports undersold the domestic like product in 64.7 percent of quarterly comparisons in these reviews, up from 54.7 percent of quarterly comparisons in the original investigations.<sup>192</sup>

In view of our finding that subject import volume would likely increase significantly after revocation, the high degree of substitutability between subject imports and the domestic like product, the importance of price, and the significance of subject import underselling even with the antidumping duty orders in place, we find that subject import underselling would likely intensify after revocation of the orders, as subject foreign producers seek to increase their penetration of the U.S. market. We also find that significant subject import underselling after revocation would likely result in the depression or suppression of domestic like product prices to a significant degree. Domestic producers would likely be compelled to defend their baseload business by meeting low-priced subject import competition in order to maintain an economical rate of capacity utilization. That domestic producers would do so against a backdrop of flat to declining demand and increasing resin prices would create a significant likelihood of price suppression. We note that small changes in raw material costs relative to net sales value can have a significant impact on the domestic industry's financial performance, magnifying the vulnerability of the domestic industry to the effects of subject imports in the reasonably foreseeable future.<sup>193</sup>

Thus, we conclude that, if the antidumping duty orders were revoked, significant volumes of subject imports from China, Malaysia, and Thailand likely would significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product.

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<sup>191</sup> CR/PR at Table V-11. We rely on pricing data reported on a per-pound basis to control for the wide range of sizes, and hence weights, encompassed by each pricing product definition. CR at V-27; PR at V-11. PRCB prices vary with bag weight given that raw material costs represented \*\*\* percent of the total cost of producing PRCBs in 2009. CR at V-1; PR at V-1. The probative value of average unit value data is questionable, given evidence from our recent investigations of PRCBs from Indonesia, Taiwan, and Thailand, that PRCBs range widely in price, depending on their weight and other physical attributes. See PRCBs from Indonesia, Taiwan, and Vietnam, USITC Pub. 4144 at 27 n.168. We therefore do not rely on such data in our analysis of likely price effects.

<sup>192</sup> Compare CR/PR at Table V-11 with id. at Table V-13. We note that the Commission relied upon pricing data expressed in terms of dollars per thousand bags in the original investigation, whereas we rely upon pricing data expressed in terms of dollars per pound in these reviews for the reasons addressed above. Table V-13 of the staff report is based on pricing data collected in the original investigations in terms of dollars per pound. See CR/PR at Table V-13, note.

<sup>193</sup> For example, between 2007 and 2008, the domestic industry's unit raw material costs increased by \*\*\* percent while the unit value of its net sales increased by only \*\*\* percent, contributing to a \*\*\* percent decline in the domestic industry's gross profits. CR/PR at Table III-8. This pattern reversed between 2008 and 2009, when the domestic industry's unit raw material costs declined by \*\*\* percent while the unit value of its net sales declined by only \*\*\* percent, contributing to a \*\*\* percent increase in the domestic industry's gross profits. Id.

### 3. Likely Impact of Cumulated Subject Imports<sup>194</sup>

#### a. The Original Investigations

In the original investigations, the Commission found that the domestic industry's production, U.S. shipments, capacity utilization, and market penetration declined between 2001 and 2003, despite a 13.6 percent increase in apparent U.S. consumption, and that the greatest decline in these factors coincided with the greatest increase in subject import volume and market share, between 2002 and 2003.<sup>195</sup> As subject imports captured market share from the domestic industry, the Commission found, the domestic industry experienced a cost-price squeeze, as the industry's declining rate of capacity utilization increased its fixed unit costs and low-priced subject import competition prevented the industry from recouping sharply higher resin and energy costs through higher prices.<sup>196</sup> The Commission further found that the domestic industry's operating income and operating margins declined significantly over the period examined, and particularly between 2002 and 2003, as did the industry's cash flow and capital expenditures.<sup>197</sup> Based on the significant volume of subject imports and their adverse effects on domestic prices, the Commission concluded that subject imports had a significant adverse impact on the domestic industry.<sup>198</sup>

The Commission rejected respondents' arguments that nonsubject imports, not subject imports, accounted for the domestic industry's adverse trends, and that domestic producers injured themselves by importing subject PRCBs. In this regard, the Commission observed that subject imports had increased

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<sup>194</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885, 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Tariff Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce conducted expedited sunset reviews of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand and found likely antidumping duty margins ranging from 19.79 to 77.57 percent with respect to imports from China, 84.94 to 101.74 percent with respect to imports from Malaysia, and 2.26 to 122.88 percent with respect to imports from Thailand. CR/PR at Tables I-3-5.

Section 751(a)(4) of the Act requires Commerce, if requested by a party in an administrative review, to determine whether a foreign producer or importer of subject merchandise has absorbed antidumping duties. The Commission is specifically directed to take into account the findings of Commerce regarding duty absorption. 19 U.S.C. § 1675a(b)(1)(D). Commerce has found that Chinese producer Nozawa absorbed antidumping duties on all U.S. sales during the August 1, 2005 through July 31, 2006 period of review, that Malaysian producer Euro Plastics absorbed antidumping duties on all U.S. sales during the August 1, 2007 through July 31, 2008 period of review, and that Thai producer UPC/API absorbed antidumping duties on all U.S. sales during the August 1, 2005 through July 31, 2006 period of review. CR/PR at Tables I-6 n.1, I-7 n.1, and I-8 n.1.

<sup>195</sup> Original Views at 24-25. The Commission also found that domestic industry employment and wages declined over the period examined, while productivity increased. Id. at 25.

<sup>196</sup> Original Views at 26.

<sup>197</sup> Original Views at 26.

<sup>198</sup> Original Views at 26.

their penetration of the U.S. market to a much greater extent than nonsubject imports, and that subject imports were no less injurious for being imported by domestic producers.<sup>199</sup>

## b. The Current Reviews

The condition of the domestic industry declined irregularly between 2004 and 2008, before improving somewhat in 2009. Domestic industry production fluctuated over the period of review, increasing from \*\*\* bags in 2004 to \*\*\* bags in 2005, declining to \*\*\* bags in 2006, increasing to \*\*\* bags in 2007, declining to \*\*\* bags in 2008, and increasing to \*\*\* bags in 2009.<sup>200</sup> Domestic PRCB capacity increased from \*\*\* bags in 2004 to \*\*\* bags in 2005, declined irregularly to \*\*\* bags in 2008, but then increased \*\*\* to \*\*\* bags in 2009, a level \*\*\* percent higher than in 2004.<sup>201</sup> The \*\*\* increase in capacity between 2008 and 2009 reportedly resulted from \*\*\* purchases of new equipment and \*\*\* efficiency gains.<sup>202</sup> In contrast to domestic industry production and capacity, the domestic industry's rate of capacity utilization trended lower over most of the period of review, declining from \*\*\* percent in 2004 to \*\*\* percent in 2005 and \*\*\* percent in 2006, increasing \*\*\* to \*\*\* percent in 2007, and then declining to \*\*\* percent in 2008 and \*\*\* percent in 2009.<sup>203</sup>

Domestic industry employment also declined throughout much of the period of review, increasing from \*\*\* workers in 2004 to \*\*\* workers in 2005 before declining to \*\*\* workers in 2006, \*\*\* workers in 2007, \*\*\* workers in 2008, and \*\*\* workers in 2009.<sup>204</sup> Hours worked followed a similar trend, declining irregularly from \*\*\* hours in 2004 to \*\*\* hours in 2009, while productivity increased irregularly from \*\*\* bags per hour to \*\*\* bags per hour.<sup>205</sup>

The domestic industry's net sales fluctuated with production, increasing from \*\*\* bags in 2004 to \*\*\* bags in 2005, declining to \*\*\* bags in 2006, increasing to \*\*\* bags in 2007, declining to \*\*\* bags in 2008, and then increasing to \*\*\* bags in 2009, a level \*\*\* below that in 2004.<sup>206</sup> The domestic industry's U.S. shipments of PRCBs followed a similar trend, increasing from \*\*\* bags in 2004 to \*\*\* bags in 2005, declining to \*\*\* bags in 2006, increasing to \*\*\* bags in 2007, declining to \*\*\* bags in 2008, and then increasing to \*\*\* bags, a level \*\*\* percent lower than in 2004.<sup>207</sup> The domestic industry's share of the quantity of apparent U.S. consumption, by contrast, declined irregularly over the period of review, from \*\*\* percent in 2004 to \*\*\* percent in 2005 and \*\*\* percent in 2006, before increasing to \*\*\* percent in 2007, declining to \*\*\* percent in 2008, and then increasing to \*\*\* percent in 2009, a level \*\*\* percentage points lower than in 2004.<sup>208</sup>

The domestic industry's financial performance declined \*\*\* from 2004 through 2008, before recovering in 2009. The domestic industry's net sales value fluctuated over the period, increasing from \$\*\*\* in 2004 to \$\*\*\* in 2005, declining to \$\*\*\* in 2006 and \$\*\*\* in 2007, increasing to \$\*\*\* in 2008,

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<sup>199</sup> Original Views at 26-27.

<sup>200</sup> CR/PR at Table III-3.

<sup>201</sup> CR/PR at Table III-3.

<sup>202</sup> CR at III-4; PR at III-2.

<sup>203</sup> CR/PR at Table III-3.

<sup>204</sup> CR/PR at Table III-7.

<sup>205</sup> CR/PR at Table III-7.

<sup>206</sup> CR/PR at Table III-8.

<sup>207</sup> CR/PR at Table I-11.

<sup>208</sup> CR/PR at Table I-12.



and then declining to \$\*\*\* in 2009.<sup>209</sup> The domestic industry's operating income, however, declined steadily from \$\*\*\* in 2004, or \*\*\* percent of net sales, to \$\*\*\* in 2005, or \*\*\* percent of net sales, and to \$\*\*\* in 2006, or \*\*\* percent of net sales, increased \*\*\* to \$\*\*\* in 2007, or \*\*\* percent of net sales, declined \*\*\* to a loss of \$\*\*\* in 2008, or negative \*\*\* percent of net sales, and then recovered to \$\*\*\* in 2009, or \*\*\* percent of net sales.<sup>210</sup> Similarly, the domestic industry's capital expenditures declined steadily from \$\*\*\* in 2004 to \$\*\*\* in 2009, a level \*\*\* percent below that in 2004, and its research and development expenses also declined irregularly from \$\*\*\* in 2004 to \$\*\*\* in 2009, a level \*\*\* percent lower than that in 2004.<sup>211</sup> Its return on investment declined from \*\*\* percent in 2004 to \*\*\* percent in 2006, increased \*\*\* to \*\*\* percent in 2007, declined to negative \*\*\* percent in 2008, and then rebounded to \*\*\* percent in 2009.<sup>212</sup>

Based on these data, we find that the domestic industry is vulnerable to the recurrence or continuation of material injury by reason of subject imports were the orders to be revoked.<sup>213</sup> The domestic industry's performance deteriorated markedly over the 2005-2008 period according to most measures, with weak profitability in 2006 and 2007 and substantial operating losses in 2008.<sup>214</sup> Although the domestic industry's performance improved in 2009 according to several measures, its operating income margin was \*\*\* percent, and other measures of the domestic industry's performance declined, including its rate of capacity utilization, employment, hours worked, capital expenditures, and R&D expenditures.<sup>215</sup> Even a small increase in the domestic industry's cost of raw materials relative to its net sales value could reverse much of the domestic industry's apparent progress, and raw material costs trended higher in 2010.<sup>216</sup> We find further support for our vulnerability finding in evidence that PRCB demand is likely to stagnate or decline in the reasonably foreseeable future.

As addressed above, we have found that revocation of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand would likely result in a significant increase in subject import volume that would likely undersell the domestic like product, thereby depressing or suppressing domestic like product prices to a significant degree. We find that the likely volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. These reductions would have a direct adverse impact on the industry's profitability and employment as well as its ability to raise capital and make and maintain necessary capital investments. We therefore conclude that, if the antidumping duty orders were revoked, subject imports from China, Malaysia, and Taiwan would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

We have considered whether there are other factors that likely would affect the domestic industry. As discussed above, nonsubject imports significantly increased their share of U.S. apparent

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<sup>209</sup> CR/PR at Table III-8.

<sup>210</sup> CR/PR at Table III-8.

<sup>211</sup> CR/PR at Table III-11.

<sup>212</sup> CR/PR at Table III-12.

<sup>213</sup> Vice Chairman Pearson finds that the domestic industry is not vulnerable to the recurrence or continuation of material injury by reason of subject imports were the orders to be revoked. As also expressed in his dissenting views in the investigations of Indonesia, Taiwan, and Vietnam, he bases this determination on the recent improvement in the financial performance \*\*\*. Because \*\*\*, this has contributed to a healthier domestic industry that is not vulnerable.

<sup>214</sup> CR/PR at Table III-8.

<sup>215</sup> See CR/PR at Tables III-7-8, 11.

<sup>216</sup> See CR at V-1; PR at V-1; CR/PR at Figure V-1.

consumption over the period of review from \*\*\* percent in 2004 to \*\*\* percent in 2009, by volume.<sup>217</sup> We nevertheless find that nonsubject imports are unlikely to prevent subject imports from increasing their penetration of the U.S. market significantly after revocation. That is because nonsubject imports from Indonesia, Taiwan, and Vietnam, which accounted for a predominant share of nonsubject imports towards the end of the period of review,<sup>218</sup> became subject to antidumping and/or countervailing duty orders on May 4, 2010, and are therefore likely to decline significantly in the reasonably foreseeable future.<sup>219</sup> Indeed, the likely significant decline in nonsubject imports from these sources would make the U.S. market relatively more attractive to subject foreign producers in China, Malaysia, and Thailand after revocation, particularly as they face intensified competition in third country markets from Indonesian, Taiwan, and Vietnamese PRCBs displaced from the U.S. market.

Finally, we have considered the likely future effects of stagnant or declining demand on the domestic industry. Legal and voluntary efforts to curb PRCB usage, motivated by environmental concerns, will likely continue to affect U.S. demand for PRCBs adversely into the reasonably foreseeable future. Nevertheless, for the reasons addressed above, we find that subject imports would further reduce domestic sales volumes and prices significantly, or suppress domestic prices significantly, and thus would be likely to have a significant adverse impact on the domestic industry in the event of revocation regardless of demand levels. We also observe that subject foreign producers should prove just as capable as are nonsubject producers at increasing their penetration of the U.S. market, as nonsubject producers, including nonsubject producers in China and Thailand, significantly increased their penetration of the U.S. market between 2006 and 2009 notwithstanding weakening demand.<sup>220</sup> Accordingly, we find that cumulated subject imports are likely to have a significant adverse impact upon the domestic industry in the event of revocation, notwithstanding the significant presence of nonsubject imports in the U.S. market during the period of review, and the stagnant or declining demand.

## CONCLUSION

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

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<sup>217</sup> CR/PR at Table I-12.

<sup>218</sup> See CR at II-6; PR at II-5; CR/PR at Table I-12.

<sup>219</sup> CR at I-15 & n.14; PR at I-8 & n.14.

<sup>220</sup> See CR/PR at Table I-12. Nonsubject imports from China and Malaysia increased their share of apparent U.S. consumption from \*\*\* percent in 2006 to \*\*\* percent in 2009, even as apparent U.S. consumption declined \*\*\* percent from \*\*\* billion bags to \*\*\* billion bags. Id.

## PART I: INTRODUCTION AND OVERVIEW

### BACKGROUND

Effective July 1, 2009, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted reviews to determine whether revocation of the antidumping duty orders on polyethylene retail carrier bags (“PRCBs”)<sup>1</sup> from China, Malaysia, and Thailand would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective October 5, 2009, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the reviews is provided in the following tabulation.<sup>2</sup>

Effective date	Action
August 9, 2004	Commerce’s antidumping duty orders (69 FR 48201)
July 1, 2009	Commission’s institution of reviews (74 FR 31750, July 2, 2009)
October 5, 2009	Commission’s decision to conduct full reviews (74 FR 54069, October 21, 2009)
October 19, 2009	Commerce’s final results of expedited reviews (74 FR 53470)
November 17, 2009	Commission’s scheduling of the reviews (74 FR 61172, November 23, 2009)
April 27, 2010	Commission’s hearing <sup>1</sup>
June 8, 2010	Date of the Commission’s vote
June 22, 2010	Commission’s determinations transmitted to Commerce

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

### The Original Investigations

On June 20, 2003, a petition was filed with the U.S. Department of Commerce (“Commerce”) and the Commission alleging that an industry in the United States was materially injured by reason of imports of PRCBs from China, Malaysia, and Thailand that were sold at less than fair value (“LTFV”).<sup>3</sup>

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these reviews.

<sup>2</sup> The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission’s web site (internet address [www.usitc.gov](http://www.usitc.gov)). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site. The U.S. Department of Commerce’s (“Commerce”) notice of final results of its expedited reviews also appears in app. A.

<sup>3</sup> The petition was filed by the Polyethylene Retail Carrier Bag Committee, an ad hoc coalition of U.S. PRCB producers (consisting of Intoplast Group, Ltd. (“Intoplast”), Livingston, NJ; PCL Packaging, Inc. (“PCL”), Barrie, Ontario; Sonoco Products Co., Hartsville, SC (the High Density Film Division of Sonoco Products Co., which manufactures PRCBs, was purchased by Hilex Poly Co., LLC (“Hilex”) in February 2004); Superbag Corp.

(continued...)

On June 18, 2004, Commerce made final affirmative dumping determinations,<sup>4</sup> which were amended with respect to China and Thailand on July 15, 2004.<sup>5</sup> The Commission made its final affirmative injury determinations on August 3, 2004 and Commerce issued antidumping duty orders on August 9, 2004.<sup>6</sup>

On 26 November 2008, Thailand requested consultations pursuant to Article XXIII:1 of the GATT concerning the United States' alleged application of the practice known as "zeroing" of negative dumping margins in its determination of sales at LTFV in its 2004 antidumping investigation of PRCBs from Thailand. After failing to resolve the dispute, on March 20, 2009, pursuant to the request from Thailand, the WTO Dispute Settlement Body ("DSB") established a panel. The Panel concluded that the United States acted inconsistently with the first sentence of Article 2.4.2 of the Anti-Dumping Agreement by using "zeroing" in its final determination of sales of LTFV, as amended, and in its antidumping duty order for individually investigated Thai exporters whose margins of dumping were not based on total facts available. On February 18, 2010, the DSB adopted the panel report.<sup>7</sup>

### SUMMARY DATA

Table I-1 presents a summary of data from the original investigations, which is compiled from data submitted in response to Commission questionnaires.<sup>8 9</sup> Table I-2 presents a summary of data from these reviews, which is compiled from official Commerce statistics and data submitted in response to

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<sup>3</sup> (...continued)

("Superbag"), Houston, TX; and Vanguard Plastics, Inc. ("Vanguard"), Farmers Branch, TX).

<sup>4</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 34125, June 18, 2004; *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia*, 69 FR 34128, June 18, 2004; *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 34122, June 18, 2004.

<sup>5</sup> *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419, July 15, 2004; *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 42419, July 15, 2004.

<sup>6</sup> *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, 69 FR 47957, August 6, 2004; *Antidumping Duty Orders: Polyethylene Retail Carrier Bags*, 69 FR 48201 (China), 69 FR 48203 (Malaysia) 69 FR 48204 (Thailand), August 9, 2004.

<sup>7</sup> [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds383\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds383_e.htm), retrieved March 18, 2010.

<sup>8</sup> Prior to July 2005 the HTS statistical reporting number under which subject imports were categorized contained many different types of out-of-scope merchandise. The import data obtained from questionnaire responses in the original final investigations were believed to account for the great majority of U.S. imports in 2003. *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, p. IV-2.

<sup>9</sup> On July 15, 2004, Commerce amended its determination concerning Thailand, including revising its dumping margins for Thai Plastic Bags Industries Group ("TPBG") from *de minimis* to 2.26 percent. *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419, July 15, 2004. Imports from TPBG were reported as nonsubject imports in the original staff report; in the current report, these imports have been reported under subject imports from Thailand.

Commission questionnaires.<sup>10 11</sup> Figure I-1 shows the quantity of subject U.S. imports of PRCBs from China, Malaysia, and Thailand since 2004.

While subject imports of PRCBs declined between 2004 and 2009, they increased at the beginning of the period, crested in 2006, then declined by more than half between 2006 and 2007 before increasing in 2008 and then ending the period at their lowest level. In contrast, the quantity of U.S. producers' U.S. shipments remained fairly constant during the 2004-09 period.

**Table I-1**  
**PRCBs: Summary data from the original investigations, 2001-03**

(Quantity=1,000 bags; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per 1,000 bags)

Item	Calendar year		
	2001	2002	2003
U.S. consumption quantity:			
Amount	77,055,893	82,020,663	87,506,101
Producers' share <sup>1</sup>	88.0	84.0	77.0
Importers' share-- <sup>1</sup>			
Subject sources:			
China	***	***	***
Malaysia	***	***	***
Thailand	***	***	***
Subtotal, subject	10.5	13.5	18.6

Table continued on following page.

<sup>10</sup> Prior to July 2005, PRCBs were reported under HTS statistical reporting number 3923.21.0090, a "basket category." After July 2005, imports of PRCBs were reported under HTS statistical reporting number 3923.21.0085, and the remainder of the imports reported under the former basket category were reported under HTS statistical reporting number 3923.21.0095. To estimate the imports of PRCBs during 2004-05, Commission staff, for each subject country and all other sources, applied (1) the ratio of imports under HTS statistical reporting number 3923.21.0085 to the combined imports under HTS statistical reporting numbers 3923.21.0085 and 3923.21.0095 during July-December 2005 to (2) the total imports under the three HTS statistical reporting numbers for 2004 and 2005.

<sup>11</sup> Three firms (Hang Lung Plastic Manufactory ("Hang Lung") and Nantong Huasheng Plastic Products Co., Ltd. ("Nantong Huasheng") in China, and Bee Lian Plastic Industries ("Bee Lian") in Malaysia) were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders, and imports of PRCBs from these firms have been reported as nonsubject imports from their respective countries. The PRCB import breakout calculation described above was also applied to these nonsubject imports.

**Table I-1--Continued**  
**PRCBs: Summary data from the original investigations, 2001-03**

(Quantity=1,000 bags; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per 1,000 bags)

Item	Calendar year		
	2001	2002	2003
Nonsubject sources:			
China <sup>2</sup>	***	***	***
Malaysia <sup>3</sup>	***	***	***
All other countries	***	***	***
Subtotal, nonsubject	1.5	2.5	4.4
Total imports	12.0	16.0	23.0
U.S. consumption value:			
Amount	971,140	935,596	995,491
Producers' share <sup>1</sup>	87.7	83.1	77.6
Importers' share-- <sup>1</sup>			
Subject sources:			
China	***	***	***
Malaysia	***	***	***
Thailand	***	***	***
Subtotal, subject	11.0	14.6	18.9
Nonsubject sources:			
China <sup>2</sup>	***	***	***
Malaysia <sup>3</sup>	***	***	***
All other countries	***	***	***
Subtotal, nonsubject	1.3	2.2	3.6
Total imports	12.3	16.9	22.4

Table continued on following page.

**Table I-1--Continued**  
**PRCBs: Summary data from the original investigations, 2001-03**

(Quantity=1,000 bags; value=1,000 dollars; unit values, unit labor costs,  
and unit financial data are per 1,000 bags)

Item	Calendar year		
	2001	2002	2003
U.S. shipments of imports from—			
Subject sources:			
China:			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***
Malaysia:			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***
Thailand:			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***
Subtotal, subject:			
Quantity	8,067,760	11,073,090	16,234,869
Value	106,508	137,008	187,718
Unit value	\$13.20	\$12.37	\$11.56
Nonsubject sources:			
China: <sup>2</sup>			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***
Malaysia: <sup>3</sup>			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***

Table continued on following page.

**Table I-1--Continued**  
**PRCBs: Summary data from the original investigations, 2001-03**

(Quantity=1,000 bags; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per 1,000 bags)

Item	Calendar year		
	2001	2002	2003
All other countries:			
Quantity	493,588	620,494	2,033,057
Value	5,956	6,853	18,135
Unit value	\$12.07	\$11.04	\$8.92
Subtotal, nonsubject:			
Quantity	1,145,531	2,073,817	3,850,971
Value	12,909	20,870	35,479
Unit value	\$11.27	\$10.06	\$9.21
All countries:			
Quantity	9,213,290	13,146,907	20,085,840
Value	119,417	157,878	223,197
Unit value	\$12.96	\$12.01	\$11.11
U.S. producers'--			
Capacity quantity	84,307,568	87,194,502	88,108,015
Production quantity	68,918,284	69,275,404	67,260,527
Capacity utilization <sup>1</sup>	81.7	79.4	76.3
U.S. shipments:			
Quantity	67,842,603	68,873,756	67,420,261
Value	851,723	777,718	772,295
Unit value	\$12.55	\$11.29	\$11.45
Export shipments:			
Quantity	***	***	***
Value	***	***	***
Unit value	\$***	\$***	\$***
Ending inventory quantity	4,667,815	4,005,465	2,888,366
Inventories/total shipments <sup>1</sup>	***	***	***

Table continued on following page.



**Table I-1--Continued**  
**PRCBs: Summary data from the original investigations, 2001-03**

(Quantity=1,000 bags; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per 1,000 bags)

Item	Calendar year		
	2001	2002	2003
Production workers	4,578	4,271	3,904
Hours worked (1,000 hours)	9,447	9,004	8,327
Wages paid (1,000 dollars)	125,385	123,524	114,814
Hourly wages	\$13.27	\$13.72	\$13.79
Productivity (bags per hour)	7,295.5	7,693.6	8,077.8
Net sales:			
Quantity	68,567,027	69,448,037	68,451,856
Value	862,624	784,727	785,636
Unit value	\$12.58	\$11.30	\$11.48
Cost of goods sold	724,372	669,068	702,598
Gross profit or (loss)	138,252	115,659	83,038
Operating income or (loss)	54,140	32,737	6,130
Unit cost of goods sold	\$10.56	\$9.63	\$10.26
Unit operating income or (loss)	\$0.79	\$0.47	\$0.09
Cost of goods sold/sales <sup>1</sup>	84.0	85.3	89.4
Operating income or (loss)/sales <sup>1</sup>	6.3	4.2	0.8
<sup>1</sup> In percent. <sup>2</sup> Hang Lung and Nantong Huasheng. <sup>3</sup> Bee Lian.  Note.--Because of rounding, figures may not add to the totals shown.  Source: Compiled from data submitted in response to Commission questionnaires, and memorandum INV-BB-091, July 8, 2004.			

**Table I-2**  
**PRCBs: Summary data from the current reviews, 2004-09**

\* \* \* \* \*

**Figure I-1**  
**PRCBs: U.S. imports from subject sources in China, Malaysia, and Thailand, 2004-09**

\* \* \* \* \*

## RELATED TITLE VII INVESTIGATIONS

Commerce recently imposed antidumping duties on PRCBs from Indonesia and Taiwan and antidumping and countervailing duties on PRCBs from Vietnam. On March 31, 2009, a petition was filed with Commerce and the Commission by Hilex and Superbag, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of PRCBs from Vietnam and LTFV imports of PRCBs from Indonesia and Taiwan. On April 21, 2010, the Commission determined that a U.S. industry is threatened with material injury by reason of imports of PRCBs from Vietnam that Commerce determined are subsidized, and by reason of imports from Indonesia, Taiwan, and Vietnam that Commerce determined are sold in the United States at LTFV.<sup>12</sup> The Commission transmitted its final determinations to Commerce on April 26, 2010, and Commerce issued a countervailing duty order and antidumping duty orders on May 4, 2010.<sup>13 14</sup> The product scope used in the final investigations on PRCBs from Indonesia, Taiwan, and Vietnam is the same as the scope used in these reviews involving PRCBs from China, Malaysia, and Thailand.<sup>15</sup>

In addition to the aforementioned Title VII investigations, Superbag filed a complaint in 2004 alleging infringement of one of the firm’s patents under section 337 of the Tariff Act of 1930 related to the importation into the United States, sale for importation, and/or sale within the United States after importation of certain “T-styled” plastic grocery and retail bags. An administrative law judge of the Commission found that a violation had occurred and recommended that the Commission issue a general exclusion order on these bags.<sup>16</sup> Settlements and consent orders were entered into with some respondents, and the Commission entered a general exclusion order against all other covered imports.<sup>17</sup>

## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

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

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

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<sup>12</sup> *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, 75 FR 22842, April 30, 2010.

<sup>13</sup> *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144, April 2010, p. I-1.

<sup>14</sup> Antidumping duty margins ranged from 69.64 to 85.17 percent for imports of PRCBs from Indonesia, 36.54 to 95.81 percent for imports from Taiwan, and 52.30 to 76.11 percent for imports from Vietnam. *Antidumping Duty Orders: Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam*, 75 FR 23667, May 4, 2010; *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Countervailing Duty Order*, 75 FR 23670, May 4, 2010. Countervailing duty margins on PRCBs from Vietnam ranged from 0.44 percent (*de minimis*) for one firm to 52.56 percent. *Polyethylene Retail Carrier Bags from Vietnam: Countervailing Duty Order*, 75 FR 23670, May 4, 2010.

<sup>15</sup> *Ibid.*

<sup>16</sup> *In the Matter of Certain Plastic Grocery and Retail Bags; Notice of Commission Determination Not To Review an Initial Determination Finding a Violation of Section 337; Schedule for Written Submissions on Remedy, the Public Interest, and Bonding*, 69 FR 1638, June 4, 2004.

<sup>17</sup> *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144, April 2010, p. I-4.

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

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

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

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

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

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

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

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

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

*(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.*

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

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

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

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

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

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

*(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.*

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

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

Information obtained during the course of the reviews that relates to the above factors is presented throughout this report. A summary of data collected in the reviews is presented in appendix C. U.S. industry data in the body of this report are based on questionnaire responses of 12 firms that accounted for the vast majority of U.S. production of PRCBs during 2009.<sup>18</sup> U.S. import data are based on official import statistics of Commerce and on proprietary Customs data.<sup>19</sup> Responses by U.S. producers, importers, and purchasers of PRCBs and producers of PRCBs in China, Malaysia, and Thailand to a series of questions concerning the significance of the existing antidumping duty orders and the likely effects of revocation are presented in appendix D.

## COMMERCE’S RESULTS OF EXPEDITED REVIEWS

On October 19, 2009, Commerce found that revocation of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand would be likely to lead to continuation or recurrence of dumping at the weighted-average percentage margins presented in Tables I-3, I-4, and I-5.<sup>20 21</sup>

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<sup>18</sup> Summary data for the 12 firms are presented in appendix table C-1. Data from a 13<sup>th</sup> U.S. producer, Omega Plastics Corp., Lyndhurst, NJ (“Omega”), which accounted for \*\*\* percent of U.S. production of PRCBs in 2009, were received during the final stages of the preparation of this report. Omega’s data are included in appendix table C-2, and in the price data in *Part V*.

<sup>19</sup> Prior to July 2005, PRCBs were reported under HTS statistical reporting number 3923.21.0090, a basket category. After July 2005, imports of PRCBs were reported under HTS statistical reporting number 3923.21.0085, and the remainder of the imports reported under the former basket category were reported under HTS statistical reporting number 3923.21.0095. To estimate the imports of PRCBs during 2004-05, Commission staff, for each subject country and all other sources, applied the ratio of imports under HTS statistical reporting number 3923.21.0085 to the combined imports under (1) HTS statistical reporting numbers 3923.21.0085 and 3923.21.0095 during July-December 2005 to (2) the total imports under the three HTS statistical reporting numbers for 2004 and 2005.

<sup>20</sup> Commerce’s notice is presented in app. A.

<sup>21</sup> As shown in the tables, three firms were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia).

**Table I-3**  
**PRCBs: Commerce's weighted-average LTFV margins with respect to imports from China**

<b>Producer/exporter</b>	<b>Dumping margins (percent)</b>
Dongwan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. <sup>1</sup>	23.22
Hang Lung Plastic Manufactory, Limited	0.24 <sup>2</sup>
Nantong Huasheng Plastic Products Co., Ltd.	0.01 <sup>2</sup>
Rally Plastics Company, Ltd.	23.85
Shanghai Glopack Packing Co., Ltd., and Sea Lake Polyethylene Enterprise, Ltd. <sup>3</sup>	19.79
Xiamen Ming Pak Plastics Co., Ltd.	35.58
Zhongshan Dongfeng Hung Wai Plastic Bag Manufactory	41.28
Beijing Lianbin Plastics and Printing Co., Ltd.	25.69
Dongguan Maruman Plastic Packaging Co., Ltd. <sup>4</sup>	25.69
Good-in Holdings, Ltd.	25.69
Guangdong Esquel Packaging Co., Ltd.	25.69
Nan Sing Plastics, Ltd.	25.69
Ningbo Fanrong Plastics Products Co., Ltd.	25.69
Ningbo Huansen Plastics Co., Ltd.	25.69
Rain Continent Shanghai Co., Ltd.	25.69
Shanghai Dazhi Enterprise Development Co., Ltd.	25.69
Shanghai Fangsheng Coloured Packaging Co., Ltd.	25.69
Shanghai Jingtai Packaging Material Co., Ltd.	25.69
Shanghai Light Industrial Products Imports and Export Corp.	25.69
Shanghai Minmetals Development, Ltd.	25.69
Shanghai New Ai Lian Import and Export Co., Ltd.	25.69
Shanghai Overseas International Trading Co., Ltd.	25.69
Shanghai Yafu Plastics Industries Co., Ltd.	25.69
Weihai Weiquan Plastic and Rubber Products Co., Ltd.	25.69
Xiamen Xingyatai Industry Co., Ltd.	25.69
Xinhui Henglong	25.69
All others	77.57

Table continued on following page.

**Table I-3--Continued****PRCBs: Commerce's weighted-average LTFV margins with respect to imports from China**<sup>1</sup> Also known as Dongguan Huang Jiang United Wah Plastic Bag Factory.<sup>2</sup> *De minimis*.<sup>3</sup> Also known as Sea Lake Plastics Import Material Processing Factory and Sea Lake Plastics Co., Ltd.<sup>4</sup> Formerly known as Dongguan Zhongqiao Combine Plastic Bag Factory.

Source: *Polyethylene Retail Carrier Bags From the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 53470, October 19, 2009.

**Table I-4****PRCBs: Commerce's weighted-average LTFV margins with respect to imports from Malaysia**

Producer/exporter	Dumping margins (percent)
Bee Lian Plastic Industries Sdn. Bhd	0.91 <sup>1</sup>
Teong Chuan Plastic and Timber Sdn. Bhd	101.74
Brandpak Industries Sdn. Bhd	101.74
Gants Pac Industries	101.74
Sido Bangun Sdn. Bhd	101.74
Zhin Hin Chin Hun Plastic Manufacturer Sdn. Bhd	101.74
All Others	84.94

<sup>1</sup> *De minimis*.

Source: *Polyethylene Retail Carrier Bags From the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 53470, October 19, 2009.

**Table I-5****PRCBs: Commerce's weighted-average LTFV margins with respect to imports from Thailand**

Producer/exporter	Dumping margins (percent)
Thai Plastic Bags Industries Co., Ltd.	2.26
Universal Polybags Co., Ltd./Advance Polybags Inc./Alpine Plastics Inc./API Enterprises Inc.	5.35
Champion Paper Polybags Ltd.	122.88
TRC Polypack	122.88
Zip-Pac Co., Ltd./KingPac Industrial Co., Ltd./Zippac/Dpac Industrial/Kingbag/KP.	122.88
All Others	2.80

Source: *Polyethylene Retail Carrier Bags From the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 53470, October 19, 2009.

**COMMERCE'S ADMINISTRATIVE REVIEWS**

As presented in tables I-6, I-7, and I-8, Commerce has conducted four administrative reviews of the antidumping duty orders on PRCBs from China, one administrative review on PRCBs from Malaysia, and four administrative reviews on PRCBs from Thailand.

**Table I-6**  
**PRCBs: Administrative reviews of the antidumping duty order for China**

<b>Period of review</b>	<b>Date results published</b>	<b>Producer or exporter</b>	<b>Margin (percent)</b>
01/26/2004-07/31/2005	March 19, 2007 (72 FR 12762)	Crown	7.68
		High Den	14.01
		Nozawa	7.36
		PRC-wide	77.57
	May 9, 2007 (72 FR 26336) (amended)	Crown	7.65
		High Den	11.99
08/01/2005-07/31/2006	March 17, 2008 (73 FR 14216) <sup>1</sup>	Chun Hing Plastic Packaging Mfy. Ltd. and Chun Yip Plastic Bag Factory	17.30
		Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd.	2.58
		Rally Plastics Co., Ltd.	32.02
08/01/2006-07/31/2007	February 11, 2009 (74 FR 6857)	Nozawa	3.19
		Rally	25.10
		PRC-wide	77.57
08/01/2007-07/31/2008	December 4, 2009 (74 FR 63718)	Rally	17.92
<sup>1</sup> Commerce found that antidumping duties had been absorbed by Nozawa on all U.S. sales made through its affiliated importers. Source: Cited <i>Federal Register</i> notices.			

**Table I-7**

**PRCBs: Administrative reviews of the antidumping duty order for Malaysia**

Period of review	Date results published	Producer or exporter	Margin (percent)
08/01/2005-07/31/2006	August 9, 2007 (72 FR 44825)	Euro Plastics	0.00
08/01/2007-07/31/2008	November 16, 2009 (74 FR 58947) <sup>1</sup>	Euro Plastics	56.13

<sup>1</sup> Commerce found that antidumping duties had been absorbed by Euro Plastics on all U.S. sales made through its affiliated importers. *Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 32880, July 9, 2009.

Source: Cited *Federal Register* notices.

**Table I-8**

**PRCBs: Administrative reviews of the antidumping duty order for Thailand**

Period of review	Date results published	Producer or exporter	Margin (percent)
01/26/04-07/31/05	January 17, 2007 (72 FR 1982)	UPC/API	11.75
		TPBG	1.41
		Apple Film	16.43
		CP Packaging	6.10
		King Pac	122.88
		Naraipak	1.69
		Sahachit	6.34
08/01/05-07/31/06	November 16, 2007 (72 FR 64580) <sup>1</sup>	UPC/API	0.80
		TPBG	0.80
		CP Packaging	1.87
		King Pac	122.88
		Apple Film	0.95
		Naraipak	0.95
		Poly Plast	0.95
		Sahachit	0.95
		Thantawan Industry	0.95
		U. Yong Ltd.	0.95
U. Yong Industry	0.95		

Table continued on following page.



**Table I-8--Continued**

**PRCBs: Administrative reviews of the antidumping duty order for Thailand**

<b>Period of review</b>	<b>Date results published</b>	<b>Producer or exporter</b>	<b>Margin (percent)</b>
08/01/2006-07/31/2007	January 15, 2009 (74 FR 2511)	King Pac (aka King Pac)	122.88
		Master Packaging	122.88
		NPG	32.67
		Poly Plast	8.94
08/01/2007-07/31/2008	December 11, 2009 (74 FR 65751)	TPBG	21.99
		Master Packaging	122.88
<sup>1</sup> Commerce found that antidumping duties had been absorbed by UPC/API on all U.S. sales made through its affiliated importers. Source: Cited <i>Federal Register</i> notices.			

**THE SUBJECT MERCHANDISE**

**Commerce’s Scope**

Commerce has defined the imported product subject to the antidumping orders under review as follows:

The merchandise subject to these investigations is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of these investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.<sup>22 23</sup>

<sup>22</sup> *Polyethylene Retail Carrier Bags From the People’s Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 53470, October 19, 2009.

<sup>23</sup> Since the publication of its antidumping duty orders, Commerce has ruled that the following products are not within the scope of one or more of the orders: (1) certain hospital patient belongings bags from all three countries (73 FR 9293, February 20, 2008); (2) certain MABIS Healthcare hospital bags from all three countries (73 FR 29739, May 22, 2008); (3) certain hospital patient belongings bags and surgical kit bags from all three countries (73 FR 49418, August 21, 2008); (4) a certain sealable Best Buy plastic bag from China (73 FR 72771, (continued...))

## Tariff Treatment

PRCBs are classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheading 3923.21.00 and reported for statistical purposes under statistical reporting number 3923.21.0085. Table I-9 presents current *ad valorem* tariff rates for PRCBs.

**Table I-9**  
**PRCBs: Tariff rates, 2010**

HTS provision	Article description	General <sup>1</sup>	Special <sup>2</sup>	Column 2 <sup>3</sup>
		Rates		
3923.21	Sacks and bags (including cones):			
3923.21.00	Of polymers of ethylene.....	3%	Free (A*, AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG) <sup>(4)</sup>	80%
3923.21.0085	Polyethylene retail carrier bags (PRCBs) with handles (including drawstrings), with no length or width shorter than 6 inches (152.4 mm) or longer than 40 inches (1,016 mm).....			

<sup>1</sup> Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to China, Malaysia, and Thailand.  
<sup>2</sup> General note 4(d) specifies that while Thailand is a GSP beneficiary, it has been excluded from GSP duty-free entry under HTS subheading 3923.21.00.  
<sup>3</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.  
<sup>4</sup> General note 3(c)(i) defines the special duty program symbols enumerated for this provision.

Source: Harmonized Tariff Schedule of the United States (2010).

## THE PRODUCT<sup>24</sup>

### Description and Applications

PRCBs are non-sealable plastic sacks or bags of polyethylene with carrying handles, and are intended to be dispensed free of charge to consumers by retail establishments in order to carry purchased merchandise. PRCBs, whether domestically produced or imported, consist principally of FDA-approved high-density polyethylene (“HDPE”) resin films, low-density (“LDPE”) resin films, or combinations thereof varying in size, shape, thickness, and strength characteristics depending on their intended use, and

<sup>23</sup> (...continued)

December 1, 2008); (5) certain gift bags from China (75 FR 14138, March 24, 2010); and (6) certain bags designed for hospital use, which are not printed with store names or logos and packed in consumer packaging with printing indicating specific end-uses other than packaging or carrying merchandise from retail establishments, from China (75 FR 14138, March 24, 2010). Commerce has also made several scope rulings in which it found that certain bags are within the scope of the orders on one or more of the three countries: 70 FR 55110, September 20, 2005; 70 FR 70785, November 23, 2005; 73 FR 49418, August 21, 2008; and 73 FR 72771, December 1, 2008.

<sup>24</sup> Information in this section, unless otherwise noted, is from *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, pp. I-3-6, *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam*, Investigation Nos. 731-TA-1043-1045 (Final), Staff Report, April 1, 2010, pp. I-10-13, and *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144, April 2010, pp. I-8-11.

may contain single or double-sided printing in single or multiple colors. PRCBs produced in the United States generally carry a printed manufacturer's identification or logo on the bag surface along with a recycling symbol encouraging recycling and disclosing the predominate form of plastic, #2 for HDPE and #4 for LDPE, while imported PRCBs usually carry the recycling symbol but not necessarily the producer logo or country-of-origin identification. All PRCBs, domestically produced and imported, are equipped with carrying handles of various types (including drawstrings) ranging from die-cut handles formed in the bag surface to applied handles of various types, and may be designed with side or bottom pleats (gussets), square bottoms, or bottom and side seals depending upon the intended use.

PRCBs are generally dispensed free of charge to customers (other than applicable taxes) by a wide range of retail outlets, including grocery, drug, convenience, department, specialty retail, and discount stores, together with restaurants. T-shirt bags (which derive their name from the fact that they resemble sleeveless undershirts that have two straps that rest on the shoulders) are the highest-volume type of PRCBs dispensed in a wide variety of retail outlets. Such PRCBs may consist of so-called low-end thin-walled HDPE bags found in grocery and many other stores, to larger and thicker t-shirt bags found in department stores. T-shirt merchandise bags may also be made of softer, glossier, and more puncture-resistant LDPE resins, especially linear low-density polyethylene ("LLDPE"). In contrast, so-called higher-end bags of either HDPE, LDPE, or LLDPE range from medium-scale die cut bags of various configurations dispensed at restaurant and merchandise outlets to higher-scale die-cut, drawstring, and soft loop handle shopping bags found in more fashionable chain and upscale department stores. Other upscale bags contain detailed high quality multicolored printing and graphics, complete with attached soft loop or trifold handles, flat bottoms and the like, and are typically dispensed to customers in boutiques and other specialty stores. According to the domestic interested parties, the full range of bags is reportedly produced in both the United States and the subject countries.

### **Manufacturing Process**

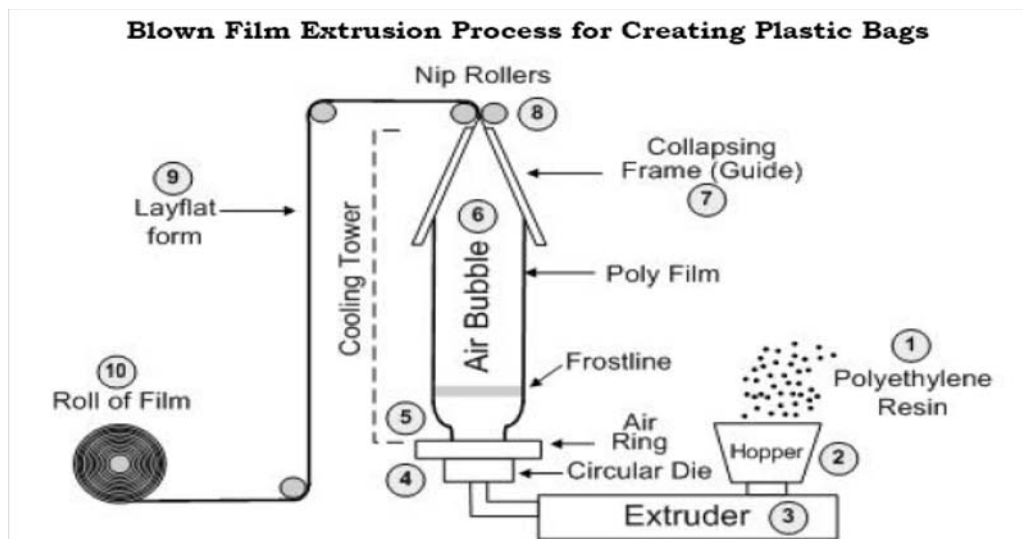
The process for manufacturing PRCBs is generally the same everywhere in the world.<sup>25</sup> It is basically a four-step process consisting of (1) blending polyethylene resin pellets, color concentrates, and other additives; (2) extrusion and film forming; (3) printing; and (4) bag conversion. In the United States, producers run high-volume plants on a 24/7 basis, when in operation, due to the capital intensive and competitive nature of the business. The major costs are \*\*\*.

The following diagram, figure I-2, illustrates the fundamentals of the typical blown film extrusion process employed by PRCB producers worldwide.

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<sup>25</sup> The Malaysian interested parties contend that the production process, specifically the machinery used, is the same domestically and in subject countries. Transcript of the Commission's April 27, 2010 hearing ("hearing transcript"), p. 134 (Sim).

**Figure I-2**  
**PRCBs: Typical production process**



Source: “10 Steps to Plastic Bags,” J.T. McWilliams, President, Multi-Pak USA, 2006, found at <http://www.multipakUSA.com> (accessed April 2009).

In the process, a polyethylene resin blend is fed to a screw extruder or a series of coextruders where the plastic mix is formed into a homogeneous molten mixture. After exiting the extruder, the plastic melt is forced through an annual (circular) die and air-blown into a large cylindrical film bubble of the desired thickness and diameter. The plastic film bubble cools and solidifies as it continues to rise, and upon reaching the desired thickness at the top of the cooling tower, the bubble is collapsed and formed into a two-sided plastic film up to 6 feet or more in width. On the way down to ground level, the plastic film sheet runs through rollers, which smooth it out, before being fed onto large spools where several thousand pounds of film can be wound. The film is now ready to be sent through the printing and bag conversion processes. Extrusion and bag conversion in the United States are generally separate, continuous, automated processes employing different equipment and usually a selected set of trained employees.<sup>26</sup>

In the bag conversion section, a continuous run of wide film sheet is first surface-treated to better accept ink, and then fed into a flexographic ink printing press where the sheet is printed on one or both sides in up to eight colors in multiple parallel sets of the desired logos and identification, depending upon how many individual bags are to be produced. The flexographic printing process employed in the United States is an environmentally friendly water-based system which eliminates undesirable toxic volatile organic compound (VOC) emissions into the atmosphere, whereas certain subject country producers of imported bags employ the organic solvent-based rotogravure printing process, which they claim produces superior print quality.<sup>27</sup> The printed film roll next proceeds in a continuous fashion to a slitter sealer

<sup>26</sup> \*\*\*.

<sup>27</sup> According to questionnaire responses, all U.S. producers of PRCBs with the exception of \*\*\* use only the flexographic printing process. \*\*\* reported using the rotogravure process in addition to the flexographic process. Regarding the type of ink used, all U.S. producers with the exception of \*\*\* reported using only water-based inks in (continued...)

which cuts and seals the wide film strips into a selected number of individual bag sections. If the film is to have side or bottom pleats (gussets), the parallel sections of individual bag film pass through gusseting equipment to form the pleats. Following this operation, a handle of the desired configuration is either die cut into or attached to the bag film to complete the bag conversion process.<sup>28</sup> High volume t-shirt or die-cut bags are typically boxed in quantities of 1,000 to 2,000 bags by an operator at the end of the line. Most scrap is recycled, and following bag inspection the boxes are loaded onto pallets, warehoused, and shipped, usually by truck in the United States.<sup>29</sup> The international standard units of measurement for bag film thickness are generally expressed in terms of microns (one-millionth of a meter) or mils (0.001 inches). One mil (0.001 inches) is equal to 25.4 microns.

## DOMESTIC LIKE PRODUCT ISSUES

In its original determination the Commission found the appropriate domestic like product to consist of “the continuum of PRCB’s, consistent with Commerce’s scope.”<sup>30</sup> The domestic interested parties contend that there is one domestic like product encompassing all PRCBs coextensive with Commerce’s scope.<sup>31</sup> Respondents did not contest this, stating that they “take no position...{but} have made arguments on the basis that there was only one like product.”<sup>32</sup>

In the original investigations, the Chinese respondents argued that the Commission should define high-end PRCBs and other PRCBs as separate domestic like products. The petitioners, as they do in these reviews, contended that there is one domestic like product, a continuum of all PRCBs, coextensive with the scope of the investigations.<sup>33</sup> In the recent investigations on PRCBs from Indonesia, Taiwan, and Vietnam, petitioners argued for a single domestic like product, while respondents argued in the preliminary phase that there were two distinct domestic like products: high-end PRCBs and other PRCBs, with high-end PRCBs defined differently than in the original investigations. During the final phase of the investigations on PRCBs from Indonesia, Taiwan, and Vietnam, respondents maintained that there is a distinction between high-end PRCBs and PRCBs other than high-end, but did not argue for separate domestic like products for the purposes of the remainder of those investigations.<sup>34</sup> The Commission defined a single like product, coextensive with the scope, comprising of a continuum of PRCB products.<sup>35</sup>

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<sup>27</sup> (...continued)

the production of PRCBs; \*\*\* producers use solvent-based inks.

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

<sup>29</sup> \*\*\*.

<sup>30</sup> *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, p. 12.

<sup>31</sup> Domestic interested parties’ prehearing brief, p. 6.

<sup>32</sup> Hearing transcript, p. 131 (Sim).

<sup>33</sup> *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, p. I-10.

<sup>34</sup> *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144, April 2010, p. I-12.

<sup>35</sup> *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144, April 2010, p. 7.

## U.S. MARKET PARTICIPANTS

### U.S. Producers

In the original investigations, the Commission sent U.S. producer questionnaires to 32 firms believed to be potential U.S. producers of PRCBs. Responses were received from 23 companies.<sup>36</sup> In these reviews, out of 58 companies to which the Commission sent producer questionnaires, 12 provided useable data, 3 provided unusable data, 7 certified that they had not produced PRCBs since January 1, 2004, and the remaining 36 provided no response, but 35 of these are known to account for no more than a very minimal share of U.S. production, if they produce PRCBs at all.<sup>37</sup> Of the producers that provided useable data, Hilex and Superbag combined accounted for almost \*\*\* percent of reported U.S. production in 2009, with the two companies accounting for approximately \*\*\* and \*\*\* percent of U.S. production in that year, respectively. The remaining production was accounted for almost exclusively by \*\*\*, which when combined with Hilex and Superbag accounted for over 90 percent of U.S. production in 2009.

Presented in table I-10 is a list of current domestic producers of PRCBs and each company's position on the continuation of the antidumping duty orders, production location(s), related and/or affiliated firms, and share of reported production of PRCBs in 2009.

**Table I-10**  
**PRCBs: U.S. producers, positions on the continuation of the antidumping duty orders, U.S. production locations, related and/or affiliated firms, and shares of 2009 reported U.S. production**

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of production (percent)
Ampac	***	Cincinnati, OH	*** *** ***	***
API	***	North Las Vegas, NV Oklahoma City, OK Kenner, LA Elkridge, MD	*** *** *** *** *** *** ***	***
Bemis	***	Terre Haute, IN	***	***
Command	***	Los Angeles, CA	None	***

Table continued on following page.

<sup>36</sup> *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, p. III-1, fn. 1.

<sup>37</sup> The additional company, Omega Plastics Corporation (“Omega”), which accounted for approximately \*\*\* percent of U.S. production of PRCBs in 2009, provided a questionnaire response late in these reviews, so its data are not included in the body of this report, but are included in appendix table C-2.

**Table I-10--Continued**

**PRCBs: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2008 reported U.S. production**

Durabag	***	Tustin, CA	None	***
Genpak	***	Bloomington, MN	***	***
Hilex	***	Carrollton, TX Farmers Branch, TX Jacksonville, FL Jerome, ID Milesburg, PA North Vernon, IN Richmond, VA Overland, MO	***	***
Inteplast	***	Livingston, NJ Lolita, TX N. Dighton, MA	*** *** ***	***
Poly-Pak	***	Melville, NY	None	***
Roplast	***	Oroville, CA	***	***
Superbag	***	Houston, TX	None	***
Unistar	***	Harahan, LA Houston, TX	*** ***	***
Total				100.0
<p>Note.—Because of rounding, shares may not total to 100.0 percent. Omega, a U.S. producer of PRCBs, which provided a questionnaire response late in these reviews, reported its 2009 production of *** bags, or approximately *** percent of U.S. production in that year. Pan Pacific Plastics Mfg., Inc., (“PPPMI”) a U.S. producer of PRCBs, did not provide a questionnaire response but gave estimated production of *** bags in 2008. E-mail from ***, December 18, 2009. Pak-Sher Packaging (“Pak-Sher”) another U.S. producer of PRCBs, did not provide a questionnaire response but gave estimated production of *** PRCBs in 2008. E-mail from ***, June 8, 2009.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>				

As indicated in table I-10, one U.S. producer (\*\*\*) is related to a subject foreign producer of PRCBs and one (\*\*\*) is related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail under “U.S. Producers’ Imports and Purchases” in Part III of this report, eight U.S. producers imported directly and/or purchased PRCBs from one or more of the subject countries during the period for which data were collected.

Since the original investigations, at least two U.S. producers, \*\*\* have ceased operations, and four plants have been closed.<sup>38</sup> \*\*\* reported that in 2004 it closed its PRCB manufacturing facility in \*\*\*. Hilex purchased Vanguard in October 2005.<sup>39</sup> In February 2007, Hilex closed its Rancho Cucamonga, CA plant, and in 2008 closed its manufacturing facilities in Mount Olive, NC and Victoria,

<sup>38</sup> \*\*\*. E-mail from \*\*\*, March 8, 2010.

<sup>39</sup> <http://hilexpoly.com/about-us/our-history.html>, retrieved March 22, 2009, and “Hilex buys Vanguard to boost bag market,” *Plastics News*, October 31, 2005.

TX.<sup>40</sup> In May 2008, Hilex voluntarily filed a prepackaged plan of reorganization under Chapter 11 of the U.S. Bankruptcy Code, citing increased raw material costs, stricter vendor's terms, competitive pricing pressures, and softer consumer demand.<sup>41</sup> Inteplast reported that in May 2007 it acquired a PRCB manufacturing facility in North Dighton, MA from U.S. producer PCL Packaging, Inc.<sup>42</sup> Unistar Plastics LLC ("Unistar") stated that \*\*\*.

### U.S. Importers

In the original investigations, the Commission sent importer questionnaires to 184 firms believed to be importers of PRCBs from all sources.<sup>43</sup> Responses to the Commission's importer questionnaires in the final phase of the original investigations were received from 87 companies. In these reviews, importer questionnaires were sent to 160 firms believed to be importers of subject PRCBs, as well as to all U.S. producers of PRCBs.<sup>44</sup> Usable questionnaire responses were received from 52 companies, representing approximately 48 percent of total subject imports in 2009 from China, Malaysia, and Thailand under HTS statistical reporting number 3923.21.0085.<sup>45</sup>

For subject countries, the leading U.S. importers of PRCBs from China are \*\*\*, while the leading importers from Malaysia are \*\*\* and the leading importers from Thailand are \*\*. Leading importers of PRCBs from nonsubject countries (primarily Indonesia, Taiwan, and Vietnam) include \*\*.

Three U.S. importers, \*\* reported being related to an importer or exporter from one or more of the subject countries.<sup>46</sup> Importer \*\* also reported being related to a firm that produces PRCBs in China.<sup>47</sup>

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<sup>40</sup> "Hilex Poly Cutting 120 jobs, Closing Calif. Site," *Plastics News*, February 13, 2007; "Bag maker to close Mt. Olive plant," *The News & Observer*, September 11, 2008; and "Hilex closing Texas bag plant," *Plastics News*, February 11, 2008.

<sup>41</sup> "Chapter 11 to let Hilex pay off debt," *Plastics News*, May 12, 2008. PCL Packaging, Inc. was a \*\* subsidiary of PCL Packaging Corp. of Ontario, Canada.

<sup>42</sup> "It's Not Just Texas Anymore," *Inteplast News*, August 2009.

<sup>43</sup> *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Investigation Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710, August 2004, p. IV-1.

<sup>44</sup> The Commission sent questionnaires to those firms identified in the responses to the Commission's Notice of Institution, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have imported greater than one percent of total imports from subject countries under HTS statistical reporting number 3923.21.0085 in any one calendar year since 2004.

<sup>45</sup> According to questionnaire responses, subject imports in 2009 totaled approximately 4.3 billion PRCBs. U.S. Department of Commerce statistics show total subject imports during 2009 of 8.9 billion PRCBs.

<sup>46</sup> \*\* reported being related to \*\*, \*\* reported being related to \*\*, and \*\* reported being \*\*.

<sup>47</sup> \*\* reported being related to \*\*.



## U.S. Purchasers

Purchaser questionnaires were sent to 112 purchasers of PRCBs identified by U.S. producers and importers. Forty-eight purchasers responded to the purchaser questionnaire including: 19 food retailers, 17 other retailers, 11 distributors of packaging supplies, and 5 distributors of food or other products.<sup>48</sup> Responding firms reported purchases valued at \$2.0 billion for 2004-09, accounting for approximately \*\*\* percent of the U.S. market on a value basis.<sup>49</sup>

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

Table I-11 and figure I-3 present apparent U.S. consumption for the review period and table I-12 presents U.S. market shares for the same period.<sup>50</sup>

The quantity of apparent U.S. consumption of PRCBs increased by nearly \*\*\* percent in 2005 and by nearly \*\*\* percent in 2006, and then declined moderately in each of the next three years to a level that was still nearly \*\*\* percent above that of 2004. During the period for which data were collected, the U.S. producers' share of apparent U.S. consumption experienced \*\*\* and \*\*\* percentage-point decreases on a quantity and a value basis, respectively. On a quantity basis, the market share of subject imports increased \*\*\* percentage-points between 2004 and 2006, then declined irregularly, ending the period at their lowest level, while the market share of nonsubject imports increased irregularly by \*\*\* percentage points.

**Table I-11**  
**PRCBs: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2004-09**

\*       \*       \*       \*       \*       \*       \*

**Figure I-3**  
**PRCBs: Apparent U.S. consumption, by sources, 2004-09**

\*       \*       \*       \*       \*       \*       \*

**Table I-12**  
**PRCBs: U.S. market shares, 2004-09**

\*       \*       \*       \*       \*       \*       \*

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<sup>48</sup> Four purchasers indicated more than one category; for example, food retailer and other retailer.

<sup>49</sup> Some purchasers, including \*\*\*, did not provide data on their annual purchases, so these data are understated and do not include retailers' direct imports of PRCBs.

<sup>50</sup> Prior to July 2005, PRCBs were reported under HTS statistical reporting number 3923.21.0090, a basket category. After July 2005, imports of PRCBs were reported under HTS statistical reporting number 3923.21.0085, and the remainder of the imports reported under the former basket category were reported under HTS statistical reporting number 3923.21.0095. To estimate the imports of PRCBs during 2004-05, Commission staff, for each subject country and all other sources, applied (1) the ratio of imports under HTS statistical reporting number 3923.21.0085 to the combined imports under HTS statistical reporting numbers 3923.21.0085 and 3923.21.0095 during July-December 2005 to (2) the total imports under the three HTS statistical reporting numbers for 2004 and 2005.



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

### **CHANNELS OF DISTRIBUTION**

Sales and distribution of PRCBs occur in a variety of ways, although most purchasers buy from domestic producers, importers, or distributors. The market includes distributors of varying sizes that sell imported and domestically produced PRCBs, and may also offer other packaging services (e.g., printing). Many domestic producers also import or purchase PRCBs to complement their product offerings. Some large retailers such as \*\*\* and \*\*\* are among the largest importers of PRCBs and also purchase from domestic producers. Some firms that produce and import PRCBs, such as \*\*\*, use a blended sales program wherein both domestic and imported bags are sold together at a single, averaged price.<sup>1</sup>

It is common for sales to be negotiated between producers and retailers, with producers actually shipping the product to distributors, which then ship a bundle of items, including PRCBs, to the end user as needed.<sup>2</sup> The shares of shipments from producers and importers reported to go to distributors and end users are presented in table II-1.

### **PURCHASER CHARACTERISTICS**

As noted in part I of this report, forty-eight purchasers responded to the purchaser questionnaire including: 19 food retailers, 17 other retailers, 11 distributors of packaging supplies, and 5 distributors of food or other products.<sup>3</sup> Responding firms reported purchases valued at \$2.0 billion for 2004-09, accounting for \*\*\* percent of the U.S. market on a value basis.<sup>4</sup>

Eight purchasers reported reasons why they purchased from only one country source. Five of these firms purchased U.S. PRCBs for reasons such as being satisfied with U.S. product, supply chain security, tariffs, and the U.S. price being based on natural gas rather than oil. One purchaser reported purchasing from Singapore for reliability and satisfactory product, and two purchased only from one, unspecified, source based on consistent supply and competitive price.

Fifteen of 42 responding purchasers reported that they had purchased PRCBs from subject countries before 2004. Four of the 15 purchasers reported that they discontinued purchases from subject countries, 3 reported reduced purchases, 3 reported no change in purchase patterns, and 5 reported other changes.<sup>5</sup> In addition, 33 purchasers reported changes in the relative shares of PRCBs bought from different countries since 2004, as shown in the tabulation on the following page.

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<sup>1</sup> Transcript of the March 16, 2010 Commission hearing in the final phase of the recent investigations on PRCBs from Indonesia, Taiwan, and Vietnam (“Hearing transcript, ITV investigations”), p. 21 (Bazbaz). Petitioners’ prehearing brief, ITV investigations, p. 25.

<sup>2</sup> Hearing transcript, p. 31 (Rizzo).

<sup>3</sup> Four purchasers indicated more than one category; for example, food retailer and other retailer.

<sup>4</sup> Some purchasers, including \*\*\*, did not provide data on their annual purchases, so these data are understated and do not include retailers’ direct imports of PRCBs.

<sup>5</sup> Other changes reported include suppliers determining location of production; customers causing changes; finding a satisfactory U.S. producer; determining supplier based on price, quality, and vendor history; increasing imports; and changed purchases based on price.

Table II-1

**PRCBs: U.S. producers' and importers' U.S. shipments of PRCBs, by sources and channels of distribution, 2004-09**

Item	2004	2005	2006	2007	2008	2009
	<b>Share of reported shipments (percent)</b>					
<b>Domestic producers' U.S. shipments of PRCBs to:<sup>1</sup></b>						
Distributors	28.4	27.6	***	***	***	43.3
End users	71.6	72.4	***	***	***	56.7
<b>U.S. importers' U.S. shipments of PRCBs from:<sup>2</sup></b>						
<b>China:</b>						
Distributors	59.0	64.6	75.2	54.3	59.2	37.2
End users	41.0	35.4	24.8	45.7	40.8	62.8
<b>Malaysia:<sup>3</sup></b>						
Distributors	***	***	***	***	***	***
End users	***	***	***	***	***	***
<b>Thailand:</b>						
Distributors	***	***	***	***	***	***
End users	***	***	***	***	***	***
<sup>1</sup> Domestic producers' shipments include only U.S. commercial shipments. <sup>2</sup> Importers' shipments to end users include direct imports by retailers such as ***. Data for China and Malaysia were not reported separately for subject and nonsubject suppliers. <sup>3</sup> ***.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Source	Increased	Decreased
	<i>Number of purchasers</i>	
United States	14	9
China	2	14
Malaysia	4	0
Thailand	3	3
Other countries	9	8
Note: The firms reporting relative increases from Malaysia were ***.		

## U.S. MARKET CHARACTERISTICS

To serve the various categories of customers, PRCBs come in a variety of types, including t-shirt bags, die-cut handle bags, wave handle bags, patch handle bags, drawstring style bags, and flat-bottom loop handle bags, among others. The types of PRCBs purchased by responding purchasers are shown in table II-2. Differences in dimensions and printing further differentiate PRCBs. Imported high-end bags typically are printed using a solvent-based rotogravure process which reportedly yields a higher-quality print job than the water-based flexographic printing typically found among U.S. producers of PRCBs.<sup>6</sup>

**Table II-2**

**PRCBs: Number of purchasers reporting purchases of different types of PRCBs**

Type of PRCB	Number reporting any purchases	Number reporting product was 100 percent of purchases
High-end bags	10	1
PRCBs other than high-end	43	34
T-shirt bags	39	27
Die cut handle bags	12	4
Patch handle	5	0
Drawstring bags	4	0
Flat-bottom bags	5	0
String loop handle bags	1	0
Other PRCBs	10	2
Source: Compiled from data submitted in response to Commission questionnaires.		

PRCBs may have printing that serves as a form of advertising for the firm dispensing them (a.k.a. “bagvertising”). Twenty-five of 43 responding purchasers reported that they expect the PRCBs they provide to customers to be reused in ways that might serve as “bagvertising.”<sup>7</sup> When asked how important this is in determining the type of PRCBs used, 10 firms indicated that it was “very important,” 12 indicated “somewhat important,” and 3 indicated “not important.” Firms that indicated that the bagvertising value was “very important” included clothing retailers that use high-end bags, as well as firms that use PRCBs other than high-end such as \*\*\*.

## GEOGRAPHIC MARKETS

Nine U.S. producers reported selling PRCBs nationwide, and four reported serving regional markets (table II-3).<sup>8</sup> Twelve of 33 importers reported serving the national market, and 21 reported serving regional markets.

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<sup>6</sup> Conference transcript, ITV investigations, pp. 119 and 162 (Gitlin). At the conference, references to high-end bags were made with regard to bags that are 2.25 mils or greater in thickness.

<sup>7</sup> Responses of four purchasers that did not check either the “yes” or the “no” box to the first part of the question asking about “bagvertising” were assumed to be “yes,” since they then indicated in their answers to the second part of the question that “bagvertising” was somewhat important in determining the type of PRCBs they use.

<sup>8</sup> \*\*\*.

**Table II-3**

**PRCBs: Geographic market areas in the United States served by domestic producers and importers of subject product**

Region	Producers	Importers
National	9	12
Northeast	2	11
Midwest	4	11
Southeast	3	6
Central Southwest	4	7
Rocky Mountains	4	3
Pacific	3	9
Other	5	9

Note.—Twelve producers and 33 importers responded to this question. Firms reporting serving all regions or all regions except “other” were reported to sell nationally and were not counted in the listed regions except under “other.”

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

**SUPPLY AND DEMAND CONSIDERATIONS**

**Supply**

**Domestic Production**

Twelve U.S. producers of PRCBs responded substantively to the Commission’s questionnaire. The largest producer is \*\*\*, which accounted for \*\*\* percent of U.S. production of PRCBs in 2009. Ten of 12 U.S. producers reported that they imported PRCBs during 2004-09.

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced PRCBs to the U.S. market. The main contributing factor to the moderate degree of responsiveness of supply is the availability of unused capacity; however, responsiveness is constrained by small levels of interchangeable inventories and small levels of export shipments.

***Industry capacity***

U.S. producers’ reported capacity utilization decreased unevenly, from a high of \*\*\* percent in 2004 to a low of \*\*\* percent in 2009 (*see* table III-3). Accordingly, U.S. producers have some excess capacity with which they could increase production of PRCBs.

***Alternative markets***

U.S. producers’ export shipments as a percent of total shipments ranged from a low of \*\*\* percent in 2004 to a high of \*\*\* percent in 2007 and 2008 (*see* table III-4). This level of exports indicates that domestic producers are somewhat constrained in their ability to shift shipments between the United States and other markets in response to price changes.

### ***Inventory levels***

In general, U.S. producers do not keep more inventory on hand than is being prepared for shipment. PRCBs are most often printed with company-specific names or logos, rather than being generic “thank you”-type bags.<sup>9</sup> As such, inventories held by U.S. producers tend to be relatively low and can rarely be switched from one customer to another. U.S. producers’ inventories, as a share of total shipments, ranged from a low of \*\*\* percent in 2005 to a high of \*\*\* percent in both 2006 and 2007 (*see* table III-5). These data indicate that U.S. producers are constrained in their ability to use inventories to increase shipments to the U.S. market.

### ***Production alternatives***

Five of 13 responding producers reported that they produce other products using the same equipment, machinery, and/or production and related workers that they use to produce PRCBs. Alternative products include envelopes, bakery bags, industrial bags, custom LDPE bags, non-PRCB merchandise bags, security bags, specialty film, and wickets. Hilex has not switched production between PRCBs and other polyethylene film products, and would need to invest in new converting equipment to do so.<sup>10</sup>

### **Foreign Supply**

Seven countries supplied 90.5 percent of the quantity of imported PRCBs in 2009: China, Vietnam, Malaysia, Thailand, Taiwan, Indonesia, and Canada, in descending order.

### ***China***

***Industry Capacity***– The two responding Chinese foreign producers reported that their capacity in China increased from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2009 (*see* table IV-7). Their reported production increased from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2009, while reported capacity utilization increased from \*\*\* percent in 2004 to \*\*\* percent in 2009.

***Alternative Markets***–The responding Chinese producers’ reported shipments of PRCBs to the United States, as a share of their total shipments, increased from \*\*\* percent in 2004 to \*\*\* percent in 2006, then declined to \*\*\* percent in 2009. The majority of their shipments during 2004-09 were reportedly exports to \*\*\*. In addition, they reported some shipments to \*\*\* and other markets in 2008 and 2009. One of the two responding Chinese producers reported that after the antidumping duties took effect, it switched its exports mainly to \*\*\*.

***Inventory Levels***--U.S. importers’ reported inventories of PRCBs from China, as a ratio to U.S. shipments of PRCBs from China, ranged from \*\*\* percent in 2005 to \*\*\* percent in 2009. Inventories maintained by reporting Chinese producers and exporters were \*\*\* percent of their total shipments in 2008 and \*\*\* percent in 2009.<sup>11</sup>

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<sup>9</sup> Conference transcript, ITV investigations, p. 105 (Daniels).

<sup>10</sup> Hearing transcript, p. 71 (Daniels).

<sup>11</sup> Inventory information was not reported for 2004-07.

**Production alternatives**– One of the responding Chinese producers reported that it is not able to switch production between PRCBs and other products, while the other reported that “there is almost no cost or time involved in switching equipment and labor.”

### **Malaysia**

The Commission received 16 foreign producer questionnaire responses from Malaysian producers. None of these producers exported to the United States during 2004-09. As discussed in more detail in *Part IV* of this report, nonsubject producer/exporter Bee Lian accounted for \*\*\* percent of exports of Malaysian PRCBs to the United States in 2009.

**Industry Capacity**– The 16 responding Malaysian foreign producers reported that their capacity in Malaysia increased steadily between 2004 and 2009, from 7.8 billion bags to 13.8 billion bags (*see* table IV-8). Their reported production also increased steadily from 2004 to 2009, from 7.2 billion bags to 11.7 billion bags. Capacity utilization ranged from 84.8 percent in 2009 to 93.3 percent in 2007.

**Alternative Markets**–The responding Malaysian producers reported \*\*\* shipments of PRCBs to the United States. Most of their exports were to the EU, although these producers also reported shipments to Asia and other markets.

**Inventory Levels**–U.S. importers’ inventories of Malaysian PRCBs, as a ratio to U.S. shipments of PRCBs from Malaysia, ranged from \*\*\* percent in 2006 to \*\*\* percent in 2004. Inventories maintained by Malaysian producers and exporters ranged from 4.2 percent of total shipments in 2007 to 8.2 percent in 2006, and were 5.7 percent in 2009.

**Production alternatives**–All but two responding Malaysian producers reported that they are able to switch production between PRCBs and other products (such as garbage, bakery, and produce bags, and bags for industrial applications) in response to a relative change in the price of PRCBs. Some firms reported that the cost and time involved would be minimal while other firms reported that switching could be done, but at a high cost.

### **Thailand**

**Industry Capacity**–The five responding foreign producers reported that their capacity decreased irregularly from \*\*\* billion bags in 2004 to \*\*\* billion bags in 2009 (*see* table IV-9). Their production also declined irregularly during 2004-09 (from \*\*\* billion bags to \*\*\* billion bags), but their capacity utilization varied, ranging from \*\*\* percent in 2004 to \*\*\* percent in 2005, and was \*\*\* percent in 2009.

**Alternative Markets**–Responding Thai producers’ shipments of PRCBs to the United States, as a share of their total shipments, fluctuated, ranging from \*\*\* percent in 2007 to \*\*\* percent in 2008. The most important alternative market was the EU.

**Inventory Levels**–U.S. importers’ inventories of PRCBs from Thailand, as a ratio to U.S. shipments of PRCBs from Thailand, ranged from \*\*\* percent in 2006 to \*\*\* percent in 2007, and were \*\*\* percent in 2009. Inventories of PRCBs maintained by foreign producers and exporters in Thailand ranged from \*\*\* percent of total shipments in 2005 to \*\*\* percent in 2008.

**Production alternatives**–All of the responding Thai producers reported that they cannot switch production between PRCBs and other products.



## General Supply Conditions

When asked if there had been any changes in the product range or marketing of PRCBs, 12 of 13 responding producers and the 33 of 38 responding importers reported no significant changes. However, producer \*\*\* noted that there has been a movement away from patch handle bags towards wave top bags and an increased use of online auctions. Importers reported changes including greater recycling, addition of additives to aid decomposition, changes in types of bags imported, thinner gauge plastic used, and fewer imports of Chinese product because of the antidumping duty order. Only 6 of 33 responding purchasers reported changes in factors affecting supply and availability of U.S.-produced PRCBs in the U.S. market: four of the six firms reported price changes, including oil price increases, one reported less U.S. manufacturing, and one reported that its supplier switched to U.S. bags.

Foreign producers were asked if any changes occurred in any other supply factors besides raw materials. All of the responding Malaysian producers replied “yes.” According to these firms, costs have increased for electricity, labor, ink, freight, and compliance with environmental regulations. One of the responding Chinese producers reported that its labor and raw material costs increased while the other reported no changes in supply factors. Only one of the five responding Thai producers reported changes in supply factors other than raw materials.<sup>12</sup>

## Demand

### Demand Characteristics

Demand for PRCBs is derived primarily from retail and food service demand, as many retail and food service firms provide PRCBs to their customers to carry home food and other merchandise. Between 2004 and 2009, apparent U.S. consumption of PRCBs increased by \*\*\* percent in terms of quantity, but has declined in each year since 2006, when apparent consumption was at a period high.

U.S. producers’, importers’, and purchasers’ responses to how PRCB demand in U.S. and worldwide markets has changed since 2004 and how they expected demand to change in the future are shown in table II-4. Firms’ responses regarding demand trends since 2004 were mixed. Reasons cited for increased U.S. demand included the increased number of shopping trips, thinner bags requiring doubling, cost relative to paper and other bags, flexibility of plastic sizes, increased purchasers’ retail sales, and the increased use of PRCBs instead of paper bags by liquor stores. Reasons cited for decreased U.S. demand included increased use of reusable bags, local bans, environmental lobbying, and the declining economy. Reasons cited for increased demand outside the United States included economic growth, reduced cost of plastic bags, and more international producers. Reasons cited for reduced demand outside the United States included price, the recession, and the increased use of reusable bags and anti-PRCB legislation because of environmental concerns.

Most firms reported that they expect either a decrease or no change in future demand. The most frequently cited reasons for declining future demand were the increased use of reusable bags and bans or taxes on PRCBs related to environmental concerns. A few firms expect demand to increase due to factors such as retail and population growth, price competition, more manageable lead times, and more flexible sizes.

All responding Malaysian producers reported that demand for PRCBs in their home market, in the U.S. market, and in third country markets declined since 2004, and that they anticipated this trend to continue. Of the two responding Chinese producers, one reported an increase and one reported no change in demand in China, and both reported an increase in demand in third-country markets since 2004. One Chinese producer anticipated increases in demand in its home and other markets in the future, while

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<sup>12</sup> \*\*\*.

the other expected demand to fluctuate. Responding Thai producers were mixed in their assessments of demand trends since 2004; with regard to future demand in the various markets, most firms reported “decrease” or “no change,” although one of five responding producers expected demand in Thailand to increase with the growth of the economy.

A research institute projected annual U.S. demand growth for high-density polyethylene (HDPE) bags of about \*\*\* percent during 2008-2013, and also for HDPE film and sheet in Western Europe.<sup>13</sup> The Malaysian interested parties’ posthearing brief cites a projection that demand in the EU market should remain stable over the next few years, whereas demand in Asia (particularly China, India, and “Indo-China”) is expected to increase by 30 percent and demand in emerging markets (Africa, Middle East, Russia, and South America) and non-U.S. markets in general is expected to increase by 15 percent.<sup>14</sup>

**Table II-4**  
**PRCBs: Number of U.S. producers, importers, and purchasers reporting changes in demand since 2004 inside and outside the United States and number expecting changes in demand**

Item	Producers				Importers				Purchasers			
	I	N	D	F	I	N	D	F	I	N	D	F
Demand changes inside the U.S. since 2004	6	1	4	2	2	13	9	9	12	9	11	5
Demand changes outside of the U.S. since 2004	0	6	3	1	1	12	6	0	7	2	5	0
Expected changes in demand inside the U.S.	3	4	5	0	4	12	12	3	6	15	8	6
Expected changes in demand outside the U.S.	1	4	6	0	1	11	6	2	2	8	7	1
Note.--I= increase, N= no change, D= decrease, F= fluctuate												
Source: Compiled from data submitted in response to Commission questionnaires.												

## Business Cycles

Seven of 12 responding producers, 9 of 39 responding importers, and 10 of 36 responding purchasers reported that PRCBs were subject to business cycles. Firms reported that business cycles were related to seasonal retail demand (i.e., holiday shopping), retail demand based on the general level of the economy, and input costs.

## Substitute Products

Substitutes for PRCBs were reported by 3 producers, 21 importers, and 31 purchasers. Substitutes listed for PRCBs include paper bags, reusable bags, non-woven bags, and cardboard totes. When asked if changes in the prices of substitute products affected the price for PRCBs, all responding producers, 16 of 19 responding importers, and all responding purchasers answered “no.”<sup>15</sup> Two of 11 producers, 9 of 35 importers, and 11 of 47 responding purchasers reported changes in substitutes since 2004, particularly the increased use of reusable bags. Seven purchasers anticipate future changes in

<sup>13</sup> \*\*\*.

<sup>14</sup> Malaysian interested parties’ posthearing brief, p. 12, and exh. I.

<sup>15</sup> Two of the three importers that reported that paper bags had affected the price of PRCBs reported that PRCB usage had declined, and one reported that laminated paper bags were more expensive so customers preferred PRCBs.

substitutability, particularly the increased use of reusable bags and more local plastic bag bans and taxes. Purchasers were asked whether the increased use of reusable bags, paper bags, the passage of laws regulating plastic bag use, expected laws regulating PRCB use, or other changes had affected demand for PRCBs, and their responses are summarized in table II-5. Purchasers were asked if paper bags could be used as substitutes for different types of PRCBs, and their responses are summarized in table II-6.

Presently, there are few bans or taxes on plastic bag use in effect in the United States. San Francisco banned thin, non-compostable plastic bags in 2007 in supermarkets and pharmacies, leading to 5 million fewer plastic bags being used per month, as of March 2008.<sup>16</sup> Westport, CT and the Outer Banks of North Carolina have also banned plastic bags,<sup>17</sup> and Los Angeles, CA will ban plastic bags effective July 2010 if consumption goals are not met. Plastic bag ban or fee laws were proposed in 32 states or localities throughout the United States, particularly in California, although most proposed laws have not been enacted and some enacted laws have been repealed.<sup>18</sup> Also, a national plastic bag bill was introduced in the House of Representatives in 2009 but it was not enacted into law.<sup>19</sup> Internationally, plastic bag taxes, fees, or bans have been implemented in numerous regions, ranging from Australia to Zanzibar.<sup>20</sup>

Imposing fees or bans on plastic bags can reduce use of plastic bags. For example, on January 1, 2010, Washington, DC enacted a 5-cent-per-bag tax on plastic and paper bags at certain types of businesses including grocery stores, drug stores, and restaurants without seating areas. Since that time, 73 percent of D.C. residents reportedly have used a reusable bag when shopping, and of those 73 percent, 46 percent reported using reusable bags more than they had prior to January 1, 2010.<sup>21</sup> \*\*\* stated that “\*\*\*.”<sup>22</sup> In addition to government regulations, major retailers are providing incentives to reduce plastic

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<sup>16</sup> Conference transcript, ITV investigations, p. 65 (Halimi), and “San Francisco Plastic Bag Ban Interests Other Cities,” retrieved from <http://www.npr.org/templates/story/story.php?storyId=89135360>, accessed March 22, 2010.

<sup>17</sup> “Westport First in State to Ban Plastic Bags,” New York Times, September 26, 2008, retrieved from <http://www.nytimes.com/2008/09/28/nyregion/connecticut/28bagsct.html?partner=rssnyt&emc=rss>, accessed March 22, 2010 and “N.C. Retailers Hurry to Prepare for Bag Ban,” Virginian -Pilot, August 23, 2009, retrieved from <http://hamptonroads.com/2009/08/nc-retailers-hurry-prepare-bag-ban>, accessed March 22, 2010.

<sup>18</sup> “Plastic Bag Fee Passes Calif. Committee,” ABCNews, April 13, 2009, retrieved from <http://abclocal.go.com/kabc/story?section=news/state&id=6759302>, accessed March 22, 2010, and “D.C., Dublin and Downtown Santa Barbara: The Bag Tax’s U.S. Premier, Progress Abroad and Possibilities in Our Own Backyard,” Santa Barbara News Network, January 5, 2010, retrieved from <http://www.thesbnn.com/?p=2707>, accessed March 22, 2010.

<sup>19</sup> Congressman Moran noted in a press release that the bill was not supported by any private group or organization and by few congressional members and that it was unlikely to be enacted. A 2010 House resolution by Congressman Moran recommended that states and localities take steps to reduce plastic and paper bag consumption by 40 percent over the next 5 years. “Moran Introduces National Plastic Bag Bill on Earth Day,” April 22, 2009, retrieved from [http://www.house.gov/list/press/va08\\_moran/Plastic.shtml](http://www.house.gov/list/press/va08_moran/Plastic.shtml), accessed March 22, 2010; and “Moran Introduces Earth Day-Related Resolution,” April 22, 2010, retrieved from [http://moran.house.gov/list/press/va08\\_moran/ReusableBags.shtml](http://moran.house.gov/list/press/va08_moran/ReusableBags.shtml), accessed May 18, 2010.

<sup>20</sup> Ibid., and “FACTBOX-Plastic Not Fantastic? -- Bag Bans Around the World,” Reuters, May 27, 2008, retrieved from <http://www.reuters.com/article/idUSPEK170445>, last accessed March 22, 2010. Petitioners also described taxes in Ireland, and bans in parts of China and North Africa. Hearing transcript, ITV investigations, p. 101 (Daniels). A detailed list of global bag actions by country/city can be found at [http://www.chicobag.com/t-track\\_movement.asp](http://www.chicobag.com/t-track_movement.asp).

<sup>21</sup> “D.C.’s left leanings confirmed in poll,” *Washington Post*, p. C-1, February 7, 2010.

<sup>22</sup> Email from \*\*\*, March 22, 2010.

**Table II-5****PRCBs: Number of purchasers reporting whether certain factors affected demand for PRCBs**

Item	No	Yes	Percent decrease in demand <sup>1</sup>
Increased use of reusable bags	17	30	4.3
Increased use of paper bags	11	35	2.0
Passage of laws regulating use and disposal of PRCBs	13	33	2.2
Expected passage of laws regulating use and disposal of PRCBs	17	28	19.5
Expect other changes <sup>2</sup>	11	35	8.7

<sup>1</sup> Percentages are simple averages from those firms that reported "yes" and also reported percentages.  
<sup>2</sup> Other changes expected by the purchasers included increases in the number of stores, increases in the price of inputs, increased use of reusable bags, economic conditions, domestic manufacturers becoming more competitive, municipalities taxing or outlawing PRCBs, consumer green concerns, and limits on imports causing price increases resulting in switches to alternatives.

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

**Table II-6****PRCBs: Number of purchasers reporting that paper bags were or were not substitutes for different types of PRCBs**

	Yes	No
T-shirt bags	26	20
Die cut handle bags	12	27
Patch handle	12	28
Drawstring bags	8	31
Flat-bottom bags	16	24
String loop handle bags	10	29
Other PRCBs	11	26

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

bag use. For example, Target announced that it would provide a 5-cent-per-bag rebate to customers using a reusable bag, and CVS announced a store credit for customers using reusable bags.<sup>23</sup>

In the EU, there are a number of taxes, bans, or voluntary initiatives by retailers to reduce plastic bag usage. Ireland was the first country to impose a bag tax (15 euro cents per bag), and in the first year, bag usage was reduced by over 90 percent.<sup>24</sup> However, bag consumption slowly increased, prompting increases in the bag tax. Belgium and Denmark also have instituted bag taxes. In 2005, the French Government committed to phasing in a ban on non-degradable plastic bags by 2010. In Germany and

<sup>23</sup> "Target and CVS launch incentives to discourage plastic bags," *Plastic News*, October 19, 2009.

<sup>24</sup> Schnittger, Frank, *Doubling the Plastic Bag Tax*, September 25, 2009.

Norway, there are no mandated taxes, although most grocery stores charge consumers up to 25 (euro) cents per bag.<sup>25</sup> Spain, Sweden, the United Kingdom, and Switzerland currently have no official government taxes or bans, although Switzerland proposed a ban on plastic bags in 2009. The United Kingdom's government encourages bag recycling, and certain retailers offer incentives for reusable bag use.

China's ban on plastic bags reduced their use in supermarkets by 66 percent; "Statistics from the National Development and Reform Commission showed that the 106 outlets of Walmart China had reduced plastic bag usage by 80 percent in the past year."<sup>26</sup>

### **Cost Share**

The costs of PRCBs are very small compared to most retail purchases, and retailers generally provide PRCBs free of charge to the final consumer.

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported products depends upon such factors as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on producer, importer, and purchaser questionnaire responses, staff believes that there is likely to be a high degree of substitution between PRCBs produced in the United States and those produced in China, Malaysia, Thailand, and other countries.

### **Knowledge of Country Sources**

When asked to indicate the countries of origin for PRCBs for which they have actual marketing/pricing knowledge, 36 purchasers identified the United States, 18 identified China, 6 identified Malaysia, 5 identified Thailand, and 14 identified other countries.<sup>27</sup> Purchasers' responses to how often they or their customers make purchasing decisions for PRCBs based on the producer or country of origin are shown in table II-7.

### **Factors Affecting Purchasing Decisions**

#### **Major Factors in Purchasing**

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to buy PRCBs (table II-8). Price was reported to be one of the top three factors by 47 of 48 responding purchasers, and the most important factor for 19 firms. Forty-one firms identified quality as one of the top three factors in their purchasing decision, with 23 listing it as the most important factor. Availability was listed as a top-three factor by 16 purchasers.

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<sup>25</sup> Petitioners' posthearing brief, exhibit 8.

<sup>26</sup> "One Year After Plastic Bag Ban, How is China Doing?" *China Daily*, May 26, 2009, retrieved from [http://www.chinadaily.com.cn/bizchina/2009-05/26/content\\_7944466.htm](http://www.chinadaily.com.cn/bizchina/2009-05/26/content_7944466.htm), accessed March 22, 2010.

<sup>27</sup> Other sources include Canada, Cambodia, Germany, India, Indonesia, Israel, Macao, Mexico, the Philippines, Singapore, Taiwan, and Vietnam.

**Table II-7****PRCBs: Purchaser responses to questions regarding the origin of their purchases**

<b>Purchaser/customer decision</b>	<b>Always</b>	<b>Usually</b>	<b>Sometimes</b>	<b>Never</b>
Firm makes decision based on producer	11	6	15	14
Customer makes decision based on producer	2	6	5	22
Firm makes decision based on country of origin	7	6	9	24
Customer makes decision based on country of origin	2	5	2	26

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

When purchasers were asked how frequently they purchased the lowest-priced PRCBs, 4 purchasers replied “always,” 23 replied “usually,” 17 replied “sometimes,” and 2 replied “never.” Thirty-five purchasers listed reasons why they purchased higher-priced PRCBs even though lower-priced PRCBs were available; reasons listed include quality, availability, lead times, reliability of supply, maintaining multiple suppliers, minimum quantity requirements, relationship with supplier, credit, cost of changing suppliers, contracts, supplier keeping inventories, and length of time to fill orders. Several firms reported purchasing higher-priced PRCBs from U.S. producers because of shorter lead times.

**Table II-8****PRCBs: Ranking factors used in purchasing decisions, as reported by U.S. purchasers**

<b>Factor</b>	<b>Number of firms reporting</b>			
	<b>First</b>	<b>Second</b>	<b>Third</b>	<b>Total</b>
Quality (including meeting or exceeding specifications)	23	14	4	41
Price	19	19	9	47
Availability	4	5	7	16
Client approved supplier/traditional supplier	2	0	1	3
Delivery, lead times	0	2	5	7
Service	1	2	2	5
Reliability	0	1	5	6
Terms	0	1	3	4
Consistency	0	0	2	2
Capacity	0	0	2	2
Other <sup>1</sup>	1	1	4	6

<sup>1</sup> Other includes financial stability for the first factor; ability to meet demand for the second factor; capability, shipment deadlines and flow of product, minimums for customers runs, and product line for the third factor.

Note.—Some purchasers listed more than three factors. Factors deemed important enough to rank, but not in the top three, were technical support, delivery, and product consistency.

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

**Importance of Specified Purchase Factors**

Purchasers’ responses rating the importance of 18 factors in their purchasing decisions are summarized in table II-9. Factors listed as “very important” by at least half of the 42 responding firms were price (41 firms); product consistency (39); availability (38); reliability of supply (35); delivery time (34); print quality (32); quality meets industry standards (32); delivery terms (25); customization (22);

discounts (21); and U.S. transportation costs (21). Conversely, 33 purchasers rated the availability of high-end PRCBs as “not important,” though this may be due to the smaller relative share of high-end PRCBs in the market.

**Table II-9**  
**PRCBs: Importance of factors as reported by U.S. purchasers**

Factor <sup>1</sup>	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	38	4	0
Availability of high-end PRCBs	4	4	33
Customization of bags	22	15	5
Delivery terms	25	15	2
Delivery time	34	9	0
Discounts offered	21	15	6
Extension of credit	15	12	15
Minimum quantity requirements	10	16	17
Packaging	7	26	9
Price	41	1	0
Print quality	32	8	2
Product consistency	39	2	1
Product range	6	19	17
Quality meets industry standards	32	9	1
Quality exceeds industry standards	19	19	4
Reliability of supply	35	6	1
Technical support/service	9	25	8
U.S. transportation costs	21	15	6
<sup>1</sup> Two purchasers reported other factors; one reported that customer service was very important, and one reported that reference checks were somewhat important. Source: Compiled from data submitted in response to Commission questionnaires.			

### Factors Determining Quality

Purchasers were asked to identify the factors that determine the quality of PRCBs. Purchasers reported numerous specific factors including bag strength (i.e., bag and handle do not tear, break, split, or puncture); appearance; passes lab tests; print quality (i.e., consistency, clarity, and durability); bag size and gauge; consistency and lack of defects; and meeting contracted standards. Purchasers’ responses to how often different country sources meet minimum quality specifications are summarized in table II-10.

**Table II-10**  
**PRCBs: Frequency of sources meeting minimum quality specifications, as reported by U.S. purchasers<sup>1</sup>**

Country	Always	Usually	Sometimes	Never
United States	20	21	5	0
Subject countries:				
China	8	15	3	0
Malaysia	5	7	1	0
Thailand	3	9	1	0
<sup>1</sup> Purchasers were asked how often domestic and imported PRCBs from subject countries meet minimum quality specifications for their uses or their customers' uses. Source: Compiled from data submitted in response to Commission questionnaires.				

### Certification/Qualification Issues

Twenty-five of 47 responding purchasers reported that they required supplier certification or prequalification for all of their purchases and 21 did not require prequalification.<sup>28</sup> Qualification often involves testing of samples for quality and adherence to specifications and may also include on-site evaluations of PRCB factories. Suppliers may also be evaluated for reliability of supply, financial stability, and customer service. Purchaser responses indicated that the average time required for certification or qualification was 60 days. Nine of 43 responding purchasers reported that one or more firms had failed to qualify. Specifically, seven purchasers listed U.S. producers as failing to qualify as follows: \*\*\*. A number of purchasers reported that product from other countries failed to qualify for reasons including poor quality, service, quality control, and “competitive concerns.”<sup>29</sup>

### Supply Sources

Forty responding purchasers reported that, on average, they contact 3 to 4 suppliers for their PRCB needs. Twenty-five of 46 responding purchasers reported changing suppliers since 2004. Only three responding purchasers reported that they became aware of new suppliers since 2004.

### Lead Times

Eight of 12 responding producers reported selling most of their PRCBs on a produced-to-order basis. Based on a simple average, 62.2 percent of sales were produced-to-order, with lead times averaging 28 days. Producers' lead times from inventory ranged from 2 to 14 days and averaged 7 days.

Most responding importers (17 of 30) also reported selling most of their PRCBs on a produced-to-order basis. Eleven importers reported selling mainly out of U.S. inventory, one reported selling mainly out of overseas inventories, and one reported sales equally divided between U.S. inventory and

<sup>28</sup> In addition, one firm reported that supplier certification is required for 10 percent of its purchases.

<sup>29</sup> Countries listed were Canada, China, Malaysia, Mexico, the Philippines, Singapore, Taiwan, Thailand, and Vietnam.



produced-to-order. Reported lead times for importers' sales from inventory averaged 5.8 days.<sup>30</sup> For produced-to-order sales, importers' lead times averaged 77 days; the reported lead time for product being shipped from overseas inventories was 120 days.

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

Producers', importers', and purchasers' responses regarding the interchangeability between PRCBs produced in the United States, subject countries, and nonsubject countries are presented in table II-11. The majority of responding producers, importers, and purchasers reported that U.S.-produced, subject, and nonsubject PRCBs are "always" or "frequently" interchangeable. However, some firms cited differences limiting interchangeability. Ten importers cited differences such as that high-end bags which require hand labor are available from China, Indonesia, and other countries but are not available from the United States; printing from Taiwan and artwork and thickness of imported bags are superior to U.S. bags; and U.S. producers require very large minimum orders. One purchaser reported that high-end PRCBs are foreign-produced and another firm reported that equipment limits sizes that a plant can produce. One producer reported that the amount of hand labor involved in production limited interchangeability.

**Table II-11**  
**PRCBs: U.S. producers', importers', and purchasers' perceived degree of interchangeability of products produced in the United States and in other countries<sup>1</sup>**

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	9	0	1	1	16	7	9	2	15	7	6	2
U.S. vs. Malaysia	10	0	1	1	9	5	2	1	9	5	1	2
U.S. vs. Thailand	10	0	1	1	9	7	3	0	9	5	2	2
U.S. vs. other countries	9	1	1	1	11	4	9	1	13	6	5	1
China vs. Malaysia	9	0	1	0	10	5	1	0	12	3	0	0
China vs. Thailand	9	0	1	0	10	5	2	1	12	3	0	0
China vs. other countries	8	1	1	0	10	6	4	1	14	3	1	0
Malaysia vs. Thailand	9	1	1	0	10	5	1	0	12	2	0	0
Malaysia vs. other countries	7	2	1	0	9	4	1	1	11	1	0	0
Thailand vs. other countries	7	2	1	0	9	4	2	1	11	2	0	0

<sup>1</sup> Producers, importers, and purchasers were asked if PRCBs produced in the United States and in other countries are used interchangeably and to what degree.

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

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

<sup>30</sup> Importers reporting "just in time" or similar answers were assumed to sell in one day.

In addition, producers and importers were asked to assess how often differences other than price were significant in sales of PRCBs from the United States, subject, and nonsubject countries; their responses are summarized in table II-12. The majority of producers and importers reported that differences other than price are “never” or only “sometimes” significant in their sales of PRCBs. Thirteen importers and one producer listed differences between domestic PRCBs and imports including quality and specifically, print quality; lead times; cost of financing imported product; size differences; larger minimum orders for domestic PRCBs; other countries offer more choices of finishes such as handles, gussets, and grommets; and different abilities to produce labor-intensive products.

**Table II-12**  
**PRCBs: U.S. producers’ and importers’ perceived importance of factors other than price in sales of product produced in the United States and in other countries<sup>1</sup>**

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	2	1	2	7	6	5	11	8
U.S. vs. Malaysia	2	1	2	7	2	2	5	6
U.S. vs. Thailand	2	1	2	7	2	4	6	6
U.S. vs. other countries	1	1	3	7	3	5	8	8
China vs. Malaysia	1	0	1	7	3	2	4	6
China vs. Thailand	1	0	1	7	3	3	5	6
China vs. other countries	0	0	2	7	1	5	7	6
Malaysia vs. Thailand	1	0	2	7	3	2	4	6
Malaysia vs. other countries	0	0	2	7	2	2	3	6
Thailand vs. other countries	0	0	2	7	2	2	4	6

<sup>1</sup> Producers, importers, and purchasers were asked if differences other than price between PRCBs produced in the United States and those produced in other countries were a significant factor in sales of PRCBs.

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

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

### Factor Comparisons

Responses of 34 purchasers comparing PRCBs produced in the United States, subject countries, and nonsubject countries with respect to 18 different attributes are shown in table II-13. The majority of firms comparing products from the United States, subject countries, and nonsubject countries reported that the products were comparable (for one or more of the countries) for all factors except availability of high-end PRCBs, delivery time, extension of credit, price, reliability of supply, and technical support and service. A plurality of the purchasers reported that U.S. product was superior compared to product from other countries for delivery time.

**Table II-13**

**PRCBs: Comparisons of U.S. product, product from subject countries, and product from other countries, as reported by U.S. purchasers<sup>1</sup>**

Factor	U.S. vs. China			U.S. vs. Malaysia			U.S. vs. Thailand			U.S. vs. nonsubject			China vs. nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>														
Availability	8	17	2	1	9	1	2	10	1	1	14	0	0	4	0
Availability of high-end PRCBs	4	10	5	1	5	2	2	5	1	1	4	4	0	4	0
Customization of bags	5	21	1	2	9	0	2	11	0	1	9	5	0	4	0
Delivery terms	9	17	1	1	9	0	2	10	0	5	10	0	0	4	0
Delivery time	13	10	4	5	4	2	7	4	2	10	5	0	0	4	0
Discounts offered	1	19	5	0	9	1	1	10	1	0	15	0	0	4	0
Extension of credit	6	17	1	2	5	2	3	7	1	2	11	2	0	4	0
Minimum quantity requirements	5	18	4	2	8	1	2	9	2	0	10	5	0	4	0
Packaging	4	19	3	1	10	0	1	11	1	2	10	3	0	4	0
Price <sup>2</sup>	6	12	9	3	3	4	3	5	4	3	7	5	0	2	2
Print quality	2	22	2	2	7	2	2	9	2	1	12	2	0	4	0
Product consistency	5	19	3	2	8	1	2	9	2	1	12	2	0	4	0
Product range	0	20	3	0	8	1	0	10	1	1	12	2	0	4	0
Quality meets industry standards	4	20	1	2	8	0	2	9	1	1	14	0	0	4	0
Quality exceeds industry standards	4	20	2	2	7	0	2	8	1	2	12	0	0	4	0
Reliability of supply	7	17	2	2	7	1	4	6	2	5	9	1	0	4	0
Technical support/service	9	16	1	4	5	1	3	8	1	4	10	0	0	4	0
U.S. transportation costs <sup>2</sup>	8	15	1	2	6	1	3	7	1	2	12	0	0	3	1

<sup>1</sup> One firm compared all other pairs of subject and nonsubject PRCBs and rated all pairs comparable for all factors.  
<sup>2</sup> A rating of superior means that the price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior," it meant that the price of U.S. product is generally lower than the price of the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

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

## ELASTICITY ESTIMATES

### U.S. Supply Elasticity<sup>31</sup>

The domestic supply elasticity for PRCBs measures the sensitivity of the quantity supplied to changes in the U.S. market price of PRCBs. 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 and from production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced PRCBs.

<sup>31</sup> A supply function is not defined in the case of a non-competitive market.

In the short term, the domestic industry likely has a moderate degree of responsiveness to changes in prices. Supply responsiveness is enhanced by some available capacity, but is limited by the quantity and type of inventory on hand and \*\*\*. Domestic supply elasticity is likely in the range of 2 to 4.

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

The U.S. demand elasticity for PRCBs measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of PRCBs, and is likely to be low, in the range of -0.3 to -0.6. This estimate is based on the low cost share of PRCBs relative to the cost of most retail purchases and the limited substitutability of other products for PRCBs.

### **Substitution Elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>32</sup> Product differentiation, in turn, depends upon such factors as quality (both perceived and actual), specifications, availability, and conditions of sale. Most of the producers, importers, and purchasers reported that PRCBs produced domestically are comparable to PRCBs imported from subject and nonsubject countries with respect to most factors. Based on the above data, substitution elasticity between domestic and imported PRCBs is likely to be high, in the range of 4 to 6.

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<sup>32</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject product (or vice versa) when prices change.

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

### OVERVIEW

#### Background

Information in this section is based on the questionnaire responses of 12 domestic producers that accounted for the vast majority of U.S. production in 2009.<sup>1</sup>

#### Changes Experienced in Operations

Domestic producers were asked to indicate whether their firm had experienced any plant openings, relocations, expansions, acquisitions, consolidation, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials or other reasons including revision of labor agreements; or any other change in the character of their operations or organization relating to the production of PRCBs since 2004. Eight producers indicated that they had experienced some change in the character of their operations since 2004.<sup>2</sup> The domestic producers' responses to this question are detailed in table III-1.

**Table III-1**  
**PRCBs: Changes in the character of U.S. operations**

\* \* \* \* \*

#### Anticipated Changes in Existing Operations

Table III-2 presents U.S. producers' anticipated changes to their U.S. operations.

**Table III-2**  
**PRCBs: Anticipated changes in U.S. operations**

\* \* \* \* \*

### U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

While capacity increased irregularly, production and capacity utilization declined irregularly during 2004-09. In addition to the \*\*\* reported by \*\*\*,<sup>3</sup> much of the increase in reported capacity from 2004 to 2005 can be attributed to \*\*\*.<sup>4</sup> Likewise, much of the decrease in capacity and production from

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<sup>1</sup> U.S. producers Continental Poly Bag, E-Z Plastics, and Prince Plastics provided responses to the U.S. producers' questionnaire, but did not provide useable data, and so their data are not included in this report. In addition, Omega, which accounted for approximately \*\*\* percent of U.S. production of PRCBs in 2009, provided a questionnaire response late in these reviews, so its data are not included in the body of this report, but are included in appendix table C-2, and in the price data in *Part V*.

<sup>2</sup> In addition, \*\*\* reported that "\*\*\*\*." \*\*\* reported that "\*\*\*\*."

<sup>3</sup> E-mail from \*\*\*, March 24, 2010.

<sup>4</sup> \*\*\* reported that \*\*\*. E-mail from \*\*\*, May 5, 2010, and \*\*\*, May 11, 2010.

2006 to 2008 can be attributed to plant closures by Hilex (three facilities closed).<sup>5</sup> Additionally, \*\*\* was forced to move production equipment overseas for much of this period due to Hurricane Katrina.<sup>6</sup> \*\*\* did offset some of this 2004-09 decrease in capacity, when the company purchased additional equipment after the imposition of duties on PRCBs from China, Malaysia, and Thailand. Additionally, \*\*\* added \*\*\* new extruders in 2006, which led to an increase in capacity of approximately \*\*\* bags annually. The 2009 increase in capacity can be partially attributed to \*\*\* purchases of new equipment and modification of the cycle time on existing equipment, and to \*\*\* which reported increased capacity through efficiency gains.<sup>7</sup> U.S. producers' aggregate capacity was well below apparent U.S. consumption of PRCBs in each year of the 2004-09 period.

Five U.S. producers, \*\*\*, reported production of other products using the same equipment and/or workers used to produce PRCBs. U.S. producers' capacity, production, and capacity utilization data for PRCBs are presented in table III-3 and figure III-1.

**Table III-3**  
**PRCBs: U.S. capacity, production, and capacity utilization, 2004-09**

\* \* \* \* \*

**Figure III-1**  
**PRCBs: U.S. producers' capacity, production, and capacity utilization, 2004-09**

\* \* \* \* \*

**Constraints on Capacity**

The Commission asked domestic producers to report constraints on their capacity to produce PRCBs. Eleven of the twelve responding producers reported the extrusion or bag-making equipment as a constraint. Other constraints reported by U.S. producers were printing capacity (two producers), staffing (two producers), and raw materials availability, building space, and seasonality (one producer).

**U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS,  
AND EXPORT SHIPMENTS**

Data on U.S. producers' shipments of PRCBs are presented in table III-4. From 2004 to 2009, total shipments decreased irregularly on both a quantity and a value basis. Average unit values also were lower in 2009 than in 2004. There was no reported internal consumption or transfers to related firms.

**Table III-4**  
**PRCBs: U.S. producers' shipments, by types, 2004-09**

\* \* \* \* \*

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<sup>5</sup> Additionally, \*\*\* is known to have closed a production facility near the end of this period. \*\*\*. E-mail from \*\*\*, March 8, 2010.

<sup>6</sup> In addition, \*\*\* reported a \*\*\* decline in capacity when it \*\*\*.

<sup>7</sup> \*\*\* response to the U.S. producers' questionnaire, and \*\*\* letter in response to Commission staff's questions, March 31, 2010.

## U.S. PRODUCERS' INVENTORIES

As shown in table III-5, which presents end-of-period inventories for PRCBs, inventories decreased irregularly during the period for which data were collected.<sup>8</sup> The increase in inventories between 2005 and 2006 can be largely attributed to \*\*\*. Similarly, the decline during 2008-09 can be attributed to \*\*\*, although it was partially offset by an increase in inventories by \*\*\*.<sup>9</sup>

**Table III-5**  
**PRCBs: U.S. producers' end-of-period inventories, 2004-09**

\* \* \* \* \*

## U.S. PRODUCERS' IMPORTS AND PURCHASES

Eight of the 12 responding U.S. producers imported directly and/or purchased PRCBs from one or more of the subject foreign producers during the period for which data were collected. U.S. producers' imports and purchases of PRCBs are presented in table III-6. In 2009, U.S. producers that imported directly or purchased imports of PRCBs represented \*\*\* percent of the quantity of subject U.S. imports from China, \*\*\* of the quantity of subject U.S. imports from Malaysia, and \*\*\* percent of the quantity of subject U.S. imports from Thailand.

**Table III-6**  
**PRCBs: U.S. producers' imports and purchases, 2004-09**

\* \* \* \* \*

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for PRCBs are presented in table III-7. Much of the increase in production and related workers ("PRWs") from 2004 and 2005 can be attributed to \*\*\*.<sup>10</sup> In addition, the data reflect the plant closures mentioned earlier in this section, specifically the approximately \*\*\* positions eliminated as a result of the three closures by Hilex. During the period for which data were collected, API, Command, Intoplast, and Superbag increased the number of PRWs employed at their facilities, and these increases offset somewhat the effect of the aforementioned plant closures on the U.S. industry as a whole. From 2004 to 2009, hourly wages, total wages paid, productivity, and unit labor costs generally increased, while the number of production related workers and total hours worked generally decreased.

**Table III-7**  
**PRCBs: U.S. producers' employment-related data, 2004-09**

\* \* \* \* \*

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<sup>8</sup> One U.S. producer (\*\*\*) reported that its end-of-period inventories did not reconcile, but that it provided the most accurate data available and that the errors account for less than 0.1 percent of its shipments in any period. E-mail from \*\*\*, January 27, 2010.

<sup>9</sup> \*\*\*, \*\*\* letter in response to Commission staff's questions, March 31, 2010.

<sup>10</sup> E-mail from \*\*\*, May 5, 2010.

## FINANCIAL EXPERIENCE OF U.S. PRODUCERS

### BACKGROUND

Twelve U.S. firms provided usable financial data on their operations producing PRCBs.<sup>11</sup> These reported data are believed to represent the vast majority of U.S. PRCB production in the period for which data were gathered.

### OPERATIONS ON PRCBs

Income-and-loss data for the reporting U.S. producers are presented in table III-8 and are briefly summarized here.

- Net sales quantity and value declined irregularly between 2004 and 2009. Although sales quantity increased between 2008 and 2009, sales value fell \*\*\* because of a change in the unit value of sales.
- Between 2004 and 2008, the cost of goods sold (“COGS”) increased irregularly but decreased in 2009 to a level below that of 2004. From 2004 to 2008 the increase in total COGS was greater than the increase in sales by about \$\*\*\*. COGS fell more than sales from 2008 to 2009 by about \$\*\*\*. The ratio of COGS to net sales also rose from 2004 to 2008 but decreased in 2009. The change in COGS, which was driven by raw material costs (which offset a decline in other factory costs), led to a decline in gross profit from 2004 to 2008 and a higher level of gross profit in 2009.<sup>12</sup>
- Total selling, general, and administrative (“SG&A”) expenses also rose irregularly from 2004 to 2008,<sup>13</sup> but decreased in 2009. The reporting firms collectively recorded operating profits in 2004 through 2007, but an operating loss in 2008; they reported an operating profit in 2009 at about the same level as in 2005.
- Net income before taxes was positive in 2004, 2005, and 2009. Cash flow was positive in each of the years for which data were gathered because depreciation charges were greater than the net losses.

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<sup>11</sup> The firms are: Ampac; API; Bemis; Command; Durabag; Genpak; Hilex; Inteplast; Poly-Pak; Roplast; Superbag; and Unistar. Except for \*\*\*, each of the reporting firms has a fiscal year that ends on or about December 31; this includes \*\*\*. Differences between data reported in the trade and financial sections of the Commission’s producers’ questionnaire primarily are attributable to year-end timing differences of \*\*\*. The data here also differ from those of the recent final phase investigations on PRCBs from Indonesia, Taiwan, and Vietnam in that \*\*\*. An \*\*\* questionnaire response was received late from \*\*\*; the data are not included in this section of the report. Commission staff verified the questionnaire response of \*\*\*. EDIS document 420526.

<sup>12</sup> The industry reportedly has made great efforts to increase efficiency in production, which would reduce labor and other factory costs. Posthearing brief of domestic interested parties, app., pp. 3 and 11-12.

<sup>13</sup> Adding to the reporting firms’ recorded operating loss in 2008, \*\*\*.



**Table III-8**  
**PRCBs: Results of operations of U.S. producers, fiscal years 2004-09**

\* \* \* \* \*

Raw material costs, which are primarily composed of polyethylene resin and color concentrates, rose in absolute value and as a percentage of net sales through 2008 and then fell sharply in 2009. Raw material costs also increased as a share of total COGS, from \*\*\* percent in 2004 to \*\*\* percent in 2008, but were only \*\*\* percent in 2009. Raw material costs ranged from \$\*\*\* per 1,000 bags in 2004 to \$\*\*\* per 1,000 bags in 2009, depending upon the firm. Nearly all reporting firms' ratios of raw material costs to total net sales are roughly similar; the average of \$\*\*\* per 1,000 bags in 2009 reflects the large-scale production of lightweight bags by several U.S. firms.<sup>14</sup> The relationship between raw material costs and sales value is shown in the following tabulation:

\* \* \* \* \*

Table III-9 presents the results of operations on a company-by-company basis.

**Table III-9**  
**PRCBs: Results of operations of U.S. producers, by firms, fiscal years 2004-09**

\* \* \* \* \*

In the final phase investigations on PRCBs from Indonesia, Taiwan, and Vietnam, staff presented operating data on domestic producers grouped into segments by sales in 2008 (table VI-3 of the staff report in those investigations). The company-by-company data were sorted into three groups by sales, over \$100 million (comprised of \*\*\*), between \$25 million and \$99.9 million (comprised of \*\*\*), and less than \$25 million (the remaining firms). In that table, data were presented for the three fiscal years (2006-08), January-September 2008, and January-September 2009. The discussion below adds the results of 2009 to the prior presentation and discussion of trends between 2006 and 2008.

Within the first group, \*\*\*,<sup>15</sup> sales of \*\*\*. Overall for Group 1, sales value increased \*\*\* while the operating \*\*\* from 2006 to 2008; sales were lower but the three firms together recorded an operating profit in 2009. Within Group 2, \*\*\* during 2006-08; the value of the group's sales was lower in 2009 than in 2008, but operating profits were higher. Group 3's operating profitability is led by the results of \*\*\*. Overall, sales of the third group declined and this group's operating income in 2006 became an operating loss in 2008. Sales were lower in 2009, but this group collectively recorded a \*\*\* operating profit in that year.

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<sup>14</sup> Prices of resin reportedly steadily increased throughout 2009 and have turned sharply upward in 2010. Posthearing brief of domestic interested parties, app., p. 10 and page V-1 of this report.

<sup>15</sup> Hilex reported \*\*\*. Also, Hilex filed for relief under Chapter 11 of the U.S. Bankruptcy Code on May 6, 2008. "Plastic bag manufacturer Hilex Poly files bankruptcy petition, seeks approval of prepack," posted 8:23 am on May 9, 2008 by Thomas Horan, Morris James LLC, found at <http://bankruptcy.morrisjames.com/2008/05/articles>, retrieved on May 7, 2009. According to a press release issued by Hilex, the voluntary filing was to significantly reduce its overall debt and strengthen its balance sheet while continuing to operate. Hilex press release dated May 6, 2008, found at <http://hilexpoly.com>, retrieved on May 7, 2009. Hilex's petition for financial reorganization and emergence from Chapter 11 was approved on June 26, 2008. Company press release, "Hilex emerges from Chapter 11," dated July 9, 2008, found at <http://hilexpoly.com>, retrieved on May 7, 2009.

## VARIANCE ANALYSIS

A variance analysis for U.S. producers is presented in table III-10, and is derived from the information presented in table III-8. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. In table III-10, between 2004 and 2009 the unfavorable operating income variance of \$\*\*\* was attributable primarily to an unfavorable variance on price (unit prices decreased) that was greater than a favorable net cost/expense variance (unit costs decreased); there was a small unfavorable net volume variance.<sup>16</sup> The mix of favorable and unfavorable variances changed during the period: the price variance was favorable between 2004 and 2005, between 2005 and 2006, as well as between 2007 and 2008 (unit prices increased) while the net cost/expense variance was unfavorable (unit costs increased) between those periods. Between 2006 and 2007 as well as between 2008 and 2009, the unfavorable price variance was lower than that of the favorable net cost/expense variance.<sup>17</sup>

**Table III-10**

**PRCBs: Variance analysis on results of operations of domestic producers, fiscal years 2004-09**

\* \* \* \* \*

### **CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES**

The responding firms' data on capital expenditures and research and development ("R&D") expenses are shown in table III-11.

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<sup>16</sup> A variance analysis is calculated in three parts, sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense (cost/expense) variance (in the case of the cost of sales and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

<sup>17</sup> Domestic interested parties stated that the domestic industry remains vulnerable to injury even though the reporting firms collectively reported an operating profit in 2009. They indicated that factors assisting that improvement include production efficiencies, which reduced operating costs, as well as reduced competition from imports. They also stated that factors impeding that improvement include flat to declining demand and higher resin costs (higher raw material costs). Posthearing brief of domestic interested parties, app., pp. 3, 6-12.

**Table III-11**

**PRCBs: Value of capital expenditures and R&D expenses of U.S. producers, by firms, fiscal years 2004-09**

Item	Fiscal year					
	2004	2005	2006	2007	2008	2009
	<i>Value (1,000 dollars)</i>					
Capital expenditures:						
***	***	***	***	***	***	***
***1	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***2	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
Total	45,893	41,649	38,906	17,480	14,054	9,825
R&D expenses:						
***	***	***	***	***	***	***
***2	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
***	***	***	***	***	***	***
Total	1,709	1,576	1,688	1,729	1,229	927
1 *** 2 ***						
Source: Compiled from data submitted in response to Commission questionnaires.						

The Commission’s questionnaire requested firms to describe the nature or focus of their capital expenditures and R&D expenses. The responses are tabulated as follows:

\* \* \* \* \*

### ASSETS AND RETURN ON INVESTMENT

The Commission’s questionnaire requested data on assets used in the production, warehousing, and sale of PRCBs to compute return on investment (“ROI”) for 2006 to 2008. The data for operating income are from table III-8. Operating income was divided by total assets, resulting in the asset turnover ratio. ROI fell irregularly from \*\*\* percent in 2004 to a negative \*\*\* percent in 2008 and was a positive \*\*\* percent in 2009. These data and calculations are shown in table III-12.

**Table III-12**

**PRCBs: The value of assets and return on investment of U.S. producers, fiscal years 2004–09**

\* \* \* \* \*

The original cost of fixed assets fell from 2004 to 2006 although the \*\*\* increase in the value of other noncurrent assets. Fixed assets' original cost increased between 2006 and 2007 in response to both capital expenditures and acquisitions, but fell from 2007 and 2008 in response to closures and asset writeoffs \*\*\*. Other noncurrent assets declined from 2007 to 2008 because of \*\*\*.

## PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

### U.S. IMPORTS

Importer questionnaires were sent to 160 firms believed to be importers of subject PRCBs, as well as to all U.S. producers of PRCBs.<sup>1</sup> Usable questionnaire responses were received from 52 companies, representing approximately 48 percent of total subject imports in 2009 from China, Malaysia, and Thailand under HTS statistical reporting number 3923.21.0085.<sup>2</sup>

For subject countries, the leading U.S. importers of PRCBs from China are \*\*\*, while the leading importers from Malaysia are \*\*\* and the leading importers from Thailand are \*\*\*.<sup>3</sup> Leading importers of PRCBs from nonsubject countries (primarily Indonesia, Taiwan, and Vietnam) include \*\*\*.

Table IV-1 presents data for U.S. imports of PRCBs from China, Malaysia, Thailand, nonsubject sources from China and Malaysia, and all other sources.<sup>4 5</sup> From 2004 to 2009, total imports increased irregularly on both a quantity and value basis. Over the same period, subject imports decreased irregularly on both a quantity and a value basis. Subject imports, in terms of quantity, increased substantially between 2004 and 2006, decreased by over half between 2006 and 2007, largely due to a decline in imports from Thailand, increased in 2008, and declined again in 2009 to a level below that in 2004.<sup>6 7</sup> The quantity of imports from all other nonsubject sources, largely from Indonesia, Taiwan, and Vietnam, the three nonsubject countries that recently underwent antidumping investigations and a countervailing duty investigation (on Vietnam), more than quadrupled between 2004 and 2009.

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<sup>1</sup> The Commission sent questionnaires to those firms identified during the preliminary phase investigations, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported greater than one percent of total imports from subject countries under HTS statistical reporting number 3923.21.0085 in any one calendar year since July 2005, or greater than one percent of total imports under HTS statistical reporting number 3923.21.0090 between 2004 and June 2005.

<sup>2</sup> According to questionnaire responses, subject imports in 2009 totaled approximately 4.3 billion PRCBs. U.S. Department of Commerce statistics show total subject imports during 2009 of 8.9 billion PRCBs.

<sup>3</sup> \*\*\*.

<sup>4</sup> Hang Lung Plastic Manufactory (China), Nantong Huasheng Plastic Products (China), and Bee Lian Plastic Industries (Malaysia) received *de minimis* dumping margins, and imports of PRCBs from those firms are therefore presented as nonsubject imports. *Antidumping Duty Orders: Polyethylene Retail Carrier Bags*, 69 FR 48201 (China), 69 FR 48203 (Malaysia), 69 FR 48209 (Thailand), August 9, 2004.

<sup>5</sup> \*\*\* indicated that in 2006 the company imported PRCBs from \*\*\* under both HTS 3923.21.0085 and HTS 3923.21.0095. This correction has been reflected in the data presented in this report.

<sup>6</sup> The domestic interested parties contend that \*\*\*. Staff researched this issue by examining proprietary Customs import data to determine whether \*\*\*. Therefore, it is likely that official import quantities for Thailand in 2006 are indeed overstated, and thus those data should be considered with caution.

<sup>7</sup> The majority of the increase in imports of subject PRCBs from Malaysia in 2008 was accounted for by \*\*\*.

**Table IV-1**  
**PRCBs: U.S. imports, by sources, 2004-09**

Item	Calendar year					
	2004	2005	2006	2007	2008	2009
<b>Quantity (1,000 bags)</b>						
Subject sources:						
China	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***
Thailand	5,789,506	11,034,532	17,037,139	5,899,864	7,794,664	3,655,709
Subtotal, subject	12,618,338	17,574,754	23,526,589	10,574,169	13,655,013	8,910,671
Nonsubject sources: <sup>1</sup>						
China <sup>2</sup>	***	***	***	***	***	***
Malaysia <sup>3</sup>	***	***	***	***	***	***
All other sources	4,109,628	4,670,360	12,858,117	19,421,619	17,530,327	14,008,206
Subtotal, nonsubject	51,372,577	9,478,088	18,410,756	24,961,782	22,709,208	21,631,674
Total	17,755,595	27,052,842	41,937,345	35,535,951	36,364,221	30,542,345
<b>Value (1,000 dollars)<sup>4</sup></b>						
Subject sources:						
China	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***
Thailand	40,829	79,837	100,939	76,002	100,492	39,059
Subtotal, subject	95,437	146,402	159,707	142,671	170,429	90,616
Nonsubject sources: <sup>1</sup>						
China <sup>2</sup>	***	***	***	***	***	***
Malaysia <sup>3</sup>	***	***	***	***	***	***
All other sources	36,342	44,641	130,132	238,470	249,165	142,143
Subtotal, nonsubject	43,237	68,898	190,188	323,881	333,969	214,511
Total	138,674	215,300	349,895	466,552	504,398	305,127

Table continued on following page.

**Table IV-1--Continued**  
**PRCBs: U.S. imports, by sources, 2004-09**

Item	Calendar year					
	2004	2005	2006	2007	2008	2009
<b>Unit value (per 1,000 bags)<sup>4</sup></b>						
Subject sources:						
China	\$***	\$***	\$***	\$***	\$***	\$***
Malaysia	***	***	***	***	***	***
Thailand	7.05	7.24	5.92	12.88	12.89	10.68
Subtotal, subject	7.56	8.33	6.79	13.49	12.48	10.17
Nonsubject sources: <sup>1</sup>						
China <sup>2</sup>	***	***	***	***	***	***
Malaysia <sup>3</sup>	***	***	***	***	***	***
All other sources	8.84	9.56	10.12	12.28	14.21	10.15
Subtotal, nonsubject	8.42	7.27	10.33	12.98	14.71	9.92
Average	7.81	7.96	8.34	13.13	13.87	9.99
<b>Share of quantity (percent)</b>						
Subject sources:						
China	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***
Thailand	32.6	40.8	40.6	16.6	21.4	12.0
Subtotal, subject	71.1	65.0	56.1	29.8	37.6	29.2
Nonsubject sources: <sup>1</sup>						
China <sup>2</sup>	***	***	***	***	***	***
Malaysia <sup>3</sup>	***	***	***	***	***	***
All other sources	23.1	17.3	30.7	54.7	48.2	45.9
Subtotal, nonsubject	28.9	35.0	43.9	70.2	62.4	70.8
Total	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on following page.

**Table IV-1--Continued**  
**PRCBs: U.S. imports, by sources, 2004-09**

Item	Calendar year					
	2004	2005	2006	2007	2008	2009
<b>Share of value (percent)</b>						
Subject sources:						
China	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***
Thailand	29.4	37.1	28.8	16.3	19.9	12.8
Subtotal, subject	68.8	68.0	45.6	30.6	33.8	29.7
Nonsubject sources: <sup>1</sup>						
China <sup>2</sup>	***	***	***	***	***	***
Malaysia <sup>3</sup>	***	***	***	***	***	***
All other sources	26.2	20.7	37.2	51.1	49.4	46.6
Subtotal, nonsubject	31.2	32.0	54.4	69.4	66.2	70.3
Total	100.0	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> In the 2004 antidumping duty investigations on PRCBs from China, Malaysia, and Thailand, three firms were found by Commerce to have <i>de minimis</i> dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia). <sup>2</sup> Imports from Chinese producer Hang Lung were *** to the United States. These represent less than *** percent of total exports from Hang Lung to the United States ***. <sup>3</sup> Imports from Malaysian producer Bee Lian were reported from *** to the United States. These represent less than *** percent of total exports from Bee Lian to the United States ***. <sup>4</sup> Landed, U.S. port of entry, duty-paid.						
Source: Compiled from proprietary Customs data and official Commerce statistics.						

### CUMULATION CONSIDERATIONS

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution and fungibility are discussed in Part II of this report. The remaining factors are addressed below.

#### Geographical Markets

With regard to geographical market overlap, U.S. imports of PRCBs from China entered multiple U.S. ports of entry, dispersed across the nation. The overwhelming majority of imports entered via the ports of Los Angeles, CA, New York, NY, and Chicago, IL. U.S. imports of PRCBs from Malaysia also entered multiple U.S. ports of entry, dispersed across the nation. The overwhelming majority entered via



the ports of Los Angeles, CA and New York, NY. Lastly, U.S. imports of PRCBs from Thailand also entered multiple U.S. ports of entry, dispersed across the nation, and the overwhelming majority entered via the ports of Los Angeles, CA, New York, NY, and Seattle, WA.

### Simultaneous Presence in the Market

Commerce statistics and pricing data submitted to the Commission show that imports from China, Malaysia, and Thailand entered the United States in every month of 2009, the last 12 months for which data were collected.

### U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of PRCBs from China, Malaysia, and Thailand are shown in table IV-2.<sup>8</sup> The increase in inventories of imports from China over the period for which data were collected is accounted for in large part by importers \*\*\*, which increased their imports from China during the same period. Importers \*\*\* accounted for most of the increase in inventories of imports from Malaysia. Two importers (\*\*\*) and (\*\*\*) accounted for the majority of inventories of imports from Thailand. Importer \*\*\* increased its inventories in 2005, but its inventories then declined for the remainder of the period, and were partially offset by increased inventories by importer \*\*\*, which began importing from Thailand in 2006.

**Table IV-2**  
**PRCBs: U.S. importers' end-of-period inventories for all imports, by source, 2004-09**

\* \* \* \* \*

### U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of PRCBs from China, Malaysia, and/or Thailand for various periods after December 31, 2009. The decrease in orders after March 2010 is accounted for in part by importers \*\*\*, \*\*\*, and \*\*\* reporting little, if any, imports beyond that month.

**Table IV-3**  
**PRCBs: U.S. importers' current orders, by source, imported or arranged for importation after December 31, 2009**

\* \* \* \* \*

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<sup>8</sup> U.S. importers' inventories of PRCBs from China and Malaysia were not broken out between subject and nonsubject imports, so only total inventories are presented. Five companies \*\*\* that reported inventories had both subject and nonsubject imports of PRCBs from China. One company \*\*\* that reported inventories had both subject and nonsubject imports of PRCBs from Malaysia. One company \*\*\* that reported inventories \*\*\*.

## THE INDUSTRY IN CHINA

### Overview

There is limited publically available information regarding production or exports of PRCBs from China during the period for which data were collected. China is estimated to use 2 billion plastic bags a day, or 730 billion a year.<sup>9</sup> The domestic interested parties assert that capacity expansions for PRCBs and related projects have been completed, are under construction, or are planned by various firms in various Chinese provinces during the period 2006-09.<sup>10</sup>

Effective June 1, 2008, a new regulation requiring retailers in China to charge consumers for plastic shopping bags, or face fines, was enacted. Retailers in China can now be fined up to 10,000 yuan (\$1,400) for providing free plastic bags. Under the law, retailers are allowed to set their own prices for the bags, providing that the amount that consumers pay for the plastic bags is greater than the retailers' cost.<sup>11</sup> Applicable standards promulgated by the Standardization Administration of China ("SAC") specify that the thickness of plastic shopping bags must be at least 0.025 millimeters (1 mil) and that the bags must carry several markings, including for re-use and safety and the name of the manufacturer, serial number, tensile strength, and type (i.e., regular shopping bags, biodegradable shopping bags, or corn starch-based plastic bags).<sup>12</sup> This new regulation has had an impact on the PRCB industry in China, including closures of some factories and decreased consumption of PRCBs. For example, Suiping Huaqiang Plastic, reported by official Xinhua News Agency to be China's largest plastic bag manufacturer, located in Henan province, closed in mid-January 2009.<sup>13</sup> The factory had an annual capacity of 250,000 metric tons of bags and employed 20,000 people.<sup>14 15</sup>

By June 2009, the bag regulatory impact was reported to be greatest in the supermarket and formal retail sector. The China Chain Store and Franchise Association ("CCFA") in Beijing, for example, in a survey it conducted in Chinese stores in May 2009, found that foreign-owned stores like America's Walmart or France's Carrefour had cut bag use by about 80 percent, while locally owned supermarkets had reduced bag use by about 60 percent. CCFA estimated that the bag ban suggested a 40-billion bag drop from supermarkets, but this would not have had a staggering impact on the overall bag market, although that analysis did not include the impact of other stores or customers cutting back. Industry officials indicated that it is difficult to gather precise figures on the law's impact on overall bag consumption. The CCFA reported that the bag restrictions had not hurt supermarket sales, and that customers have become accustomed to bringing along their bags or reusing plastic bags. Daniel Li Yue, the plastics issues coordinator for the Beijing-based Association of International Chemical Manufacturers

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<sup>9</sup> "China trade group reports on drop in plastic bag use," *Plastics News*, June 2, 2009.

<sup>10</sup> The domestic interested parties' response to the Commission's Notice of Institution, "Documentation of Capacity Expansion in China," exh. 2, July 31, 2009.

<sup>11</sup> The new regulation also imposes fines of up to 20,000 yuan if retailers fail to purchase plastic grocery bags from legally incorporated producers, wholesalers, or importers, or if they fail to obtain related certificates and record relevant data.

<sup>12</sup> The domestic interested parties noted that producers in China that are designated for export only, can manufacture bags of any gauge. Hearing transcript, p. 52 (Daniels).

<sup>13</sup> The domestic interested party contends that the company has recommenced production under the name Suiping Huiqiang Plastic Co., Ltd, with an annual capacity of 180,000 metric tons. Domestic interested parties' prehearing brief, Comments on Prehearing Report, pp. 2-3.

<sup>14</sup> *China Bans Retailers from Offering Free Plastic Bags*, PackagingLaw.com, Keller and Heckman LLP, <http://www.packaginglaw.com/2090 .shtml>, retrieved March 21, 2010.

<sup>15</sup> *China's Biggest Plastic-Bag Maker Closes Down*, Xinhua Reports, Bloomberg, <http://www.bloomberg.com/apps/news?pid=20601080&sid=ayzGeRNUdBcc>, retrieved March 22, 2010.

(“AICM”), said that the law has hurt some companies in the plastic bag industry, particularly the small and mid-size companies that supplied the ultra-thin bags under 0.025 millimeters (1 mil). The AICM group believes that the Chinese Government should take a comprehensive approach and boost the collection of plastic bags so that they can be recycled, rather than simply restricting their use, as the problem is thought not to be the product itself, but rather how people use it. Hong Kong, a self-governing territory within China, was reportedly planning to implement its own bag restrictions, with major grocers and drugstores planning to charge HK\$0.50 per bag effective July 1, 2009.<sup>16 17</sup>

### PRCB Operations

Two producer/exporter firms in China, Hang Lung Plastic Manufactory, Ltd. (“Hang Lung”) and Nantong Huasheng Plastic Products Co., Ltd. (“Nantong Huasheng”), were ruled by Commerce as *de minimis* margin producers or exporters and were excluded from the antidumping duty order. In 2009, these two firms accounted for approximately \*\*\* percent and \*\*\* percent of all Chinese PRCBs exported to the United States, by quantity and value, respectively.<sup>18 19</sup>

The Commission requested data from 182 firms in China believed to be possible producers of PRCBs. Of these firms, two firms, \*\*\*, which are subject to the antidumping duty order, provided questionnaire responses containing useable data, and the remainder of the firms did not provide responses.<sup>20 21</sup> Neither of the responding firms provided useful estimates of the percentage of production of PRCBs in China in 2009 for which they accounted. \*\*\* estimated that it accounted for \*\*\* percent of total exports of PRCBs from China to the United States. Reported exports of PRCBs to the United States by these firms in 2009 were equivalent to \*\*\* percent of the quantity of U.S. imports of PRCBs from China in that year based on official Commerce statistics. Table IV-4 presents data for reported production and shipments of PRCBs in China.

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<sup>16</sup> Toloken, Steven, *China Trade Group Reports on Drop in Plastic Bag Use*, PlasticsNews.com/China, Beijing, June 2, 2009.

<sup>17</sup> Block, Ben, *China Reports 66-Percent Drop in Plastic Bag Use*, Worldwatch Institute, June 19, 2009, <http://www.worldwatch.org/node/6167>, retrieved March 21, 2010.

<sup>18</sup> Based on official Commerce statistics.

<sup>19</sup> According to the company’s website, Hang Lung’s 40,000 square meters plastic bag manufacturing plant, equipped with the most advanced machinery sourced from various locations across the globe, has a capacity rated at 25,000 metric tons per year. The factory is reported to have 80 different sizes of plastic film extrusion machines equipped to produce a vast array of sizes and shapes of various plastic bags. The plant is equipped with 24 sets of flexographic and rotogravure printing machines which could print up to 16 different colors, together with 70 different sizes of bag conversion equipment. Typical bag types produced include drawstring and draw tape soft loop bags, fold-over die-cut, standard die-cut, patch handle die-cut with flat-tube and rope handles, t-shirt, and rigid bridge types. <http://www.hanlungonline.com>, retrieved March 18, 2010.

Nantong Huasheng is reported to have three manufacturing sites with over 100 extrusion units, and an annual bag production capacity of over 40,000 metric tons (88.2 million pounds). Nantong Huasheng’s product portfolio includes a variety of t-shirt bags, can liners, side-sealed bags, die cut bags, draw-tape bags, soft loop bags, gloves, aprons, and retail products for home and pets applications. Nantong Huasheng reported that the firm’s customers are 100-percent offshore, including the United States, Canada, Japan, Australia, New Zealand, etc. Furthermore, Nantong Huasheng reported that it has been qualified as a supplier of shopping bags by many large chain stores such as Walmart, Target, Dollar Tree, Subway, and Dollar General. In addition, Nantong Huasheng notes that it is gearing its product portfolio to meet the rising new green technology environmental demands of customers, and has developed a 100-percent biodegradable modified resin composite specifically for film blowing. <http://www.huasheng-nt.com/eng/about.php>, retrieved March 18, 2010.

<sup>20</sup> \*\*\*.

<sup>21</sup> \*\*\* provided data for 2008 and 2009 only.

In addition to these firms, United Power Packaging, Ltd. (“United Power”), \*\*\*,<sup>22</sup> possessed a reported 170,000 square feet production facility with an average annual production capacity of 6,600 metric tons (14.6 million pounds), employs 500 employees, and utilizes more than 30 extrusion machines. Product types produced include bags with flexloop handles, trifold handles, loop handles, frosted-tube handles, rope handles, European-style handles, and two different types of cardboard inserts. United Power’s shipments are concentrated in North America, with the remainder in Europe, Canada, and Japan. In addition, the firm also has local clients in Hong Kong.<sup>23 24</sup>

**Table IV-4**  
**PRCBs: China’s reported production capacity, production, shipments, and inventories, 2004-09**

\* \* \* \* \*

## THE INDUSTRY IN MALAYSIA

### Overview

One producer/exporter in Malaysia, Bee Lian Plastic Industries, Sdn. Bhd. (“Bee Lian”) was ruled by Commerce as a *de minimis* margin producer or exporter and was excluded from the antidumping duty order. In 2009, Bee Lian accounted for approximately \*\*\* percent and \*\*\* percent of all Malaysian PRCBs exported to the United States, by quantity and value, respectively. The Malaysian interested parties estimated that two other firms, Euro Plastics Malaysia and Zhin Hin Plastic Manufacturer, accounted for the majority of the remaining exports from Malaysia to the United States.<sup>25 26</sup> These two firms’ combined exports to the United States were estimated to be no more than \*\*\* metric tons, or \*\*\* pounds, since 2004.<sup>27</sup> Bee Lian has a capacity of 36,000 metric tons (79.4 million pounds), and has plans to increase its capacity for all bags, including PRCBs by an additional 40,000 metric tons (88.2 million pounds).<sup>28</sup> Bags produced by Bee Lian include t-shirts bags, merchandise bags, cascade bags, and straight cut bags. The Malaysian interested parties stated that all of its Task Force members are family-owned; most are Malaysian-owned, and four (Euro SME, Sido Bangun, Simply Packaging, and Ten Optimum) are foreign-owned.<sup>29</sup>

### PRCB Operations

The Commission requested data from 27 firms in Malaysia believed to be possible producers of PRCBs. Of these firms, 16 firms, all of which are subject to the antidumping duties, provided questionnaire responses containing useable data and 11 did not provide responses. The responding firms

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<sup>22</sup> Based on official Commerce statistics.

<sup>23</sup> <http://www.united-power.com.hk/new/aboutus.html>, retrieved March 19, 2010.

<sup>24</sup> <http://www.tradeeasy.com/supplier/78325/united-power-packaging.html>, retrieved March 19, 2010.

<sup>25</sup> \*\*\*. Email from \*\*\*, March 9, 2010. Zhin Hin Plastic Manufacturer did not provide a response to the Commission’s foreign producer’s questionnaire or respond to the Commission staff’s request for information.

<sup>26</sup> According to proprietary customs data, \*\*\* accounted for the majority of subject PRCB imports from Malaysia in 2008 and 2009.

<sup>27</sup> The Malaysian interested parties’ response to the Commission’s notice of institution, p. 4.

<sup>28</sup> <http://www.beelianplastic.com/home.htm>, retrieved March 22, 2009.

<sup>29</sup> Hearing transcript, p. 117 (Sim) and the Malaysian interested parties’ posthearing brief, p. 15.

estimated that in 2009 they accounted for \*\*\* percent of production of PRCBs in Malaysia and \*\*\* percent of exports of PRCBs from Malaysia to the United States. Reported exports of PRCBs to the United States by these firms in 2009 were equivalent to \*\*\* percent of the quantity of U.S. imports of PRCBs from Malaysia in that year based on official Commerce statistics.

Four firms reported that they had plant openings or expansions since January 1, 2004.<sup>30</sup> \*\*\* reported that \*\*\* a production capacity of \*\*\* metric tons (\*\*\* pounds) per month, and in 2007 expanded its capacity to \*\*\* metric tons (\*\*\* pounds) per month. \*\*\* reported a plant opening in 2005 and production expansion.<sup>31</sup> \*\*\* reported expansions in capacity in 2007 and 2009 to “\*\*\*.”

Malaysian producer Sido Bangun is a sister company to Indonesian producer PT. Sido Bangun, which recently became subject to an antidumping duty margin of 85.17 percent on its PRCB exports to the United States. PT. Sido Bangun reported a PRCB capacity of \*\*\* bags in 2008 (the last full year for which data were requested from it), production of \*\*\* bags, exports to the United States of \*\*\* bags, and exports to all other markets of \*\*\* bags. Sido Bangun (Malaysia) reported a PRCB capacity of \*\*\* bags in 2009, and production of \*\*\* bags; \*\*\*. It is not known to what extent, if any, exports to the United States may shift from PT. Sido Bangun in Indonesia to Sido Bangun in Malaysia.

During the 2004-09 period, reported capacity, production, and total shipments made by Malaysian producers increased.<sup>32 33</sup> There were no reported exports to the United States during this period, while exports to all other sources increased, largely driven by increased exports to the EU. Three producers, \*\*\*, stated that they started producing PRCBs during the period for which data were collected, representing an additional \*\*\* bags or more than \*\*\* percent of the increase in capacity. Table IV-5 presents data for reported capacity, production, and shipments of PRCBs in Malaysia.<sup>34</sup>

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<sup>30</sup> \*\*\* reported a plant opening and an expansion in production capacity but did not provide further details regarding these.

<sup>31</sup> However, \*\*\* reported that the expansion was “\*\*\*.”

<sup>32</sup> \*\*\* reported production higher than its capacity, so staff used production as an estimate for capacity. The estimated capacity for \*\*\* is less than \*\*\* percent of total Malaysian capacity in any single year.

<sup>33</sup> One change in the production of PRCBs reported by twelve firms was the increased market demand for recycled or biodegradable bags.

<sup>34</sup> \*\*\* the increase in capacity and production between 2008 and 2009.

**Table IV-5**  
**PRCBs: Malaysia's reported production capacity, production, shipments, and inventories, 2004-09**

Item	Calendar year					
	2004	2005	2006	2007	2008	2009
<b>Quantity (1,000 bags)</b>						
Capacity	7,835,130	8,299,530	9,099,213	10,504,232	11,263,546	13,781,042
Production	7,245,953	7,451,308	8,292,580	9,800,696	10,081,647	11,684,014
End-of-period inventories	363,721	504,783	668,906	419,397	525,802	658,261
Shipments:						
Internal consumption	0	0	0	0	0	0
Home market	904,491	944,136	927,292	963,035	950,878	1,010,787
Exports to--						
The United States	0	0	0	0	0	0
European Union	4,322,211	4,125,995	4,752,382	6,390,043	6,285,541	8,211,652
Asia	1,521,431	1,663,920	1,763,820	1,762,522	1,828,497	1,617,380
All other markets	572,314	569,998	678,644	946,052	903,950	778,611
Total exports	6,415,956	6,359,913	7,194,846	9,098,617	9,017,988	10,607,643
Total shipments	7,320,447	7,304,049	8,122,138	10,061,652	9,968,866	11,618,430
<b>Ratios and shares (percent)</b>						
Capacity utilization	92.5	89.8	91.1	93.3	89.5	84.8
Inventories to production	5.0	6.8	8.1	4.3	5.2	5.6
Inventories to total shipments	5.0	6.9	8.2	4.2	5.3	5.7
Share of total quantity of shipments:						
Internal consumption	0.0	0.0	0.0	0.0	0.0	0.0
Home market	12.4	12.9	11.4	9.6	9.5	8.7
Exports to--						
The United States	0.0	0.0	0.0	0.0	0.0	0.0
European Union	59.0	56.5	58.5	63.5	63.1	70.7
Asia	20.8	22.8	21.7	17.5	18.3	13.9
All other markets	7.8	7.8	8.4	9.4	9.1	6.7
Total exports	87.6	87.1	88.6	90.4	90.5	91.3
Note.--***.						
Note.--Because of rounding, figures may not add to the totals shown. Beginning-of-period inventories plus production less total shipments did not reconcile to end-of-period inventories for five firms.						
Source: Compiled from data submitted in response to Commission questionnaires.						

## THE INDUSTRY IN THAILAND

### PRCB Operations

The Commission requested data from 33 firms in Thailand believed to be possible producers of PRCBs. Of these firms, five firms provided questionnaire responses containing useable data and the remainder did not provide responses. Three of the responding firms estimated that in 2009 they accounted for \*\*\* percent of production of PRCBs in Thailand,<sup>35</sup> and four firms estimated that in 2009 they accounted for \*\*\* percent of exports of PRCBs from Thailand to the United States.<sup>36</sup> Reported exports of PRCBs to the United States by these firms in 2009 were equivalent to \*\*\* percent of the quantity of U.S. imports of PRCBs from Thailand in that year based on official Commerce statistics.

Thai Plastic Bags Industries Co (“TPBI”), along with responding Thai producer \*\*\*, is believed to account for \*\*\* PRCB exports from Thailand to the United States during the period for which data were collected. TPBI has a fully in-line production operation, with over 200 printing machines and 230 bag-making machines. TPBI manufactures a wide range of PRCBs for leading retailers, including Walmart, Radio Shack, Value City, and Target.<sup>37</sup>

Table IV-6 presents data for the reporting producers and exporters of PRCBs in Thailand. Reported capacity and production in Thailand decreased between 2004 and 2009, principally after 2006. This decrease was largely accounted for by Thai producer \*\*\*, which reported \*\*\*.<sup>38</sup> The quantity of exports to the United States fluctuated \*\*\* during 2004-09, but ended the period at virtually the same level as in 2004. Total exports decreased irregularly during 2004-09.

**Table IV-6**  
**PRCBs: Thailand’s reported production capacity, production, shipments, and inventories, 2004-09**

\* \* \* \* \*

### INVESTIGATIONS IN THIRD-COUNTRY MARKETS

The only known trade remedy case related to plastic bags conducted outside of the United States was the antidumping duty investigations conducted by the European Union in 2005-06. These investigations involved the importation of bags from China, Malaysia, and Thailand, and antidumping duty orders were put into place in September 2006 on plastic bags from China and Thailand.<sup>39</sup> These orders remain in place.

### INFORMATION ON NONSUBJECT COUNTRIES

There is little publicly available information regarding international production or exports of PRCBs during the period for which data were collected. Countries other than China, Malaysia, and Thailand known to be large producers of PRCBs include Indonesia, Taiwan, and Vietnam. Other

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<sup>35</sup> \*\*\* provided responses.

<sup>36</sup> \*\*\* provided responses. \*\*\* represented the \*\*\* majority of this estimate with \*\*\* percent of exports to the United States.

<sup>37</sup> <http://www.tpbi.co.th>, retrieved March 21, 2010, and <http://www.packaging-gateway.com/contractors/materials/tpbi/>, retrieved March 30, 2010.

<sup>38</sup> \*\*\* also reported \*\*\* capacity utilization, ranging from \*\*\* percent to \*\*\* percent, than did the other responding firms, which ranged from \*\*\* percent to \*\*\* percent.

<sup>39</sup> Council Regulation (EC) No. 1425/2006.

countries believed to be producing PRCBs on a smaller scale include Canada, Korea, Japan, and Turkey.<sup>40</sup>

The domestic interested party contends that the imposition of the antidumping orders on PRCBs from China, Malaysia, and Thailand, “clearly led to a shift in sourcing as imports from Indonesia, Taiwan, and Vietnam have increased significantly in recent years.”<sup>41</sup> Information on the industries producing PRCBs in Indonesia, Taiwan, and Vietnam is available in the Commission’s staff report, as revised, in the recent final antidumping and countervailing duty investigations on PRCBs from Indonesia, Taiwan, and Vietnam.

### **The Global PRCBs Market**

Approximately 500 billion to 1 trillion plastic bags are consumed annually worldwide.<sup>42</sup> As discussed in greater detail under “Supply and Demand Considerations” in *Part II* of this report, in recent years increasing numbers of jurisdictions around the world, including in the United States, have taken action to reduce the reliance on PRCBs, including through the use of bans and taxes and/or the use of alternative types of bags such as the non-woven polypropylene bag. Among these jurisdictions are several countries in the European Union, including Belgium, Denmark, Germany, Norway, and the Republic of Ireland, which in 2002 was the first country to impose a bag tax. The domestic interested parties, citing these actions as well as responses to the Commission’s questionnaires, contend that global demand, including in Europe, will decline in the next few years.<sup>43</sup> The Malaysian interested parties estimate that PRCB demand in the European Union should remain stable, while PRCB demand in Asia will increase by 30 percent and demand in non-U.S. emerging markets (Africa, the Middle East, Russia, and South America) and non-U.S. markets overall will increase by 15 percent.<sup>44</sup> In August 2009, analysts at \*\*\* forecast average annual growth of high-density polyethylene (“HDPE”) bags demand of about \*\*\* percent in the United States during the 5-year period 2008-2013, and about \*\*\* percent for HDPE film in Western Europe.<sup>45</sup>

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<sup>40</sup> *Investigation Nos. 731-TA-1043-1045 (Final): Polyethylene Retail Carrier Bags (“PRCBs”) from Indonesia, Taiwan, and Vietnam--Revision to the Staff Report*, memorandum INV-HH-037, April 14, 2010, p. VII-8.

<sup>41</sup> The domestic interested parties’ response to the Commission’s Notice of Institution, p. 19.

<sup>42</sup> Domestic interested parties’ posthearing brief, exh. 8.

<sup>43</sup> Domestic interested parties’ posthearing brief, pp. 29-30.

<sup>44</sup> Malaysian interested parties’ posthearing brief, p. 12.

<sup>45</sup> \*\*\*.



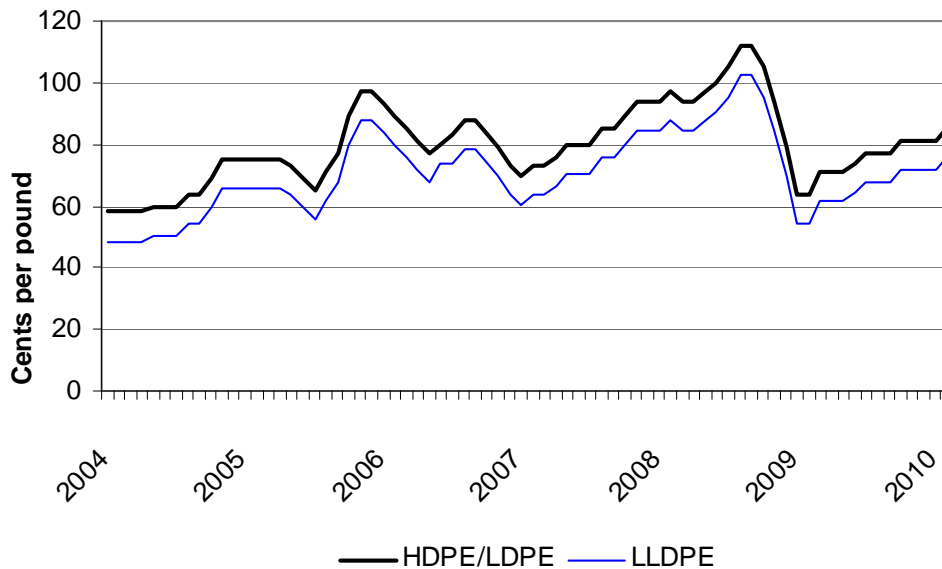
## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Materials

The main raw material used in the production of PRCBs is polyethylene resin. The prices of three types of polyethylene resin (high-density polyethylene, low-density polyethylene, and linear low-density polyethylene - HDPE, LDPE, and LLDPE, respectively) increased irregularly through August 2008, decreased rapidly through January 2009, and then increased through February 2010 (figure V-1). Raw materials accounted for \*\*\* percent of the total cost of goods sold during 2009, but were as high as \*\*\* percent during 2008 when resin prices were at their peak (*see Part III* entitled Financial Experience of U.S. Producers). Multiple U.S. producers noted in questionnaire responses that resin prices are trending upward in 2010. Many Malaysian foreign producers reported in questionnaire responses that their polyethylene resin is produced from petrol feedstock which is more expensive than resin from gas feedstock used by U.S. producers. One of the responding Thai foreign producers reported that it follows world market prices for raw materials in setting its PRCB prices. One of the responding Chinese producers reported that it will change its PRCB sales prices if raw material prices change \*\*\*.

**Figure V-1**  
**Polyethylene resin: Average monthly U.S. price, January 2004-February 2010**



Source: Compiled from data published in *Plastics News*.

## **U.S. Inland Transportation Costs**

U.S. producers generally reported that U.S. inland transportation costs ranged from 1 to 10 percent of the total delivered cost of PRCBs, and averaged 3.9 percent, based on a simple average.<sup>1</sup> Twenty of twenty-six responding importers reported inland transportation costs between 1 and 10 percent (averaging 4.7 percent), and the other 6 importers reported costs between 17 and 30 percent (averaging 22.5 percent); the overall average was 8.8 percent.

All responding U.S. producers and 26 of 30 responding importers reported arranging delivery to their customers. U.S. producers reported that 12.5 percent of their PRCBs were shipped less than 100 miles; 56.4 percent between 101 and 1,000 miles; and 31.1 percent more than 1,000 miles, based on a simple average. Importers reported shipping 46.7 percent of their PRCBs less than 100 miles, 29.6 percent between 101 and 1,000 miles, and 23.7 percent more than 1,000 miles.

## **PRICING PRACTICES**

### **Pricing Methods**

U.S. producers reported using a variety of methods of determining prices, which can depend on the size of the customer. Overall, 10 of 13 responding producers use transaction-by-transaction negotiations, 8 have contracts for multiple shipments, 3 use price lists, 4 sell via the internet, and 7 reported other methods of determining prices.<sup>2</sup> Additionally, two producers stated that for certain contracts, prices adjust with changes in resin prices. Twenty-one of 34 responding importers set prices on a transaction-by-transaction basis, 8 use contracts for multiple shipments, 7 use price lists, 3 sell via the internet, and 5 reported other methods of price setting.<sup>3</sup> According to petitioners, 75 percent of U.S. consumption of PRCBs is supplied through internet bidding events.<sup>4</sup> One common type of bidding event is the internet reverse auction administered by a third-party administrator that receives a commission based on the difference between the starting bid and final bid. In these reverse auctions, pre-qualified suppliers submit a pre-bid and the lowest price then will often become the starting price for the auction. Bidders are anonymous during the auctions, which may last from 15 minutes to several hours. According to petitioners, some purchasers have moved away from these internet reverse auctions to other types of internet bidding to avoid the administrative costs.<sup>5</sup>

Eight of 13 responding U.S. producers reported that they sell PRCBs via long-term contracts (over 12 months in length), 11 sell via short-term contracts (12 months or less in length), and 12 sell on the spot market. Based on a simple average, 19.7 percent of U.S. producers' sales were based on long-term contracts, 33.6 percent were short-term contracts, and 46.7 percent were spot sales. In contrast, importers reported selling primarily on a spot basis; based on a simple average, 3.6 percent of importers' sales were long-term contracts, 23.4 percent were short-term contracts, and 73.0 percent were spot sales.

The eight producers that sell via long-term contracts reported that contracts are up to two years in length. Five producers noted that prices could be renegotiated or changed during the contract. One producer noted that prices are fixed, four noted that quantities are fixed, and three noted that both price

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

<sup>2</sup> Multiple producers reported that they use more than one method of determining prices.

<sup>3</sup> As with the producers, multiple importers reported that they use more than one method of determining prices.

<sup>4</sup> Hearing transcript, p. 31 (Rizzo), and domestic interested parties' prehearing brief, p. 14.

<sup>5</sup> Information regarding internet auctions is from the domestic interested parties' hearing testimony. Hearing transcript, pp. 84-88 (Bazbaz, Daniels, and Rizzo).

and quantities are fixed. Four producers indicated that their long-term contracts usually have a meet-or-release clause. Eleven producers reported that their short-term contracts vary in length from 3 months to a year, do not typically have price renegotiations (eight producers) but may have meet-or-release clauses (eight producers), and fix both prices and quantities (six producers).

### Sales Terms and Discounts

All 12 responding U.S. producers reported sales terms of net 30 days; 8 of these firms offer discounts of 1 to 2 percent for payment within 10 days. Most importers also reported sales terms of net 30 days, with four importers offering a discount for early payment. Nine producers generally quote prices on a delivered basis, and four generally quote prices on an f.o.b. basis. Among responding importers, 16 generally quote f.o.b. prices and 13 generally quote delivered prices. With respect to price discounts other than early payment discounts, 9 of 13 producers reported offering some type of volume discount, although these discounts may apply to as few as one customer. More than half of responding importers (19 of 34) do not offer discounts while 14 offer quantity discounts.

### Bidding

Purchasers were asked whether they purchased PRCBs using a bidding process, including reverse internet auctions or other internet bid solicitations, and if so, to provide details of their four largest bidding events since January 2004. Fifteen of 48 responding purchasers indicated that they had engaged in such activity; 14 firms provided details (table V-1).<sup>6</sup> These purchasers provided information regarding 34 bidding events; the winning bids accounted for 5.4 percent of the value of apparent consumption of PRCBs in 2004-09. The country/countries of the lowest bidder was the country/countries of the winning bidder in 23 of the 28 reported bidding events for which purchasers reported both data points.<sup>7</sup> Fifteen of the winning bids were won at least partially by imports from China, Malaysia, and/or Thailand, and 12 of the winning bids were won at least partially by U.S. producers.<sup>8</sup> Factors other than price considered by the purchasers were bags characteristics (bag quality, feel, thickness, print quality, appearance, and tensile strength); logistics (availability, delivery time, and supply chain flexibility); supplier-specific factors (customer service level, financial health of the supplier, past experience, production capacity, references, and reliability); and financial considerations (ability to index prices monthly and freight charges).

**Table V-1**  
**PRCBs: Submitted data regarding bidding events reported by purchasers**

\* \* \* \* \*

### PRICE DATA

The Commission asked U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of commercial shipments of certain PRCBs shipped to unrelated U.S. customers during 2004-09. Importers that imported directly for their own use were asked to provide quarterly data for the total quantity and delivered value (to their first domestic warehouse or storage facility) of certain PRCBs. The products for which pricing data were requested are as follows:

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<sup>6</sup> Purchaser \*\*\* reported that it had engaged in bidding, but did not provide any further data.

<sup>7</sup> These 23 events include two instances in which purchasers listed multiple countries as the “source of the lowest bid” and the same countries as the “source of the winning bid.”

<sup>8</sup> \*\*\*.

***Product 1.***--“T-shirt sack”-style bag with (a) dimensions 8-9" width x 4-6" side x 15-17" length, (b) 11-13 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 4.7 and 7.9 pounds per 1,000 bags.

***Product 2.***--“T-shirt sack”-style bag with (a) dimensions 10-11" width x 6.5-7" side x 17-20" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 8.1 and 13.2 pounds per 1,000 bags.

***Product 3.***--“T-shirt sack”-style bag with (a) dimensions 11.5-12" width x 6.5-7" side x 20-22" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 10.2 and 15.3 pounds per 1,000 bags.

***Product 4.***--“T-shirt sack”-style bag with (a) dimensions 15-16" width x 7-9" side x 27-30" length, (b) 15-18 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 21.8 and 33.4 pounds per 1,000 bags.

***Product 5.***--Die-cut-handle-style merchandise bags with (a) dimensions 15-17" width x 3-5" side x 20-25" length, (b) 20-24 microns film thickness, (c) side gussets, and (d) printed with at least two colors on at least one side (5-50 percent ink coverage for entire bag).

***Product 6.***--Die-cut-handle-style merchandise bags with (a) dimensions 15-18" width x 17-19" length, (b) 31-39 microns film thickness, (c) no side gussets, and (d) with or without a bottom gusset of up to 6" (3" plus 3"), and (e) printed with at least two colors on at least one side (5-50 percent ink coverage for entire bag).

***Product 7.***--Merchandise or carry-out bag with (a) rope drawstring attached, (b) dimensions 15-18" width x 16-20" length (with or without bottom gusset), (c) 30-60 microns film thickness, and (d) print with 1-6 colors (5-100 percent ink coverage for entire bag).

***Product 8.***--Heat-sealed, square-bottomed merchandise or carry-out bag with or without a bottom cardboard insert, having (a) dimensions 11-18" width x 4-8" side x 12-20" length (with or without side gusset), (b) 50-150 microns film thickness, (d) separately applied flat flexible plastic handle, and (e) print with 1-6 colors on up to 5 sides (5-100 percent ink coverage for entire bag).

Usable sales pricing data were reported by thirteen U.S. producers, 11 importers of PRCBs from subject Chinese producers, and 9 importers of PRCBs from Thailand; no sales price data were reported



Table V-2

PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1,<sup>1</sup> and margins of (overselling)/underselling, by quarters, 2004-09

Period	United States		China (subject)			Thailand		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
<b>2004:</b>								
Jan.-Mar.	\$1.03	996,153	***	***	***	***	***	***
Apr.-June	0.91	1,258,702	***	***	***	***	***	***
July-Sept.	0.86	1,490,009	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***
<b>2005:</b>								
Jan.-Mar.	1.02	996,407	***	***	***	***	***	***
Apr.-June	0.97	1,365,631	***	***	***	***	***	***
July-Sept.	0.92	1,566,664	***	***	***	***	***	***
Oct.-Dec.	1.13	2,194,909	***	***	***	***	***	***
<b>2006:</b>								
Jan.-Mar.	1.12	1,608,212	***	***	***	***	***	***
Apr.-June	1.02	1,974,064	***	***	***	***	***	***
July-Sept.	1.00	1,932,698	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***
<b>2007:</b>								
Jan.-Mar.	0.93	1,082,562	***	***	***	***	***	***
Apr.-June	1.15	2,108,346	***	***	***	***	***	***
July-Sept.	1.37	1,795,934	***	***	***	***	***	***
Oct.-Dec.	1.40	1,738,007	***	***	***	***	***	***
<b>2008:</b>								
Jan.-Mar.	1.54	962,768	***	***	***	***	***	***
Apr.-June	1.49	1,362,815	***	***	***	***	***	***
July-Sept.	1.50	1,675,215	***	***	***	***	***	***
Oct.-Dec.	1.50	1,210,368	***	***	***	***	***	***
<b>2009:</b>								
Jan.-Mar.	1.33	***	***	***	***	***	***	***
Apr.-June	1.34	***	***	***	***	***	***	***
July-Sept.	1.28	***	***	***	***	***	***	***
Oct.-Dec.	1.22	1,621,535	***	***	***	***	***	***

<sup>1</sup> "T-shirt sack"-style bag with (a) dimensions 8-9" width x 4-6" side x 15-17" length, (b) 11-13 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 4.7 and 7.9 pounds per 1,000 bags.

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

**Table V-3**  
**PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, and margins of (overselling)/underselling, by quarters, 2004-09**

\* \* \* \* \*

Table V-4

PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3,<sup>1</sup> and margins of (overselling)/underselling, by quarters, 2004-09

Period	United States		China (subject)			Thailand		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
<b>2004:</b>								
Jan.-Mar.	\$0.67	108,796,995	\$0.62	1,451,545	6.4	***	***	***
Apr.-June	0.67	122,428,779	0.68	1,335,644	(2.6)	***	***	***
July-Sept.	0.69	123,807,374	0.70	1,615,768	(1.8)	***	***	***
Oct.-Dec.	0.77	135,121,765	0.76	683,446	1.1	***	***	***
<b>2005:</b>								
Jan.-Mar.	0.89	110,861,839	0.76	405,845	14.2	***	***	***
Apr.-June	0.85	129,250,134	***	***	***	***	***	***
July-Sept.	0.81	138,253,986	***	***	***	***	***	***
Oct.-Dec.	0.97	149,357,166	0.90	671,728	7.7	***	***	***
<b>2006:</b>								
Jan.-Mar.	0.96	122,036,770	1.03	802,912	(7.1)	***	***	***
Apr.-June	0.89	139,627,966	0.98	978,142	(10.0)	***	***	***
July-Sept.	0.89	148,495,366	1.11	699,990	(25.3)	***	***	***
Oct.-Dec.	0.89	132,567,619	1.09	593,141	(22.7)	***	***	***
<b>2007:</b>								
Jan.-Mar.	0.80	131,095,739	1.02	697,358	(28.5)	***	***	***
Apr.-June	0.81	138,932,508	1.07	437,794	(32.4)	***	***	***
July-Sept.	0.87	154,986,520	1.21	277,689	(39.1)	***	***	***
Oct.-Dec.	0.93	144,476,940	1.16	281,762	(25.2)	***	***	***
<b>2008:</b>								
Jan.-Mar.	0.96	133,191,582	1.22	322,232	(26.3)	***	***	***
Apr.-June	0.99	146,664,273	1.19	211,745	(20.4)	***	***	***
July-Sept.	1.05	133,531,975	***	***	***	***	***	***
Oct.-Dec.	1.01	136,848,699	***	***	***	***	***	***
<b>2009:</b>								
Jan.-Mar.	0.74	***	***	***	***	***	***	***
Apr.-June	0.74	***	***	***	***	***	***	***
July-Sept.	0.78	***	***	***	***	***	***	***
Oct.-Dec.	0.81	180,516,697	***	***	***	***	***	***

<sup>1</sup> "T-shirt sack"-style bag with (a) dimensions 11.5-12" width x 6.5-7" side x 20-22" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 10.2 and 15.3 pounds per 1,000 bags.

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



Table V-5

PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,<sup>1</sup> and margins of (overselling)/underselling, by quarters, 2004-09

Period	United States		China (subject)			Thailand		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
<b>2004:</b>								
Jan.-Mar.	\$0.76	3,598,487	***	***	***	***	***	***
Apr.-June	0.75	3,563,214	***	***	***	***	***	***
July-Sept.	0.78	3,761,496	***	***	***	***	***	***
Oct.-Dec.	0.82	7,153,128	***	***	***	***	***	***
<b>2005:</b>								
Jan.-Mar.	0.88	4,330,922	***	***	***	***	***	***
Apr.-June	0.88	3,654,212	***	***	***	***	***	***
July-Sept.	0.86	4,156,029	***	***	***	***	***	***
Oct.-Dec.	1.03	6,950,875	***	***	***	***	***	***
<b>2006:</b>								
Jan.-Mar.	0.99	***	***	***	***	***	***	***
Apr.-June	0.95	***	***	***	***	***	***	***
July-Sept.	0.94	***	***	***	***	***	***	***
Oct.-Dec.	0.89	***	***	***	***	***	***	***
<b>2007:</b>								
Jan.-Mar.	0.87	***	***	***	***	***	***	***
Apr.-June	0.88	***	***	***	***	***	***	***
July-Sept.	0.93	***	***	***	***	***	***	***
Oct.-Dec.	0.95	***	***	***	***	***	***	***
<b>2008:</b>								
Jan.-Mar.	1.05	***	***	***	***	***	***	***
Apr.-June	1.07	***	***	***	***	***	***	***
July-Sept.	1.13	***	***	***	***	***	***	***
Oct.-Dec.	1.11	***	***	***	***	***	***	***
<b>2009:</b>								
Jan.-Mar.	0.84	***	***	***	***	***	***	***
Apr.-June	0.77	***	***	***	***	***	***	***
July-Sept.	0.78	***	***	***	***	***	***	***
Oct.-Dec.	0.84	10,240,040	***	***	***	***	***	***

<sup>1</sup> "T-shirt sack"-style bag with (a) dimensions 15-16" width x 7-9" side x 27-30" length, (b) 15-18 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 21.8 and 33.4 pounds per 1,000 bags.

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

**Table V-6**

**PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 5, and margins of (overselling)/underselling, by quarters, 2004-09**

\* \* \* \* \*

**Table V-7**

**PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 6, and margins of (overselling)/underselling, by quarters, 2004-09**

\* \* \* \* \*

**Table V-8**

**PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 7, and margins of (overselling)/underselling, by quarters, 2004-09**

\* \* \* \* \*

**Table V-9**

**PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 8, and margins of (overselling)/underselling, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-2**

**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 1 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-3**

**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 2 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-4**

**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 3 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-5**

**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 4 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-6**  
**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 5 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-7**  
**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 6 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-8**  
**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 7 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

**Figure V-9**  
**PRCBs: Weighted-average f.o.b. selling prices and quantities of product 8 as reported by U.S. producers and importers, by quarters, 2004-09**

\* \* \* \* \*

Pricing comparisons between different sources of PRCBs are complicated by the fact that each of the eight pricing product definitions encompasses a range of sizes, and hence weights, of bags. This can cause the weight of the unit of measure (1,000 bags) to vary considerably. However, due to the nature of PRCBs and purchaser-specific preferences, a single-size pricing product would not yield an accurate portrayal of the market. Different manufacturers' formulations of inputs can yield differing strengths and/or elasticity for the size/thickness of a PRCB. Thus, differing sizes and thicknesses of bags can compete for the same account. Furthermore, if a purchaser wants a certain bag with a specific capacity, it may be willing to accept variations in the length, width, and depth of the PRCBs to achieve that capacity. Accordingly, some variation in size is necessary to account for these flexibilities. To account for some of these differences, price data presented herein are on a weight (per-pound) basis rather than on a number-of-bags basis. Even taking this into account, different plastic formulations and PRCB silhouettes may result in different strengths, elasticities, and other characteristics of the bag per given weight of plastic, so some variation in pricing may result based on these factors.

### Price Trends

A summary of price trends is presented in table V-10. U.S. producer prices for seven of the eight pricing products were 8.0 to 49.7 percent higher in the fourth quarter of 2009 compared to the first quarter of 2004.

**Table V-10**  
**PRCBs: Summary of weighted-average f.o.b. prices for products 1-8 from the United States, China and Thailand**

\* \* \* \* \*

## Price Comparisons

Imports of PRCBs from China and Thailand undersold the U.S. product in 196 of 303 quarterly comparisons, with margins of underselling ranging from 0.2 to 61.3 percent and averaging 22.6 percent. Conversely, imports of PRCBs from China and Thailand oversold the U.S. product in 107 quarterly comparisons, with margins of overselling ranging from 0.2 to 90.0 percent and averaging 22.3 percent. A summary of margins of underselling and overselling is presented in tables V-11 and V-12. Underselling and overselling margins from the original investigations are summarized in table V-13.

**Table V-11**  
**PRCBs: Instances and ranges of margins of under/overselling**

Country	Underselling			Overselling		
	Number of instances	Range (percent)	Average	Number of instances	Range (percent)	Average
China (subject)	115	0.4 to 54.6	26.4	64	0.3 to 81.8	21.3
Thailand	81	0.2 to 61.3	17.2	43	0.2 to 90.0	23.8
<b>Total</b>	196	0.2 to 61.3	22.6	107	0.2 to 90.0	22.3

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

Purchasers were asked whether domestic PRCB prices had changed relative to prices of imports from the countries under review since 2004. Twenty of 35 responding firms indicated that prices of domestic and imported PRCBs changed by the same amount, 11 indicated a change in relative prices, and 4 firms indicated that prices had not changed at all. Of the 11 firms indicating a change in relative prices, 9 indicated that prices of the domestic product are now relatively higher than those of imports from China, Malaysia, and Thailand.

U.S. producers, foreign producers, and importers were asked to compare market prices of PRCBs in the U.S. and non-U.S. markets. Foreign producers generally reported that prices were similar in the U.S. market, their home markets, and other markets.<sup>11</sup> Most U.S. producers and importers did not have information about prices in other markets.<sup>12</sup>

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<sup>11</sup> One Chinese producer reported that the market price in Asia is usually better than in the United States and Europe.

<sup>12</sup> One importer stated that U.S. prices were similar to those in Mexico, and another stated that U.S. prices are historically 15 to 20 percent lower than those in Canada.

**Table V-12**

**PRCBs: Number of quarters of underselling and overselling and highest and lowest margins of underselling and (overselling), by product number**

Product	Number of quarters of underselling	Number of quarters of (overselling)	Margins of underselling			Margins of overselling		
			Average (percent)	Range (percent)		Average (percent)	Range (percent)	
				Min	Max		Min	Max
1	30	10	22.6	0.2	54.6	12.1	3.5	34.9
2	5	29	6.3	2.4	15.9	25.3	0.2	81.2
3	25	23	10.4	0.3	22.0	24.6	1.8	66.9
4	18	21	10.8	0.4	25.9	34.5	1.8	90.0
5	17	21	12.0	0.9	30.0	9.5	0.3	28.1
6	34	2	25.3	6.8	39.2	18.3	3.7	32.8
7	24	1	29.4	7.7	45.8	1.6	1.6	1.6
8	43	0	34.9	5.1	61.3	--	--	--
<b>Total</b>	<b>196</b>	<b>107</b>	<b>22.6</b>	<b>0.2</b>	<b>61.3</b>	<b>22.3</b>	<b>0.2</b>	<b>90.0</b>

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

**Table V-13**

**PRCBs: Instances and ranges of margins of under/overselling from the original investigations**

Country	Underselling		Overselling	
	Number of instances	Range (percent)	Number of instances	Range (percent)
<b>China</b>	55	0.2 to 54.9	29	0.1 to 61.5
<b>Malaysia</b>	38	0.3 to 60.3	30	0.4 to 51.0
<b>Thailand</b>	17	0.0 to 39.7	32	3.9 to 198.2
<b>Total</b>	110	0.0 to 60.3	91	0.1 to 198.2

Note--Price data for the original investigations were for the period January 2001 to December 2003. Comparisons are based on unit values in dollars per pound.

Source: Staff report from the original investigations (January 30, 2004).



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





Competitive oil and gas lease WYW156543 for land in Converse County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, Julie L. Weaver, Chief, Branch of Fluid Minerals Adjudication, at (307) 775-6176.

**SUPPLEMENTARY INFORMATION:** The lessee has agreed to the amended lease terms for rentals and royalties at rates of \$10.00 per acre, or fraction thereof, per year, and 16 $\frac{2}{3}$  percent, respectively. The lessee has paid the required \$500 administrative fee and \$163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW156543 effective November 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

**Julie L. Weaver,**  
Chief, Branch of Fluid Minerals Adjudication.  
[FR Doc. E9-15658 Filed 7-1-09; 8:45 am]  
BILLING CODE 4310-22-P

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1043-1045 (Review)]

### Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

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

**ACTION:** Institution of five-year reviews concerning the antidumping duty orders on polyethylene retail carrier bags from China, Malaysia, and Thailand.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on polyethylene retail carrier bags from China, Malaysia, and Thailand would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information

specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is July 31, 2009. Comments on the adequacy of responses may be filed with the Commission by September 15, 2009. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* July 1, 2009.

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

**SUPPLEMENTARY INFORMATION:**

*Background.* On August 9, 2004, the Department of Commerce issued antidumping duty orders on imports of polyethylene retail carrier bags from China, Malaysia, and Thailand (69 FR 48201-48204). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

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

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 09-5-198, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

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

(2) The *Subject Countries* in these reviews are China, Malaysia, and Thailand.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product consisting of the continuum of polyethylene retail carrier bags, consistent with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found a single Domestic Industry consisting of all U.S. producers of polyethylene retail carrier bags.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is August 9, 2004.

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

*Participation in the reviews and public service list.* Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigations. The Commission's designated agency ethics official recently has advised that a five-year review is no longer considered the "same particular matter" as the

corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

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

*Certification.* Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.* Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 31, 2009. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to

the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 15, 2009. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

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

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

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

(2) A statement indicating whether your firm/entity is a U.S. producer of

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

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

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

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

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

(7) A list of 3-5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone number, fax number, and e-mail address of a responsible official at each firm).

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

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2008, except as noted (report quantity data in number of bags and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

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

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

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in number of bags and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(11) If you are a producer, an exporter, or a trade/business association of

producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in number of bags and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country(ies), and such merchandise from other countries.

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

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

By order of the Commission.

**Marilyn R. Abbott,**  
*Secretary.*

Issued: June 29, 2009.

**William R. Bishop,**

*Acting Secretary to the Commission.*

[FR Doc. E9-15636 Filed 7-1-09; 8:45 am]

**BILLING CODE P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1046 (Review)]

### Tetrahydrofurfuryl Alcohol From China

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

**ACTION:** Institution of a five-year review concerning the antidumping duty order on tetrahydrofurfuryl alcohol from China.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on tetrahydrofurfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is July 31, 2009. Comments on the adequacy of responses may be filed with the Commission by September 15, 2009. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 09-5-201, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Ugine & ALZ Belgium N.V. (U&A Belgium). Therefore, we do not intend to issue liquidation instructions to U.S. Customs and Border Protection (CBP) for entries made during the period May 1, 2007, through April 30, 2008, until such time the preliminary injunction issued on January 16, 2009, is lifted.

### Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) For AMS Belgium, the cash deposit rate will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 9.86 percent ad valorem, the "all-others" rate established in the LTFV investigation. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium, 64 FR 15476 (March 31, 1999). These deposit rates, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 doubled antidumping duties.

### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their

responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 6, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

### Appendix

#### List of Issues

*Comment 1:* Whether the Department Incorrectly Converted Inventory Carrying Costs (DINVCARU).

*Comment 2:* Whether to Exclude Certain Sales Transactions from the U.S. Sales Listing.

*Comment 3:* Whether to Use Facts Otherwise Available for U.S. Other Transportation Costs (USOTHR1U).

*Comment 4:* Whether to Use Facts Otherwise Available for Failing to Report a Certain Selling Expense.

*Comment 5:* Whether to Use AMS Belgium's Reported U.S. Warranty Expense.

*Comment 6:* Whether to Offset Negative Margins.

[FR Doc. E9-24699 Filed 10-16-09; 8:45 am]

**BILLING CODE 3510-DS-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-886, A-557-813, A-549-821]

### Polyethylene Retail Carrier Bags From the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** On July 1, 2009, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC), Thailand, and Malaysia pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-year ("Sunset") Review, 74 FR 31412 (July 1, 2009). The Department has conducted expedited (120-day) sunset reviews for these orders. As a result of these sunset reviews, the Department finds that

revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping as indicated in the "Final Results of Review" section of this notice.

**DATES:** *Effective Date:* October 19, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Dustin Ross or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-0747 or (202) 482-1690, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On July 1, 2009, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders<sup>1</sup> on PRCBs from the PRC, Malaysia, and Thailand pursuant to section 751(c) of the Act. See Initiation of Five-year ("Sunset") Reviews, 74 FR 31412 (July 1, 2009) (Notice of Initiation).

The Department received notices of intent to participate in these sunset reviews from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, Superbag Corporation, Unistar Plastics LLC, Command Packaging, Roplast Industries Inc., and Genpack LLC (collectively, the Committee) within the 15-day period specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as producers of a domestic like product in the United States.

The Department received complete substantive responses to the Notice of Initiation from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The Department received no substantive responses from any respondent interested parties. On the basis of a notice of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and no responses filed on behalf of respondent interested parties and in accordance with 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the

<sup>1</sup> On August 9, 2004, the Department published the following antidumping duty orders: Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China, 69 FR 48201 (August 9, 2004); Antidumping Duty Order: Polyethylene Retail Carrier Bags From Malaysia, 69 FR 48203 (August 9, 2004); Antidumping Duty Order: Polyethylene Retail Carrier Bags From Thailand, 69 FR 48204 (August 9, 2004).

antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand.

### Scope of the Orders

The product covered in the sunset reviews of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand is PRCBs which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scopes of the orders

exclude (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

As a result of changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written descriptions of the scopes of the orders are dispositive.

### Analysis of Comments Received

All issues raised in these reviews are addressed in the "Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Polyethylene Retail Carrier Bags from the People's Republic of China, Malaysia, and Thailand" from Acting Deputy Assistant Secretary John M. Andersen to Acting Assistant

Secretary Ronald K. Lorentzen dated concurrently with this notice (Decision Memo), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room 1117 of the main Department of Commerce building.

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

### Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Country	Company	Weighted-average margin (percent)
PRC	Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (formerly Dongguan Huang Jiang United Wah Plastic Bag Factory).	23.22
	Rally Plastics Company, Ltd	23.85
	Shanghai Glopac Packing Company, Ltd., and Sea Lake Polyethylene Enterprise, Ltd.	19.79
	Xiamen Ming Pak Plastics Company, Ltd	35.58
	Zhongshan Dongfeng Hung Wai Plastic Bag Manufactory	41.28
	Beijing Lianbin Plastics and Printing Company, Ltd	25.69
	Dongguan Maruman Plastic Packaging Co., Ltd. (formerly Dongguan Zhongqiao Combine Plastic Bag Factory).	25.69
	Good-in Holdings, Ltd	25.69
	Guangdong Esquel Packaging Co., Ltd	25.69
	Nan Sing Plastics, Ltd	25.69
	Ningbo Fanrong Plastics Products Co., Ltd	25.69
	Ningbo Huansen Plastics Co., Ltd	25.69
	Rain Continent Shanghai Company, Ltd	25.69
	Shanghai Dazhi Enterprise Development Company, Ltd	25.69
	Shanghai Fangsheng Coloured Packaging Company, Ltd	25.69
	Shanghai Jingtai Packaging Material Company, Ltd	25.69
	Shanghai Light Industrial Products Import and Export Corporation	25.69
	Shanghai Minmetals Development, Ltd	25.69
	Shanghai New Ai Lian Import and Export Company, Ltd	25.69
	Shanghai Overseas International Trading Company, Ltd	25.69
	Shanghai Yafu Plastics Industries Company, Ltd	25.69
Weihai Weiquan Plastic and Rubber Products Company, Ltd	25.69	
Xiamen Xingyatai Industry Company, Ltd	25.69	
Xinhui Henglong	25.69	
PRC-wide Rate	77.57	
Malaysia	Teong Chuan Plastic and Timber Sdn. Bhd	101.74
	Brandpak Industries Sdn. Bhd	101.74
	Gants Pac Industries	101.74
	Sido Bangun Sdn. Bhd	101.74
	Zhin HinChin un Plastic Manufacturer Sdn. Bhd	101.74
All Others	84.94	
Thailand	Thai Plastic Bags Industries Co., Ltd	2.26

Country	Company	Weighted-average margin (percent)
	Universal Polybags Co. Ltd./Advance Polybags Inc./Alpine Plastics Inc./API Enterprises Inc.	5.35
	TRC Polypack .....	122.88
	Champion Paper Polybags Ltd .....	122.88
	Zip-Pac Co., Ltd./King Pac Industrial Co., Ltd./King Pak/Zippac/Dpac Industrial/Kingbag/KP.	122.88
	All Others .....	2.80

### Notification Regarding APO

This notice 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(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: October 6, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-24540 Filed 10-16-09; 8:45 am]

**BILLING CODE 3510-DS-M**

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648-XS39**

#### Gulf of Mexico Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Gulf of Mexico Fishery Management Council will convene a public meeting of the Texas Habitat Protection Advisory Panel (AP).

**DATES:** The meeting will convene at 9 a.m. on Tuesday, November 10, 2009 and conclude no later than 4 p.m.

**ADDRESSES:** This meeting will be held at the Hampton Inn & Suites Houston-Clear Lake-NASA, 506 West Bay Area Blvd., Webster, TX 77598.

*Council address:* Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

**FOR FURTHER INFORMATION CONTACT:** Jeff Rester, Habitat Support Specialist, Gulf States Marine Fisheries Commission; telephone: (228) 875-5912.

**SUPPLEMENTARY INFORMATION:** At this meeting, the AP will discuss a proposed seawall, "The Ike Dike", to protect Galveston Bay from hurricane storm surge, an update on oyster restoration in Galveston Bay, the Texas Clipper artificial reef project, status of the Flower Garden Banks National Marine Sanctuary Management Plan Review, the South Padre Island Second Access Project, and juvenile red snapper habitat use in the Gulf of Mexico.

The Texas group is part of a three unit Habitat Protection Advisory Panel (AP) of the Gulf of Mexico Fishery Management Council. The principal role of the advisory panels is to assist the Council in attempting to maintain optimum conditions within the habitat and ecosystems supporting the marine resources of the Gulf of Mexico. Advisory panels serve as a first alert system to call to the Council's attention proposed projects being developed and other activities which may adversely impact the Gulf marine fisheries and their supporting ecosystems. The panels may also provide advice to the Council on its policies and procedures for addressing environmental affairs.

Although other issues not on the agenda may come before the panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

A copy of the agenda can be obtained by calling (813) 348-1630.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: October 14, 2009.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-25025 Filed 10-16-09; 8:45 am]

**BILLING CODE 3510-22-S**

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN: 0648-XS15**

#### North Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Eight Regional Fishery Management Councils will convene a meeting of representatives of their respective Scientific and Statistical Committee (SSCs) at the Wyndam Sugar Bay Resort, St. Thomas, United States Virgin Islands, November 10-13, 2009.

**DATES:** The meetings will be held November 10-13, 2009, with travel dates November 9 and 14.

**ADDRESSES:** The meetings will be held at the Wyndam Sugar Bay Resort, 6500 Estate Smith Bay, St Thomas, U.S. Virgin Islands.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** David Witherell at the North Pacific Fishery Management Council, telephone: (907) 271-2809 or Diana Martino at the Caribbean Fishery Management Council, telephone: (787) 766-5926.

**SUPPLEMENTARY INFORMATION:** The Magnuson Stevens Fishery Conservation and Management Act (MSA) requires that each Council maintain and utilize its SSCs to assist in the development, collection, evaluation, and peer review of information relevant to the development and amendment of fishery

**SUMMARY:** The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on sorbitol from France would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* October 5, 2009.

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

**SUPPLEMENTARY INFORMATION:** On October 5, 2009, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (74 FR 31762, July 2, 2009) was adequate and that the respondent interested party group response was inadequate. The Commission also found that other circumstances warranted conducting a full review.<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

<sup>1</sup> Commissioners Irving A. Williamson and Dean A. Pinkert found that no other circumstances warranted conducting a full review and voted for an expedited review.

By order of the Commission.

Issued: October 14, 2009.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-25249 Filed 10-20-09; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1043-1045 (Review)]

### Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

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

**ACTION:** Notice of Commission determination to conduct full five-year reviews concerning the antidumping duty orders on polyethylene retail carrier bags from China, Malaysia, and Thailand.

**SUMMARY:** The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on polyethylene retail carrier bags from China, Malaysia, and Thailand would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* October 5, 2009.

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

**SUPPLEMENTARY INFORMATION:** On October 5, 2009, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (74 FR 31750, July 2, 2009) was adequate and that the respondent interested party group response with respect to Malaysia was adequate and decided to conduct a full review with respect to the antidumping duty order concerning polyethylene retail carrier bags from Malaysia. The Commission found that the respondent interested party group responses with respect to China and Thailand were inadequate. However, the Commission determined to conduct full reviews concerning the antidumping duty orders on polyethylene retail carrier bags from China and Thailand to promote administrative efficiency in light of its decision to conduct a full review with respect to the antidumping duty order concerning polyethylene retail carrier bags from Malaysia. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 14, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-25248 Filed 10-20-09; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-149 (Third Review)]

### Barium Chloride From China

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

**ACTION:** Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on barium chloride from China.

**SUMMARY:** The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty



StatoilHydro USA E&P, Inc.  
StatoilHydro Gulf Properties Inc.

Dated: October 30, 2009.

**S. Elizabeth Birnbaum,**

*Director, Minerals Management Service.*

[FR Doc. E9-28088 Filed 11-20-09; 8:45 am]

BILLING CODE 4310-MR-P

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1043-1045  
(Review)]

### Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

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

**ACTION:** Scheduling of full five-year  
reviews concerning the antidumping  
duty orders on polyethylene retail  
carrier bags from China, Malaysia, and  
Thailand.

**SUMMARY:** The Commission hereby gives  
notice of the scheduling of full reviews  
pursuant to section 751(c)(5) of the  
Tariff Act of 1930 (19 U.S.C. 1675(c)(5))  
(the Act) to determine whether  
revocation of the antidumping duty  
orders on polyethylene retail carrier  
bags from China, Malaysia, and  
Thailand would be likely to lead to  
continuation or recurrence of material  
injury within a reasonably foreseeable  
time. For further information  
concerning the conduct of these reviews  
and rules of general application, consult  
the Commission's Rules of Practice and  
Procedure, part 201, subparts A through  
E (19 CFR part 201), and part 207,  
subparts A, D, E, and F (19 CFR part  
207).

**DATES:** *Effective Date:* November 17,  
2009.

**FOR FURTHER INFORMATION CONTACT:**

Nathanael Comly (202-205-3174),  
Office of Investigations, U.S.  
International Trade Commission, 500 E  
Street, SW., Washington, DC 20436.  
Hearing-impaired persons can obtain  
information on this matter by contacting  
the Commission's TDD terminal on 202-  
205-1810. Persons with mobility  
impairments who will need special  
assistance in gaining access to the  
Commission should contact the Office  
of the Secretary at 202-205-2000.  
General information concerning the  
Commission may also be obtained by  
accessing its Internet server (<http://www.usitc.gov>). The public record for  
these reviews may be viewed on the  
Commission's electronic docket (EDIS)  
at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—On October 5, 2009,  
the Commission determined that  
responses to its notice of institution of  
the subject five-year reviews were such  
that full reviews pursuant to section  
751(c)(5) of the Act should proceed (74  
FR 54069, October 21, 2009). A record  
of the Commissioners' votes, the  
Commission's statement on adequacy,  
and any individual Commissioner's  
statements are available from the Office  
of the Secretary and at the  
Commission's Web site.

*Participation in the reviews and  
public service list.*—Persons, including  
industrial users of the subject  
merchandise and, if the merchandise is  
sold at the retail level, representative  
consumer organizations, wishing to  
participate in these reviews as parties  
must file an entry of appearance with  
the Secretary to the Commission, as  
provided in section 201.11 of the  
Commission's rules, by 45 days after  
publication of this notice. A party that  
filed a notice of appearance following  
publication of the Commission's notice  
of institution of the reviews need not  
file an additional notice of appearance.  
The Secretary will maintain a public  
service list containing the names and  
addresses of all persons, or their  
representatives, who are parties to the  
reviews.

*Limited disclosure of business  
proprietary information (BPI) under an  
administrative protective order (APO)  
and BPI service list.*—Pursuant to  
section 207.7(a) of the Commission's  
rules, the Secretary will make BPI  
gathered in these reviews available to  
authorized applicants under the APO  
issued in the reviews, provided that  
the application is made by 45 days after  
publication of this notice. Authorized  
applicants must represent interested  
parties, as defined by 19 U.S.C. 1677(9),  
who are parties to the reviews. A party  
granted access to BPI following  
publication of the Commission's notice  
of institution of the reviews need not  
reapply for such access. A separate  
service list will be maintained by the  
Secretary for those parties authorized to  
receive BPI under the APO.

*Staff report.*—The prehearing staff  
report in the reviews will be placed in  
the nonpublic record on April 7, 2010,  
and a public version will be issued  
thereafter, pursuant to section 207.64 of  
the Commission's rules.

*Hearing.*—The Commission will hold  
a hearing in connection with the  
reviews beginning at 9:30 a.m. on April  
27, 2010, 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 April 20, 2010.

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 April 22,  
2010, at the U.S. International Trade  
Commission Building. Oral testimony  
and written materials to be submitted at  
the public hearing are governed by  
sections 201.6(b)(2), 201.13(f), 207.24,  
and 207.66 of the Commission's rules.  
Parties must submit any request to  
present a portion of their hearing  
testimony *in camera* no later than 7  
business days prior to the date of the  
hearing.

*Written submissions.*—Each party to  
the reviews may submit a prehearing  
brief to the Commission. Prehearing  
briefs must conform with the provisions  
of section 207.65 of the Commission's  
rules; the deadline for filing is April 16,  
2010. Parties may also file written  
testimony in connection with their  
presentation at the hearing, as provided  
in section 207.24 of the Commission's  
rules, and posthearing briefs, which  
must conform with the provisions of  
section 207.67 of the Commission's  
rules. The deadline for filing  
posthearing briefs is May 6, 2010;  
witness testimony must be filed no later  
than three days before the hearing. In  
addition, any person who has not  
entered an appearance as a party to the  
reviews may submit a written statement  
of information pertinent to the subject of  
the reviews on or before May 6, 2010.  
On May 28, 2010, 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 June 2, 2010,  
but such final comments must not  
contain new factual information and  
must otherwise comply with section  
207.68 of the Commission's rules. All  
written submissions must conform with  
the provisions of section 201.8 of the  
Commission's rules; any submissions  
that contain BPI must also conform with  
the requirements of sections 201.6,  
207.3, and 207.7 of the Commission's  
rules. The Commission's rules do not  
authorize filing of submissions with the  
Secretary by facsimile or electronic  
means, except to the extent permitted by  
section 201.8 of the Commission's rules,  
as amended, 67 FR 68036 (November 8,  
2002). Even where electronic filing of a  
document is permitted, certain  
documents must also be filed in paper  
form, as specified in II (C) of the  
Commission's Handbook on Electronic



Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

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

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 18, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-28040 Filed 11-20-09; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-473 and 731-TA-1173 (Preliminary)]

### Certain Sodium and Potassium Phosphate Salts From China

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry producing monopotassium phosphate ("MKP"), provided for in subheading 2835.24.00 of the Harmonized Tariff Schedule in the United States, is materially injured or threatened with material injury by reason of imports from China, that are alleged to be subsidized by the Government of China and sold in the United States at less

than fair value (LTFV).<sup>2 3</sup> In addition, the Commission determines that there is a reasonable indication that industries producing dipotassium phosphate ("DKP") and tetrapotassium pyrophosphate ("TKPP"), provided for in subheadings 2835.24.00 and 2835.39.10 respectively, of the Harmonized Tariff Schedule of the United States, are threatened with material injury by reason of imports from China, that are alleged to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV).<sup>4</sup> Finally, the Commission determines that there is no reasonable indication that an industry producing sodium tripolyphosphate ("STPP"), provided for in subheading 2835.31.00 of the Harmonized Tariff Schedule of the United States, is materially injured or threatened with material injury by reason of imports from China, that are alleged to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV).

#### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations

<sup>2</sup> Commissioners Charlotte R. Lane, Irving A. Williamson, and Dean A. Pinkert determine that there is a reasonable indication that the domestic industry is materially injured by reason of subject imports.

<sup>3</sup> Chairman Shara L. Aranoff, Vice Chairman Daniel R. Pearson, and Commissioner Deanna Tanner Okun determine that there is a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports.

<sup>4</sup> Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry producing TKPP is materially injured by reason of subject imports.

have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

#### Background

On September 24, 2009, a petition was filed with the Commission and Commerce by ICL Performance Products LP, St. Louis, MO and Prayon, Inc., Augusta, GA alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of certain sodium and potassium phosphate salts from China. Accordingly, effective September 24, 2009, the Commission instituted countervailing duty investigation No. 701-TA-473 and antidumping duty investigation No. 731-TA-1173 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC and by publishing the notice in the **Federal Register** of October 1, 2009 (74 FR 50817). The conference was held in Washington, DC, on October 15, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 9, 2009. The views of the Commission are contained in USITC Publication 4110 (November 2009), entitled *Certain Sodium and Potassium Phosphate Salts From China (Preliminary)*.

By order of the Commission.

Issued: November 17, 2009.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-28020 Filed 11-20-09; 8:45 am]

**BILLING CODE 7020-02-P**

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

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

in

*Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand,*  
Inv. Nos. 731-TA-1043-1045 (Review)

On October 5, 2009, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the response to its notice of institution filed by the Polyethylene Retail Carrier Bag (“PRCB”) Committee and its individual members, consisting of six domestic producers of PRCBs, was individually adequate. Because members of the PRCB Committee accounted for a majority of domestic PRCB production in 2008, the Commission further determined that the domestic interested party group response was adequate.

The Commission determined that the response to its notice of institution filed by the Task Force of PRCB Manufacturers of the Malaysian Plastic Manufacturers Association and its individual members, consisting of 23 Malaysian producers and exporters of PRCBs, was individually adequate. Because these Malaysian producers and exporters accounted for a majority of Malaysian PRCB production and exports in 2008, the Commission further determined that the Malaysian interested party group response was adequate. Accordingly, the Commission determined to proceed to a full review in *PRCBs from Malaysia*.

The Commission did not receive a response from any respondent interested party in the reviews concerning subject imports from China and Thailand and, therefore, determined that the respondent interested party group responses for both countries were inadequate. However, the Commission determined to conduct full reviews concerning subject imports from China and Thailand to promote administrative efficiency in light of its decision to conduct a full review of *PRCBs from Malaysia*.

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

**APPENDIX B**  
**HEARING WITNESSES**



## CALENDAR OF PUBLIC HEARING

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

**Subject:** Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand

**Inv. Nos.:** 731-TA-1043-1045 (Review)

**Date and Time:** April 27, 2010 - 9:30 a.m.

Sessions were held in connection with these reviews in the Main Hearing Room, 500 E Street (room 101), SW, Washington, DC.

### **OPENING REMARKS:**

In Support of Continuation of Orders (**Joseph W. Dorn**,  
King & Spalding LLP)

In Opposition to Continuation of Orders (**Edmund W. Sim**,  
Appleton Luff Pte Ltd.)

### **In Support of Continuation of Antidumping Duty Orders:**

King & Spalding LLP  
Washington, DC  
on behalf of

The Polyethylene Retail Carrier Bag Committee  
and its individual members

Hilex Poly Co., LLC  
Superbag Corporation  
Unistar Plastics, LLC  
Command Packaging  
Roplast Industries, Inc.  
Genpak LLC

**Isaac Bazbaz**, Director, Superbag Corporation

**Mark Daniels**, Vice President of Marketing &  
Environmental Affairs, Hilex Poly Co., LLC

**In Support of Continuation of  
Antidumping Duty Orders (continued):**

**Anthony Rizzo**, Vice President of Sales, Hilex  
Poly Co., LLC

**Michael G. Szustakowski**, Consultant, King  
& Spalding LLP

**Joseph W. Dorn** ) – OF COUNSEL

**In Opposition to Continuation of  
Antidumping Duty Orders:**

Appleton Luff Pte Ltd.  
Washington, DC  
on behalf of

The Task Force of Polyethylene Retail Carrier Bag  
Manufacturers of the Malaysian Plastic  
Manufacturers Association and its members  
("Task Force")

**Edmund W. Sim** )  
**Patrick F.J. Macrory** ) – OF COUNSEL  
**Kelly A. Slater** )

**REBUTTAL/CLOSING REMARKS:**

In Support of Continuation of Orders (**Joseph W. Dorn**,  
King & Spalding LLP)

In Opposition to Continuation of Orders (**Edmund W. Sim**,  
Appleton Luff Pte Ltd.)

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





**Table C-1**  
**All PRCBs: Summary data concerning the U.S. market, 2004-09**

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

Item	Reported data						Period changes					
	2004	2005	2006	2007	2008	2009	2004-09	2004-05	2005-06	2006-07	2007-08	2008-09
U.S. consumption quantity:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Subject sources - Importers' share (1):												
China	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***	***	***	***	***	***	***
Thailand	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***	***
Nonsubject sources - Importers' share:												
China	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal, nonsubject	***	***	***	***	***	***	***	***	***	***	***	***
Total U.S. imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Subject sources - Importers' share (1):												
China	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***	***	***	***	***	***	***
Thailand	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***	***
Nonsubject sources - Importers' share:												
China	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal, nonsubject	***	***	***	***	***	***	***	***	***	***	***	***
Total U.S. imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. imports from:												
China, subject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia, subject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Thailand, subject:												
Quantity	5,789,506	11,034,532	17,037,139	5,899,864	7,794,664	3,655,709	-36.9	90.6	54.4	-65.4	32.1	-53.1
Value	40,829	79,837	100,939	76,002	100,492	39,059	-4.3	95.5	26.4	-24.7	32.2	-61.1
Unit value	\$7.05	\$7.24	\$5.92	\$12.88	\$12.89	\$10.68	51.5	2.6	-18.1	117.4	0.1	-17.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1 --Continued

All PRCBs: Summary data concerning the U.S. market, 2004-09

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

Item	Reported data						Period changes					
	2004	2005	2006	2007	2008	2009	2004-09	2004-05	2005-06	2006-07	2007-08	2008-09
Subtotal, subject:												
Quantity	12,618,338	17,574,755	23,526,589	10,574,169	13,655,013	8,910,671	-29.4	39.3	33.9	-55.1	29.1	-34.7
Value	95,437	146,402	159,707	142,671	170,429	90,616	-5.1	53.4	9.1	-10.7	19.5	-46.8
Unit value	\$7.56	\$8.33	\$6.79	\$13.49	\$12.48	\$10.17	34.5	10.1	-18.5	98.8	-7.5	-18.5
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
China, nonsubject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia, nonsubject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:												
Quantity (3)	4,109,628	4,670,359	12,858,117	19,421,619	17,530,327	14,008,206	240.9	13.6	175.3	51.0	-9.7	-20.1
Value	36,342	44,641	130,132	238,470	249,165	142,143	291.1	22.8	191.5	83.3	4.5	-43.0
Unit value	\$8.84	\$9.56	\$10.12	\$12.28	\$14.21	\$10.15	14.7	8.1	5.9	21.3	15.8	-28.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal, nonsubject:												
Quantity	5,137,256	9,478,087	18,410,756	24,961,782	22,709,208	21,631,674	321.1	84.5	94.2	35.6	-9.0	-4.7
Value	43,237	68,898	190,188	323,881	333,969	214,511	396.1	59.4	176.0	70.3	3.1	-35.8
Unit value	\$8.42	\$7.27	\$10.33	\$12.98	\$14.71	\$9.92	17.8	-13.6	42.1	25.6	13.3	-32.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All sources:												
Quantity	17,755,595	27,052,842	41,937,345	35,535,951	36,364,221	30,542,345	72.0	52.4	55.0	-15.3	2.3	-16.0
Value	138,674	215,300	349,895	466,552	504,398	305,127	120.0	55.3	62.5	33.3	8.1	-39.5
Unit value	\$7.81	\$7.96	\$8.34	\$13.13	\$13.87	\$9.99	27.9	1.9	4.8	57.4	5.6	-28.0
Ending inventory quantity	1,105,764	1,843,128	2,141,470	3,587,728	4,173,052	4,291,448	288.1	66.7	16.2	67.5	16.3	2.8
U.S. producers':												
Average capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***	***	***	***
Productivity (bags per hour)	***	***	***	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***	***	***	***
Net sales:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Inventory data for China and Malaysia are not available broken out between subject and nonsubject PRCBs.

(3) Data for All Other Sources for 2006 adjusted to include PRCBs imported under HTS statistical reporting number 3923.21.0095.

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

Unit values and shares are calculated from the unrounded figures.

Note.--Importers' inventories are based on questionnaire data and were not reported as "subject" and "nonsubject" so only total inventories are presented.

Source: Compiled from data submitted in response to Commission questionnaires, from proprietary Customs data, and from official Commerce statistics.

Table C-2

All PRCBs: Summary data concerning the U.S. market (including U.S. producer Omega), 2004-09

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

Item	Reported data						Period changes					
	2004	2005	2006	2007	2008	2009	2004-09	2004-05	2005-06	2006-07	2007-08	2008-09
U.S. consumption quantity:												
Amount	87,364,556	97,995,265	108,723,360	105,303,892	101,483,633	99,527,835	13.9	12.2	10.9	-3.1	-3.6	-1.9
Producers' share (1)	79.7	72.4	61.4	66.3	64.2	69.3	-10.4	-7.3	-11.0	4.8	-2.1	5.1
Subject sources - Importers' share (1):												
China	5.8	6.3	6.0	4.4	4.9	4.8	-1.0	0.5	-0.3	-1.5	0.5	-0.1
Malaysia	2.0	0.4	0.0	0.0	0.9	0.5	-1.5	-1.6	-0.4	0.0	0.9	-0.3
Thailand	6.6	11.3	15.7	5.6	7.7	3.7	-3.0	4.6	4.4	-10.1	2.1	-4.0
Subtotal	14.4	17.9	21.6	10.0	13.5	9.0	-5.5	3.5	3.7	-11.6	3.4	-4.5
Nonsubject sources - Importers' share:												
China	0.2	0.5	1.6	2.0	1.9	3.6	3.4	0.4	1.1	0.4	-0.1	1.7
Malaysia	1.0	4.4	3.5	3.3	3.2	4.0	3.0	3.4	-0.9	-0.2	-0.1	0.8
All other sources	4.7	4.8	11.8	18.4	17.3	14.1	9.4	0.1	7.1	6.6	-1.2	-3.2
Subtotal, nonsubject	5.9	9.7	16.9	23.7	22.4	21.7	15.9	3.8	7.3	6.8	-1.3	-0.6
Total U.S. imports	20.3	27.6	38.6	33.7	35.8	30.7	10.4	7.3	11.0	-4.8	2.1	-5.1
U.S. consumption value:												
Amount	1,011,044	1,207,983	1,311,293	1,389,493	1,487,404	1,110,756	9.9	19.5	8.6	6.0	7.0	-25.3
Producers' share (1)	86.3	82.2	73.3	66.4	66.1	72.5	-13.8	-4.1	-8.9	-6.9	-0.3	6.4
Subject sources - Importers' share (1):												
China	4.9	5.4	4.5	4.8	3.8	4.1	-0.8	0.5	-0.9	0.3	-1.0	0.3
Malaysia	0.5	0.1	0.0	0.0	0.9	0.5	0.0	-0.4	-0.1	0.0	0.9	-0.4
Thailand	4.0	6.6	7.7	5.5	6.8	3.5	-0.5	2.6	1.1	-2.2	1.3	-3.2
Subtotal	9.4	12.1	12.2	10.3	11.5	8.2	-1.3	2.7	0.1	-1.9	1.2	-3.3
Nonsubject sources - Importers' share:												
China	0.4	0.6	2.3	3.0	2.7	2.9	2.5	0.3	1.6	0.7	-0.3	0.2
Malaysia	0.3	1.4	2.3	3.2	3.0	3.6	3.3	1.1	0.9	0.9	-0.1	0.6
All other sources	3.6	3.7	9.9	17.2	16.8	12.8	9.2	0.1	6.2	7.2	-0.4	-4.0
Subtotal, nonsubject	4.3	5.7	14.5	23.3	22.5	19.3	15.0	1.4	8.8	8.8	-0.9	-3.1
Total U.S. imports	13.7	17.8	26.7	33.6	33.9	27.5	13.8	4.1	8.9	6.9	0.3	-6.4
U.S. imports from:												
China, subject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia, subject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Thailand, subject:												
Quantity	5,789,506	11,034,532	17,037,139	5,899,864	7,794,664	3,655,709	-36.9	90.6	54.4	-65.4	32.1	-53.1
Value	40,829	79,837	100,939	76,002	100,492	39,059	-4.3	95.5	26.4	-24.7	32.2	-61.1
Unit value	\$7.05	\$7.24	\$5.92	\$12.88	\$12.89	\$10.68	51.5	2.6	-18.1	117.4	0.1	-17.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-2 --Continued

All PRCBs: Summary data concerning the U.S. market (including U.S. producer Omega), 2004-09

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

Item	Reported data						Period changes					
	2004	2005	2006	2007	2008	2009	2004-09	2004-05	2005-06	2006-07	2007-08	2008-09
Subtotal, subject:												
Quantity	12,618,338	17,574,755	23,526,589	10,574,169	13,655,013	8,910,671	-29.4	39.3	33.9	-55.1	29.1	-34.7
Value	95,437	146,402	159,707	142,671	170,429	90,616	-5.1	53.4	9.1	-10.7	19.5	-46.8
Unit value	\$7.56	\$8.33	\$6.79	\$13.49	\$12.48	\$10.17	34.5	10.1	-18.5	98.8	-7.5	-18.5
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
China, nonsubject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Malaysia, nonsubject:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:												
Quantity (3)	4,109,628	4,670,359	12,858,117	19,421,619	17,530,327	14,008,206	240.9	13.6	175.3	51.0	-9.7	-20.1
Value	36,342	44,641	130,132	238,470	249,165	142,143	291.1	22.8	191.5	83.3	4.5	-43.0
Unit value	\$8.84	\$9.56	\$10.12	\$12.28	\$14.21	\$10.15	14.7	8.1	5.9	21.3	15.8	-28.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Subtotal, nonsubject:												
Quantity	5,137,256	9,478,087	18,410,756	24,961,782	22,709,208	21,631,674	321.1	84.5	94.2	35.6	-9.0	-4.7
Value	43,237	68,898	190,188	323,881	333,969	214,511	396.1	59.4	176.0	70.3	3.1	-35.8
Unit value	\$8.42	\$7.27	\$10.33	\$12.98	\$14.71	\$9.92	17.8	-13.6	42.1	25.6	13.3	-32.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All sources:												
Quantity	17,755,595	27,052,842	41,937,345	35,535,951	36,364,221	30,542,345	72.0	52.4	55.0	-15.3	2.3	-16.0
Value	138,674	215,300	349,895	466,552	504,398	305,127	120.0	55.3	62.5	33.3	8.1	-39.5
Unit value	\$7.81	\$7.96	\$8.34	\$13.13	\$13.87	\$9.99	27.9	1.9	4.8	57.4	5.6	-28.0
Ending inventory quantity	1,105,764	1,843,128	2,141,470	3,587,728	4,173,052	4,291,448	288.1	66.7	16.2	67.5	16.3	2.8
U.S. producers:												
Average capacity quantity	77,535,428	85,101,376	83,182,701	83,232,332	79,737,217	89,549,284	15.5	9.8	-2.3	0.1	-4.2	12.3
Production quantity	72,255,007	72,693,116	70,212,269	72,320,872	66,276,349	70,188,622	-2.9	0.6	-3.4	3.0	-8.4	5.9
Capacity utilization (1)	93.2	85.4	84.4	86.9	83.1	78.4	-14.8	-7.8	-1.0	2.5	-3.8	-4.7
U.S. shipments:												
Quantity	69,608,961	70,942,423	66,786,015	69,767,941	65,119,412	68,985,490	-0.9	1.9	-5.9	4.5	-6.7	5.9
Value	872,370	992,683	961,398	922,941	983,006	805,630	-7.7	13.8	-3.2	-4.0	6.5	-18.0
Unit value	\$12.53	\$13.99	\$14.40	\$13.23	\$15.10	\$11.68	-6.8	11.7	2.9	-8.1	14.1	-22.6
Export shipments:												
Quantity	1,544,127	1,628,483	2,207,673	2,351,519	2,209,901	1,714,509	11.0	5.5	35.6	6.5	-6.0	-22.4
Value	22,030	30,901	37,645	38,575	30,330	21,128	-4.1	40.3	21.8	2.5	-21.4	-30.3
Unit value	\$14.27	\$18.98	\$17.05	\$16.40	\$13.72	\$12.32	-13.6	33.0	-10.1	-3.8	-16.3	-10.2
Ending inventory quantity	2,461,914	2,582,387	3,800,923	4,002,589	2,976,270	2,464,790	0.1	4.9	47.2	5.3	-25.6	-17.2
Inventories/total shipments (1)	3.5	3.6	5.5	5.5	4.4	3.5	0.0	0.1	2.0	0.0	-1.1	-0.9
Production workers	3,249	3,394	3,495	3,160	2,971	2,883	-11.2	4.5	3.0	-9.6	-6.0	-2.9
Hours worked (1,000s)	7,005	6,990	7,582	7,233	6,757	6,471	-7.6	-0.2	8.5	-4.6	-6.6	-4.2
Wages paid (\$1,000s)	101,967	102,564	110,212	115,133	111,750	111,743	9.6	0.6	7.5	4.5	-2.9	0.0
Hourly wages	\$14.56	\$14.67	\$14.54	\$15.92	\$16.54	\$17.27	18.6	0.8	-0.9	9.5	3.9	4.4
Productivity (bags per hour)	10,315	10,400	9,260	9,998	9,808	10,847	5.2	0.8	-11.0	8.0	-1.9	10.6
Unit labor costs	\$1.41	\$1.41	\$1.57	\$1.59	\$1.69	\$1.59	12.8	0.0	11.3	1.4	5.9	-5.6
Net sales:												
Quantity	70,388,272	72,697,684	68,722,520	72,907,011	67,293,513	70,775,673	0.6	3.3	-5.5	6.1	-7.7	5.2
Value	892,052	1,021,877	995,328	968,903	1,012,514	830,559	-6.9	14.6	-2.6	-2.7	4.5	-18.0
Unit value	\$12.67	\$14.06	\$14.48	\$13.29	\$15.05	\$11.74	-7.4	10.9	3.0	-8.2	13.2	-22.0
Cost of goods sold (COGS)	781,060	904,894	896,515	871,870	940,613	715,944	-8.3	15.9	-0.9	-2.7	7.9	-23.9
Gross profit or (loss)	110,992	116,983	98,813	97,033	71,901	114,615	3.3	5.4	-15.5	-1.8	-25.9	59.4
SG&A expenses	63,724	82,434	94,227	90,390	103,440	78,128	22.6	29.4	14.3	-4.1	14.4	-24.5
Operating income or (loss)	47,268	34,549	4,586	6,643	-31,539	36,487	-22.8	-26.9	-86.7	44.9	(3)	(3)
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	\$11.10	\$12.45	\$13.05	\$11.96	\$13.98	\$10.12	-8.8	12.2	4.8	-8.3	16.9	-27.6
Unit SG&A expenses	\$0.91	\$1.13	\$1.37	\$1.24	\$1.54	\$1.10	21.9	25.3	20.9	-9.6	24.0	-28.2
Unit operating income or (loss)	\$0.67	\$0.48	\$0.07	\$0.09	-\$0.47	\$0.52	-23.2	-29.2	-86.0	36.5	(3)	(3)
COGS/sales (1)	87.6	88.6	90.1	90.0	92.9	86.2	-1.4	1.0	1.5	-0.1	2.9	-6.7
Operating income or (loss)/ sales (1)	5.3	3.4	0.5	0.7	-3.1	4.4	-0.9	-1.9	-2.9	0.2	-3.8	7.5

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Inventory data for China and Malaysia are not available broken out between subject and nonsubject PRCBs.

(3) Data for All Other Sources for 2006 adjusted to include PRCBs imported under HTS statistical reporting number 3923.21.0095.

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

Unit values and shares are calculated from the unrounded figures.

Note.--Importers' inventories are based on questionnaire data and were not reported as "subject" and "nonsubject" so only total inventories are presented.

Source: Compiled from data submitted in response to Commission questionnaires, from proprietary Customs data, and from official Commerce statistics.

**APPENDIX D**

**COMMENTS BY U.S. PRODUCERS, IMPORTERS, PURCHASERS,  
AND FOREIGN PRODUCERS REGARDING THE EFFECTS OF THE  
ANTIDUMPING DUTY ORDERS AND THE LIKELY EFFECTS OF  
REVOCATION**



**U.S. PRODUCERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE  
ANTIDUMPING DUTY ORDERS AND THE LIKELY EFFECTS OF REVOCATION**

**Effect Of The Orders  
(Question II-16)**

**The Commission requested U.S. producers to describe the significance of the existing antidumping duty orders covering imports of China, Malaysia, and Thailand in terms of their effect on their firms' production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. Their responses are as follows:**

\*\*\*

“Before the antidumping order, we are very certain about our import cost and duty. It will help us better plan our import shipment and inventory. After the antidumping order, the import duty is an uncertain cost factor, especially some antidumping rate will trace back to previous shipment. It creates an uncertain factor for the importer, we will plan import shipment and inventory more conservative.”

\*\*\*

“The effect has been increasing production, increased purchase of U.S. made raw materials, packaging, and labor force and shipments and increased customers.”

\*\*\*

“From 2001 to 2003, we saw a sharp increase in imports from these three countries at very low prices. As a result, our sales and PRCB production fell. From 2001 to 2003, our net sales value dropped by \*\*\* and our operating income fell from \*\*\*. Given these adverse trends. we made a corporate decision to \*\*\*. Since 2004, we have been able to stabilize our production volume and have returned to modest profitability and positive cash flow on our PRCB operations through 2008. The benefits of the orders against China, Malaysia, and Thailand have diminished as imports from Taiwan, Indonesia, and Vietnam have increased in the last few years.”

\*\*\*

“The antidumping duties stopped the rapid increase in imports from those 3 countries. The duties caused numerous customers to consider our products in place of imports. We believe that at least 1/3 of our business anticipated in 2010 was made possible by the antidumping duties. If duties were removed, customers would consider switching back from our products to cheaper imports.”

\*\*\*

“If the antidumping order was not in place we would have not expanded our U.S. operations.”

\*\*\*

“The imposition of duties was critical to the continuation of \*\*\* in the PRCB business. Imports from these three countries more than doubled during 2001-2003. They used low prices to grab market share. They forced \*\*\* and other U.S. producers to either lower our prices or suffer lost sales. As a result, \*\*\* suffered \*\*\* declines in operating income from 2001 to 2003. \*\*\*. The filing of the petition helped us in contract negotiations with major customers and allowed us to obtain higher volumes and prices (e.g. with \*\*\*) than we would otherwise have achieved. After the duties were put in place, imports from these countries were significantly constrained. Customers were nervous about relying on imports that could be assessed high antidumping duties. The duties stopped the surge, allowed \*\*\* and other U.S. producers to regain lost market share, and allowed market prices to stabilize at higher levels. Given the protection or the antidumping orders, \*\*\* had enough confidence in the PRCB business that it \*\*\*. Unfortunately, the benefits of the antidumping orders began to diminish when unfairly priced imports from Indonesia, Taiwan, and Vietnam began to replace the receding imports from China, Malaysia, and Thailand. The orders are still very critical, however, as is explained {in \*\*\* response to question II-17}.”

\*\*\*

“From 2001 to 2003, imports from China, Malaysia, and Thailand used unfairly low prices to take market share from \*\*\* and other U.S. PRCB producers. As we stated in our response to the U.S. producers questionnaire in the original investigation, we suffered declining sales, production, and profits as a result of the dumped imports. From 2001 to 2003, the value of our net sales of PRCBs fell \*\*\*, and our operating income dropped \*\*\*. The orders have provided much-needed restraints on the volume of imports from China, Malaysia, and Thailand and also have helped maintain higher U.S. market prices. During 2004 and 2005, we benefitted from more stable and favorable market conditions as our customers were reluctant to source products that were subject to antidumping duties. Unfortunately, \*\*\*.”

\*\*\*

“Imports from these three countries doubled from 2001 to 2003 and were priced well below our products. As a result, \*\*\* suffered \*\*\* which increased by over \*\*\* from 2001 to 2003. With the duties, imports significantly decreased to \*\*\* benefit. The tightened supply and the reduction in dumped imports caused by the duties permitted \*\*\* to increase prices. The drop in unfair imports permitted \*\*\* to proceed with a capacity expansion \*\*\*. In addition to increasing capacity, \*\*\* increased production and employment. We believe that the orders permitted our present sales volume to be 20-30 percent higher than if the orders were not in place. We note that some imports from these countries were eventually replaced by imports from Indonesia, Taiwan, and Vietnam.”



\*\*\*

“According to the ITC’s findings in the original investigation, from 2001 to 2003, imports from China, Malaysia, and Thailand increased 95 percent, generally undersold domestic producers’ prices, and increased their share of the U.S. market from 10.5 percent in 2001 to 18.6 percent in 2003. As a result, \*\*\* lost sales, suffered lower prices, and saw its operating income drop by over \*\*\* percent in the time where demand for PRCBs was growing. The imposition of the preliminary duties and the orders had an immediate impact in the market. Customers who had been eager to purchase the cheap imports were unwilling to risk the payment of high duties. The rapid increase in imports from those three countries stopped and then imports began to decline. As a result, \*\*\* operating income, which had declined from 2001 to 2003, increased in 2004 and again in 2005 and 2006. This gave us the confidence to invest to expand capacity and to purchase more efficient equipment. With the assistance of \*\*\*. As indicated in that document, we achieved \*\*\* profits in 2005 and expected even higher profits in 2006 and succeeding years. Those forecasts were all predicated on antidumping duties remaining in place against imports from China, Malaysia, and Thailand. Following imposition of the order, \*\*\* steadily expanded capacity, from about \*\*\* bags in 2004 to over \*\*\* bags in 2008. Our U.S. shipments value increased from \$\*\*\* in 2003 to \$\*\*\* by 2006, and remained at \$\*\*\* in 2008. We have preserved a total of \*\*\* jobs supporting a like number of families in our community. We do not believe that \*\*\* could have remained in business without the antidumping orders. Thus, our entire existing operations and workforce are attributable to the existence of the orders.”

\*\*\*

“We have seen steady and consistent erosion of revenue and earnings in our retail plastic bag division since the duties were imposed in 2004. The rate of decline is less than we were experiencing in years preceding the duties. In fact, the rate of decline slowed significantly in 2004 and 2005 when the duties were imposed. However, 2006 and 2007 were very difficult due primarily to the fact that imports began to come into the U.S. at below market prices primarily from Indonesia.”

In addition, 2 U.S. producers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**Anticipated Changes In Operations In The Event That The Orders Are Revoked  
(Question II-17)**

**The Commission requested U.S. producers to describe anticipated changes in the character of their operations or organization relating to the production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of PRCBs in the future if the antidumping duty orders on PRCBs from China, Malaysia, and Thailand were to be revoked. Their responses are as follows:**

\*\*\*

“We would cease any consideration of investment in additional capacity.”

\*\*\*

“We believe it would take about a year or two for the market to collapse once again as we experienced in 2002-2003 with the imports from China, and as we experienced in 2006-2007 with the imports from Indonesia.”

\*\*\*

“Revocation of the orders would reduce market prices and \*\*\* domestic production and employment. In addition, \*\*\* had \*\*\* from 2001 to 2003 as unfair imports were rapidly increasing. With the duties, we turned a profit in 2004. The unfair imports were being sold in the United States at prices that were lower than our production costs. These low prices caused declining profitability and prevented us from achieving our expected return on investment. The depressed prices in the market also prevented us from increasing prices to reflect costs. As a result, we could not pursue further investment and our growth was severely limited. If the orders were revoked, we would face a make or buy decision. From 2001 to 2003, we \*\*\*. Overall, \*\*\*. In short, increased demand in the U.S. market was increasingly being met with imports rather than domestic production. Even though we currently have ample space in existing facilities to expand our production capacity, it is likely we would reduce capacity and production in the U.S. because it would be so much cheaper to buy bags from China rather than produce them in the United States. Only with the duties that limit dumping can we justify continued production levels in the United States or consider investment in the new capacity and production.”

\*\*\*

“We would expect a renewed surge in imports from these three countries at very low prices. We would have to lower our prices to keep customers and we would have to downsize our operations in reaction to lost sales. This would probably result in our exiting from the PRCB business. Thus, the continuation of the order is critical to our PRCB operations.”

\*\*\*

“All production from Taiwan, Vietnam, Malaysia will move back to China and export in large quantities to U.S. and harm {the} market significantly and may force U.S. producers to close.”

\*\*\*

“During the period of the original investigation, imports of PRCBs from China, Malaysia, and Thailand doubled from 2001 to 2003, increased their share of the U.S. market from 10.5 percent in 2001 to 18.6 percent in 2003, and forced us to lower prices and to refrain from price increases to maintain our customers. As a result, even though demand increased 14 percent from 2001 to 2003, our operating income fell by over \*\*\* percent from 2001 to 2003, and \*\*\*. If the antidumping orders were to be revoked, we would expect imports from China, Malaysia, and Thailand to rapidly increase, to take market share from \*\*\* and other U.S. producers to force us to reduce our capacity utilization, lower our prices or prevent us from raising prices to cover increasing costs of resin, and to cause us to lose profits and layoff workers. This would happen at a time when (1) we are already suffering \*\*\* financial difficulty due to increased imports from Indonesia, Taiwan and Vietnam, (2) resin costs are increasing, and (3) demand trends are flat at best. As a result of the loss of \*\*\* business, we were forced to curtail production and lay off workers starting in the 3rd quarter of 2008. Some of that business returned after we filed the petition against imports from Indonesia, Taiwan, and Vietnam. However, the loss of the existing antidumping orders would result in the rapid shift in imports to China, Malaysia, and Thailand. Loss of the order on even one of the three covered countries would be extremely detrimental to our operations. We would again lose sales and be forced to cut production and lay off workers. We would not move forward with planned investments. Our existing capacity is state-of-the-art and very cost effective, but we cannot compete with the dumped imports that would be certain to re-enter the U.S. in large volumes if the orders were revoked.”

\*\*\*

“If the antidumping order were to be revoked, we will be based on product value and cost to review and evaluate possibility of importing from China, Malaysia, and Thailand \*\*\*. But we can not be sure if we will import from these countries or not? It will depend on the future market situation such as resin price, labor cost between these countries and other countries...”

\*\*\*

“We would make no additional investment in the U.S. and would look to replace domestic production with overseas production.”

\*\*\*

“In our response to the U.S. producers questionnaire in the original investigation, we stated that “imports from China, Malaysia, and Thailand are priced so low that if dumping of these products continues unabated, we simply will not be able to stay in this business.” If the antidumping orders are revoked, we anticipate a renewed surge of imports from these three countries at prices lower than our cost of production. A renewed surge of such imports would again threaten the continued existence of our PRCB business. Given the declining demand for PRCBs in other countries due to bans, taxes, and increasing use of reusable bags, and given the antidumping duties imposed in Europe against imports from China and Thailand, the U.S. market is even more important to these exporters today than it was during 2001-2003. They have tremendous bag making capacity that can easily be directed at the U.S. market. Thus, if the orders are revoked, we anticipate that we would lose sales, market share, production, employment, and profits. We would have no incentive to invest in our U.S. production facilities. Instead, we would likely have to consider \*\*\* to remain competitive. Our desire, however, is to remain a U.S. producer of PRCBs and to maintain desperately needed jobs in \*\*\*. We ask the Commission to continue these orders for another five years.”

\*\*\*

“If the orders are revoked, we anticipate that imports from these countries will return to the U.S. market, taking substantial market share from us and other U.S. producers. In fact, as evidenced in \*\*\*, we have been contacted by a Chinese company stating that it wants to supply us T-shirt bags if the duties are revoked. We know that these countries still have enormous bag making capacity. They are eager to sell into this market, especially since demand is declining in other countries, which have been more aggressive than the United States in imposing bans and taxes on plastic bags. In addition, imports from China and Thailand face antidumping duties that were imposed in the European Union in September 2006. If the duties are revoked, imports from these countries will quickly gain market share by underselling our products, as they did in 2001-2003, because price is the only means they can take market share. We would lose sales and market share and would suffer lower margins and profits. We would have no economic motivation to invest in U.S. production assets. Instead, we would need to consider contracting capacity and perhaps replacing domestic production with cheaper imports. Revocation of the orders now would be especially harmful because we have been facing injurious competition from Indonesia, Taiwan, and Vietnam, demand is not projected to grow in the near future, and resin prices (which were relatively low in 2009) are increasing substantially in 2010. A surge of imports from China, Malaysia, and Thailand would hit us at a time when we are already in a precarious situation.”

In addition, 2 U.S. producers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**U.S. IMPORTERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE  
ANTIDUMPING DUTY ORDERS AND THE LIKELY EFFECTS OF REVOCATION**

**Effect Of The Orders  
(Question II-14)**

**The Commission requested U.S. importers to describe the significance of the existing antidumping duty orders covering imports of China, Malaysia, and Thailand in terms of their effect on their firms' imports, U.S. shipments of imports, and inventories. Their responses are as follows:**

\*\*\*

“Impact is unclear.”

\*\*\*

“Since we could switch our source quickly to other countries, it didn't affect our company too much.”

\*\*\*

“Very little change, some of our vendors moved from China to Vietnam and now from Vietnam to Cambodia.”

\*\*\*

“Unable to compete in many instances with U.S. manufacturers.”

\*\*\*

“The products that we import from \*\*\*, primarily, have minimum effect because \*\*\*.”

\*\*\*

“Sales drop 50%.”

\*\*\*

“Before the imposition of the duty, we were importing PRCBs from \*\*\*.”

\*\*\*

“Our business has declined since the imposition of the antidumping order. We have laid off \*\*\*.”

\*\*\*

“We ceased importing prior to imposition of the orders.”

\*\*\*

“Before the antidumping order, we are very certain about our import cost and duty. It will help us better plan our import shipment and inventory. After the antidumping order, the import duty is an uncertain cost factor, especially some antidumping rate will trace back to previous shipment. It creates an uncertain factor for the importer, we will plan import shipment and inventory more conservative.”

\*\*\*

“The duties caused us to stop importing from China, except for a small volume from one producer \*\*\*.”

\*\*\*

“Effectively stopped all imports of PRCBs from China, Malaysia, and Thailand.”

\*\*\*

“We are decreasing purchase orders from China since 2004 due to the existing antidumping duty in imports of PRCBs. The import quantity (1000/M) as below: \*\*\*.”

\*\*\*

“We have not imported from these countries since the orders.”

\*\*\*

“The existing ADD orders have the affect of making \*\*\* somewhat more cautious about where, how and who it contracts with for PRCBs. Currently, \*\*\* requires all PRCB manufacturers it associates with to be ADD certified, if applicable. Initially \*\*\* contracted with manufacturers in China. The same companies have changed their manufacturing locations to other countries.”

\*\*\*

“Existing anti dumping duty covering our previous imports of PRCBs from China is a great hardship to our company and our factories. We had \*\*\*. We have been importing this product since \*\*\* and never below fair market value. Since the dumping duty was set, we have looked for factories in other countries which would equal the quality and timeliness of shipment to no avail. Our factories began operation in \*\*\*. The effect of existing antidumping duty, if continued, may put our company of \*\*\* employees out of business and on the unemployment line.

Our import industry is being hurt by domestic factories that employ many hundreds or thousands of people and earn many hundreds of thousands of dollars more than this company. They could “buy and sell” us. I believe we are not damaging the domestics to the extent they say. I believe that would be impossible. I believe it is an attempt to get rid of their competition in the marketplace. Where were they before 2004? As said earlier, we have been at this since \*\*\* and I do not see how we have even been close to damaging a domestic industry. At the very least, a partial solution should be considered that would allow high-end PRCBs into the U.S. under another HTS# as all bags are not the same. I believe the antidumping was originally intended to keep very low-end t-shirt bags out of the U.S. as that is what domestics do most of. There is no reason why high-end plastic bags that are not even manufactured in the U.S. should be in the same classification as the low-end t-shirt bag.”

\*\*\*

“We stopped purchasing imports from China when the duties were imposed.”

\*\*\*

“We have stopped importing PRCBs.”

\*\*\*

“We still include a supplier with Canadian or Chinese manufacturing. They deliver goods duty paid so we have no preference to where they are manufacturing.”

\*\*\*

“The AD orders stopped our importation of PRCBs from China completely.”

\*\*\*

“No longer import from Thailand and have U.S. suppliers in place.”

\*\*\*

“The existence of the orders has enabled us to maintain and increase U.S. production and capacity rather than replacing U.S. production with imports.”

\*\*\*

“The products from suppliers in the subject countries are not price competitive. However, \*\*\* does still source product from producers in these countries that have separate rates or that are excluded.”

\*\*\*

“The current dumping order from Thailand has constrained our volume and pricing of Thailand imports.”

\*\*\*

“Minimal effect.”

\*\*\*

“No notable significance.”

\*\*\*

“The antidumping orders affected us by reducing the number of options for importing PRCBs from China. It moved our emphasis more toward paper bags, which is our more traditional product line.”

In addition, 24 importers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**Anticipated Changes In Operations In The Event That The Orders Are Revoked  
(Question II-15)**

**The Commission requested U.S. importers to describe anticipated changes in their imports, U.S. shipments of imports, or inventories of PRCBs in the future if the antidumping duty orders on PRCBs from China, Malaysia, and Thailand were to be revoked. Their responses are as follows:**

\*\*\*

“We would face a make/buy decision and would likely increase imports from China, Malaysia, and/or Thailand to obtain PRCBs at prices below our production cost in the United States.”

\*\*\*

“Increase sales by 50%.”

\*\*\*

“If the antidumping duty orders on PRCBs from China will be revoked, we will plan to shop around and try to find the new source.”

\*\*\*

“Because revocation of the orders would result in significant increased, lower-priced imports from the subject countries, we will curtail U.S. production and may consider becoming an importer and distributor.”

\*\*\*

“Revocation of the existing order would allow my company to restore my import business to where it was before, with the same 2 factories in China, and allow my company to continue in business and maintain the employees we have.”

\*\*\*

“We would consider increasing our imports.”

\*\*\*

“\*\*\* might start purchasing from these countries again if they were able to meet all of our standards and capacity needs. \*\*\* has no business plan or other supporting documentation to address this issue. Reviews of vendors in this category are done every two years.”

\*\*\*

“We would look at whether it would be necessary to import from these countries in order to be price competitive in the U.S. market. We currently import some PRCBs from \*\*\*. If the orders are revoked, many other Chinese producers and also producers in Malaysia and Thailand will seek to increase exports to the U.S. market at very low prices. We would likely invest less in U.S. production capacity and increase imports if the orders are revoked.”

\*\*\*

“Yes. We believe that there would be a flood of imports into the US from the subject countries. The primary culprits would be US importer/distributors. It would likely have an adverse impact on the US manufacturers of PRCBs.”



\*\*\*

“If the antidumping order were to be revoked, we will be based on product value and cost to review and evaluate possibility of importing from China, Malaysia, and Thailand \*\*\*. In fact, we expect the antidumping duty order on Thailand to be revoked because of the WTO panel decision. But we can not be sure if we will import from these countries or not? It will depend on the future market situation such as resin price, labor cost between these countries and other countries.”

\*\*\*

“If the economy improves, we would expect to import more PRCBs from \*\*\*.”

\*\*\*

“The U.S. market would see a surge in new and lower-priced imports from these countries if the orders were revoked. We would have to consider additional import sourcing to compete.”

\*\*\*

“\*\*\* currently imports its PRCBs predominantly from Malaysia. If the orders are revoked, \*\*\* will still require each PRCB manufacturer it contracts with to be properly certified. If a change is favorable to a manufacturer, and that favorable change is reflected in the price \*\*\* pays for the PRCBs, then \*\*\* may change its current manufacturing associations and, perhaps, location. Still, \*\*\* requires that all manufacturers it contracts with be certified and compliant with all laws.”

\*\*\*

“If prices offered are competitive to U.S. products, we will resume importing PRCBs.”

\*\*\*

“Will be able to favorably compete with fair market pricing against U.S. manufacturers.”

\*\*\*

“We would consider importing from these countries rather than producing in the United States.”

\*\*\*

“Not sure if we are still interested in this PRCB’s business due to environmental impact to our planet.”

\*\*\*

“Maybe, if market for PRCBs can be revived.”

\*\*\*

“We would increase our imports.”

\*\*\*

“We believe revocation of antidumping duty orders would increase the amount of high-end PRCBs imported into the U.S., owing to the low cost of hand labor for finishing PRCBs.”

In addition, 33 importers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

## U.S. PURCHASERS' COMMENTS

The Commission requested that purchasers identify and discuss any improvements/changes in the U.S. PRCBs industry since January 1, 2004. Their responses are as follows:

\*\*\*

"No change."

\*\*\*

"There was no significant improvement/change but the price has been affected because of PRCBs from other countries."

\*\*\*

"From what we know of the industry, we have noted no improvement or changes in the U.S. PRCB industry since January 1, 2004."

\*\*\*

"Plastic compounds stronger and more consistent."

\*\*\*

"Prices for PRCBs have gone up, while quality has degraded. Distributors keep switching to other countries for imports because U.S. bags are not made with consistent quality. Retailers have become used to die cut, color, and strength of foreign bags and are reluctant to accept U.S. bags. Additionally, very cheap bags (sometimes below CDI prices) made in China are still available in the market, though is rests mostly on black opaque bags. We are not sure how these get around the order, but are impossible to compete with."

\*\*\*

"\*\*\* is not aware of any changes in the U.S. PRCB industry."

\*\*\*

"Very competitive price, improved print quality."

\*\*\*

"\*\*\*, not being a manufacturer, is never involved with industry changes. We are just a small regional distributor, we are not decision makers."

\*\*\*

"The biggest change in the industry has been the merger of producers."

\*\*\*

"No change."

\*\*\*

"No knowledge of any."

\*\*\*

"None noted."

\*\*\*

“As oil pricing rised due to demand the cost for bags outside U.S. increased in price, while Natural Gas declined in pricing, U.S. market became more competitive, plus tariffs imposed on factories in China.”

\*\*\*

“Very little change in U.S. industry, many manufacturers are now importing as well.”

\*\*\*

“The emergence of recycle bags of environmental issues.”

In addition, 32 purchasers did not respond or reported “none,” “not applicable,” “don’t know,” or similar responses.

**The Commission requested that purchasers identify and discuss any improvements/changes their anticipate in the future U.S. PRCBs industry. Their responses are as follows:**

\*\*\*

“There should be a firm regulation or rules to prevent importing anti-dumping PRCBs within 3-5 years. Also quality of bags from China or SE Asia is getting better, so quality also needs to be improved.”

\*\*\*

“From what we see in the U.S. PRCB industry, we do not foresee any significant improvements.”

\*\*\*

“As resin blending is studied I suspect to get thinner stronger bags.”

\*\*\*

“U.S. manufacturers are improving efforts and the industry appears resilient. It continues to grow rapidly when HDPE prices are lower.”

\*\*\*

“\*\*\* does not anticipate any changes or improvements in the U.S. PRCB industry.”

\*\*\*

“I heard from supplier bags manufactured in the U.S. is inferior to those manufactured in Taiwan. I expect improvement in the future.”

\*\*\*

“None foreseen.”

\*\*\*

“Once again, we are not.”

\*\*\*

“Continue to make stronger bags from thinner plastics.”

\*\*\*

“The product of PRCB decreases and the emergence of different types of cotton bag and plastic bags.”

\*\*\*

“U.S. firms are concerned with environmental impact of PRCB and legislation that is being debated surrounding PRCBs and firms are exploring technological areas that will allow PRCBs to biodegrade in landfills to satisfy environmental concerns. As an example FL Department of Environmental Protection has recommended passage of legislation to ban retail establishments from providing single-use PRCBs by July 2015. Prior to that, they are considering imposing the following charges for single use PRCBs: July 2011 - \$0.05, July 2012 - \$0.10, July 2013 - \$0.15, July 2014 - \$0.25.”

\*\*\*

“I hope we can compete with the cheap labor of foreign countries.”

In addition, 30 purchasers did not respond or reported “none,” “not applicable,” “don’t know,” or similar responses.

**The Commission requested that purchasers report the likely effects of any revocation of the antidumping orders for imports of PRCBs from China, Malaysia, and Thailand on (1) the activities of their firms and (2) the U.S. market as a whole. Their responses are as follows:**

**(1) The activities of your firm:**

\*\*\*

“Increase cost.”

\*\*\*

“Our main customers went direct so it is not really going to affect us.”

\*\*\*

“Availability, can U.S. manufacture handle volume?”

\*\*\*

“We currently buy some bags from China, delivered duty paid.”

\*\*\*

“If duties are increased on import supplier there are not enough U.S. manufacturers to keep up with demand.”

\*\*\*

“We will look to outside U.S. firms in order to reduce costs.”

\*\*\*

“It would give our firm a good result because we always import paying all taxes or just purchase from the USA domestic market.”

\*\*\*

“No change since we buy domestic produced product.”

\*\*\*

“No change anticipated.”

\*\*\*

“We will continue to competitively bid the purchase, and buy based on what’s best for the company.”

\*\*\*

“Very little effect. Chinese manufacturers that have moved off shore might come back to China.”

\*\*\*

“\*\*\*. We believe that we will be able to buy more bags \*\*\* if the duties remain in place. If the orders are revoked, there will be an increase in imports that will be sold at low prices. We expect that \*\*\* will import bags from these countries that will be sold in competition \*\*\* and we will be at a disadvantage.”

\*\*\*

“Hope government can get more American Companies to support American made products.”

\*\*\*

“I expect no change in the way our business is run, regardless of whether the duties are revoked or extended.”

\*\*\*

“Our activities will not change as our purchases are directed by our customer. Our customer might look at imported PRCBs from China, Malaysia or Thailand.”

\*\*\*

“Increase purchase from China.”

\*\*\*

“Not affected.”

\*\*\*

“None- \*\*\* is paying the same price for PRCBs regardless if they are manufactured in the USA or another country.”

\*\*\*

“Our firm would allow U.S. manufacturers one more opportunity to match the quality from China and Thailand. On 1/6 and larger bags, they have beat prices easily, but quality remains an issue. On 1/8 and lower bags, the quality is good but the prices are extremely high due to labor costs. We will likely shift all imports of small bags to China and Taiwan and 1/6 bags with U.S. manufacturers. Likely a mix of imports and domestic. We tend to still pay higher prices for imports even before the order than U.S. bags on 1/6.”

\*\*\*

“We will continue to issue future RFPs for PRCB domestically and internationally. Purchases will be based on best overall value. If the price becomes lower then more bid awards could be made to other countries.”

\*\*\*

“We look first at quality, price second. We owe it to our customers to look at all options as long as the product is equal quality.”

\*\*\*

“We are already working towards eliminating purchasing imported PRCBs to support U.S. made products.”

\*\*\*

“As we currently do not source domestically due to deficiencies with domestic producers, a retraction of the duty will not impact sourcing practices.”

\*\*\*

“Due to the increase in price, customers’ will decrease therefore decrease in the firm’s profit as well.”

\*\*\*

“\*\*\* might start purchasing from those countries again if they were able to meet all of our standards and capacity needs. However, no change is currently planned.”

\*\*\*

“\*\*\* will continue to purchase PRCBs in the same manner, with a focus on price and quality.”

\*\*\*

“Currently only buy domestic so would not affect our supply.”

\*\*\*

“Our firm relies principally on quality, service, and pricing. If these countries have their anti-dumping duty removed, this would likely result in a larger number of PRCB manufacturers being able to provide PRCBs, but in all cases such manufacturers would need to meet our standards and specifications for quality, service and price.”

In addition, 19 purchasers did not respond or reported “none,” “not applicable,” “don’t know,” or similar responses.

## **(2) The U.S. market as a whole**

\*\*\*

“Should be the same as above. Competition drives companies to be better and makes a healthy wholesome market place.”

\*\*\*

“More imports of PRCBs.”

\*\*\*

“If the antidumping duty is revoked it would mean a drop in U.S. volume. If companies are more concerned with price they will push more volume overseas.”

\*\*\*

“More layoffs more foreign product in U.S.”

\*\*\*

“Same as above.” (If duties are increased on import supplier there are not enough U.S. manufacturers to keep up with demand.)

\*\*\*

“Availability.”

\*\*\*

“We have bought and do consider U.S. suppliers. A major U.S. supplier was removed from the supply base due to ongoing quality issues.”

\*\*\*

“No change since there are many manufacturers in USA and competition is strong.”

\*\*\*

“We don’t know the entire U.S. market. We only work regionally \*\*\*. Nevertheless, we believe that the situation in other parts of the United States is no different than in the region in which we operate. If the orders are revoked, we believe low-priced imports will be found throughout the United States making business difficult for companies that purchase from U.S. producers.”

\*\*\*

“U.S. markets would become very competitive. It would force U.S. firms to solve for ways of making smaller bags more economically. Now that U.S. bags have entered the market throughout the U.S., imported bags will have a difficult time entering due to long lead times. However, bags likely circumvent the ordinance would lose (sic) their competitive advantage, which would be positive for the industry.”

\*\*\*

“We think the decision makers may look at imported PRCBs from China, Malaysia or Thailand.”

\*\*\*

“By revocation and environmental pressure in the U.S., many companies will go offshore to purchase their PRCBs or U.S. firms will move their facilities overseas to emerging markets.”

\*\*\*

“Increase cost.”

\*\*\*

“Same as above.” (As we currently do not source domestically due to deficiencies with domestic producers, a retraction of the duty will not impact sourcing practices.)

\*\*\*

“Total average price of bag will be increased. However it can protect domestic or any manufacturer to do business fairly because there would be less price competition.”

\*\*\*

“I expect import prices to fall if the duties are revoked.”

\*\*\*

“None- \*\*\* is paying the same price for PRCBs regardless if they are manufactured in the USA or another country.”

\*\*\*

“I would be concerned that domestic producers would raise their prices unjustly if countries had antidumping orders.”

\*\*\*

“Imports from the subject markets will most likely increase - thus there is potential for U.S. purchases of PRCBs to go down. However, it seems more likely that most large retailers are not purchasing from U.S. producers due to the orders, but are purchasing from other overseas countries.”

\*\*\*

“The U.S. market will find the best value in the world market and so if pricing from these countries is reduced due to lifting the duty and no other factors change, more purchases will be made from these countries.”

\*\*\*

“Due to the responsibility in the price of end user, the market will decrease.”

In addition, 26 purchasers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.



**FOREIGN PRODUCERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE  
ANTIDUMPING DUTY ORDERS AND THE LIKELY EFFECTS OF REVOCATION**

**The Commission requested foreign producers to describe any anticipated changes in the character of their operations or organization relating to the production of PRCBs in the future if the antidumping duty orders on PRCBs from China, Malaysia, and/or Thailand were to be revoked. (Question II-4.)**

All 24 foreign producers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**The Commission requested foreign producers to describe the significance of the existing antidumping duty orders covering imports of PRCBs from China, Malaysia, and Taiwan in terms of their effect on your firm’s production capacity, production, home market shipments, exports to the United States and other markets, and inventories. (Question II-15.) Their responses are as follows:**

\*\*\*

“Shrinking orders from the U.S.”

\*\*\*

“The long term and short term effect of the antidumping order was to reduce overall shipments into the U.S.”

\*\*\*

“Because of ADD problem, the sales volume of U.S market is decreasing these years.”

In addition, 21 foreign producers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**The Commission requested foreign producers to describe any anticipated changes in their production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of PRCBs in the future if the antidumping duty orders on PRCBs from China, Malaysia, and/or Thailand were to be revoked. (Question II-16.) Their responses are as follows:**

\*\*\*

“If the order was revoked we would expect to increase our shipments into the U.S.”

\*\*\*

“If the antidumping duty was revoked, the sales volume of U.S market will be increased.”

In addition, 22 foreign producers did not respond or reported “None,” “not applicable,” “don’t know,” or similar responses.

**The Commission requested foreign producers to describe any anticipated changes in the character of their operations or organization relating to the production of PRCBs in the future. (Question II-3.) Their responses are as follows:**

\*\*\*

“We only ever exported some US\$2000 worth of PRCBs to 1 customer to help them out. We as a rule, actually don’t manufacture PRCBs, and we have no plans to commence manufacturing PRCBs.”

In addition, 23 foreign producers, including \*\*\* Malaysian producers, did not respond or reported “No,” “not applicable,” “don’t know,” or similar responses.

**APPENDIX E**

**DELIVERED PRICES OF PCBs  
IMPORTED DIRECTLY BY PURCHASERS**



**Table E-1**  
**PRCBs: Weighted-average delivered purchase prices and quantities of imported product 3, by quarters, 2004-09**

\* \* \* \* \*

**Table E-2**  
**PRCBs: Weighted-average delivered purchase prices and quantities of imported product 5, by quarters, 2004-09**

\* \* \* \* \*

