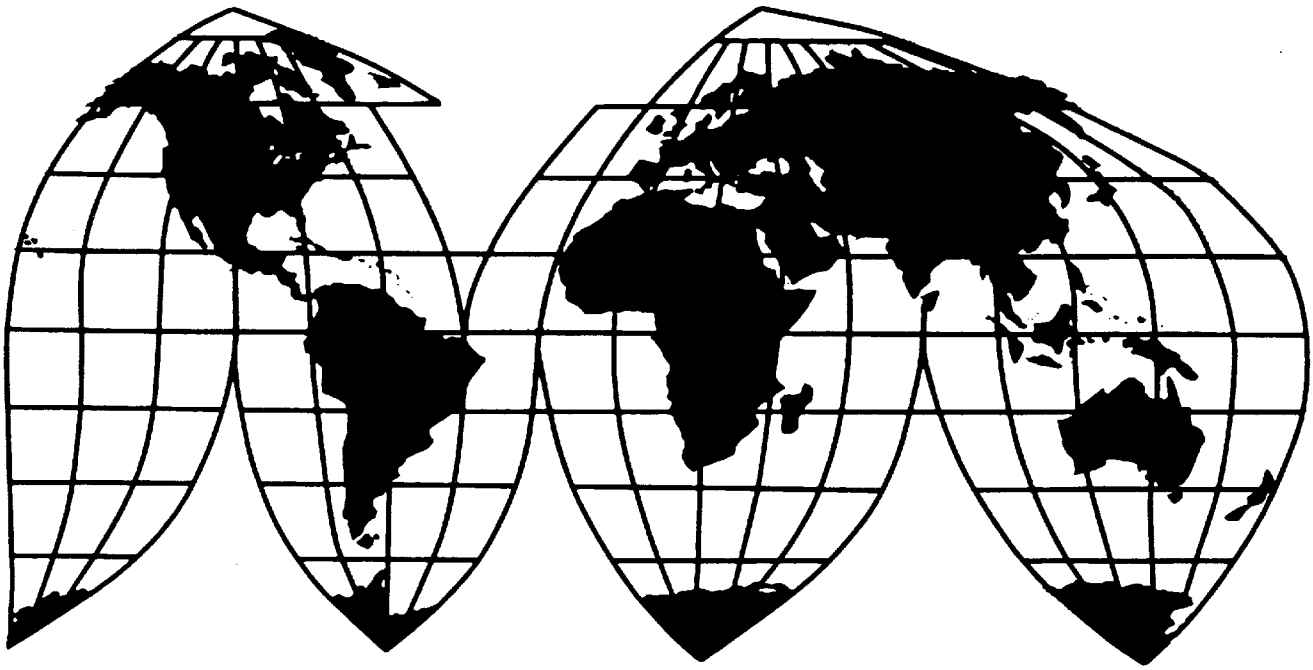
Certain Wax and Wax/Resin Thermal Transfer Ribbons From France and Japan

Investigation Nos. 731-TA-1039-1040 (Final)(Remand)

Publication 3854 **April 2006**

U.S. International Trade Commission



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VIEWS OF THE COMMISSION

On January 23, 2006, the U.S. Court of International Trade ("CIT" or "Court") remanded the Commission's final negative determinations in Certain Wax and Wax/Resin Transfer Ribbons from France and Japan.[1] Upon consideration of the Court's remand instructions, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain wax and wax/resin thermal transfer ribbons ("TTR") from France and Japan that are sold in the United States at less than fair value ("LTFV").

I. BACKGROUND

In April 2004, the Commission determined that an industry in the United States was not materially injured or threatened with material injury by reason of imports of certain TTR from France and Japan sold at LTFV.[2] Petitioner International Imaging Materials, Inc. ("IIMAK") subsequently appealed the Commission's determinations to the CIT.

On January 23, 2006, the CIT issued its decision affirming in part and remanding in part the Commission's determinations.[3] The Court found the Commission was justified in treating finished TTR domestically processed from subject imported jumbo rolls as a domestically manufactured product.[4] It affirmed the Commission's analysis of subject import volume,[5] and generally affirmed the Commission's analysis of price effects, which focused on pricing data for jumbo rolls.[6] The Court also affirmed the Commission's finding that subject imports did not have a significant adverse impact on the domestic industry, concluding that the Commission's impact analysis was consistent with the statutory causation standard.[7]

The Court remanded the Commission's determinations on three issues. First, the Court instructed the Commission to provide further explanation of its determination to conduct a "traditional" like product analysis rather than a "semi-finished product" like product analysis in considering whether to expand the domestic like product definition beyond the scope of the investigations to encompass finished fax TTR.[8] Second, the Court instructed the Commission to provide further explanation of the Commission's determination to focus its analysis of pricing product 3 on sales to original equipment manufacturers ("OEMs") to the exclusion of three other product/channel combinations for sales of slit TTR (pricing products 1 to distributors and OEMs and product 3 to distributors).[9] Additionally, the Court directed the Commission to address the question of whether the pricing data that were disregarded show a correlation

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[1] International Imaging Materials v. USITC, No. 04-00215, Slip. Op. 06-11 (Ct. Int'l Trade Jan. 23, 2006).

[2] Certain Wax and Wax/Resin Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 (Apr. 2004) ("Original Views"); Certain Wax and Wax/Resin Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), Confidential Views of the Commission, USITC Doc. No. 205797 (Apr. 2004) ("Confidential Original Views").

[3] Int'l Imaging Materials, supra.

[4] Int'l Imaging Materials, slip. op. at 17.

[5] Int'l Imaging Materials, slip. op. at 28.

[6] See Int'l Imaging Materials, slip. op. at 20-21.

[7] Int'l Imaging Materials at 35-36.

[8] See Int'l Imaging Materials, slip. op. at 13.

[9] See Int'l Imaging Materials, slip. op. at 24.

between prices for the subject imports and prices for the domestic like product.[10] Third, the Court instructed the Commission to provide further explanation of what it perceived to be the Commission's exclusion of domestic slitters from its analysis of trends in domestic industry unit costs and unit average sales values.[11]

After considering the record as a whole in light of the Court's remand instructions, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of certain TTR imported from Japan and France sold at LTFV. We adopt our findings, analysis, and conclusions from the Original Views with respect to the definition of the domestic like product and subject import price effects, as elaborated upon below in response to the Court's instructions.[12] The Court did not remand the Commission's findings, analysis, and conclusions with respect to the domestic industry definition, negligibility, cumulation, conditions of competition, subject import volume, impact, and threat of material injury, and we therefore incorporate those sections of our Original Views in their entirety.

II. DOMESTIC LIKE PRODUCT

The Commerce Department defined the scope of the imported products subject to investigation as jumbo TTR rolls (both for bar code and fax use) and finished bar code TTR, but not finished fax TTR.[13] The Commission defined the domestic like product to include jumbo TTR rolls and finished bar code TTR, plus finished fax TTR.[14] The Court held that the Commission had not sufficiently justified its use of the six-factor "traditional" like product analysis rather than the semi-finished product analysis

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[10] See Int'l Imaging Materials, slip. op. at 24.

[11] See Int'l Imaging Materials, slip. op. at 35.

[12] Commissioner Shara Aranoff was not a member of the Commission at the time of the original determinations. For purposes of these remand determinations, she has adopted all findings from the original determinations, as elaborated upon or incorporated in these remand determinations.

[13] The Department of Commerce has defined the scope of these investigations as follows:

These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan, or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight , and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specifications such that L*<35, -20<a*<35 and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.4025 (sic), 9612.10.9030, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90. The tariff classifications are provided for convenience and Customs and Border Protection ("CBP") purposes; however, the written description of the scope of the investigation is dispositive. Notice of Final Determination at Sales at LTFV: Wax and Wax/Resin Thermal Transfer Ribbons; France, 69 Fed. Reg. 10674 (Mar. 8, 2004); Japan, 69 Fed. Reg. 11834 (Mar. 12, 2004). The Commission terminated its investigation with respect to South Korea (Inv. No. 731-TA-1041 (Final)) as a result of Commerce's final negative determination of LTFV sales of subject imports from Korea. See Confidential Staff Report ("CR")/Public Staff Report ("PR") at I-1.

[14] Confidential Original Views at 14-15; Original Views at 11.

advocated by petitioner in considering whether to include finished fax TTR.[15] Accordingly, the Court issued the following remand instruction:

> The ITC is directed to explain why it is justified in using its six-factor analysis in defining the domestic like product in this case. In doing so, the ITC shall explicitly address why the semifinished product analysis urged by plaintiff is not appropriate here.[16]

Consistent with the Court's instruction, we explain below why we applied the six-factor like product analysis rather than a semi-finished analysis in determining to expand the like product definition to include finished fax TTR.

The semi-finished analysis generally is appropriate for consideration of whether to define a domestic like product as encompassing both upstream (*i.e.*, semi-finished) and downstream (*i.e.*, finished) products,[17] while the six-factor like product analysis generally is used to consider whether to define a domestic like product as encompassing two products at the same stage of processing.[18] We have sometimes applied both the six-factor like product analysis and a semi-finished analysis in cases involving upstream products that function as both finished and semi-finished products.[19] The Commission generally does not apply a semi-finished product analysis to consider whether to expand a domestic like product definition beyond the scope of an investigation to encompass a downstream product outside the scope of the investigation.[20] The Commission's reason for not doing so is to avoid including

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[15] See Int'l Imaging Materials, slip. op. at 12-13.

[16] Int'l Imaging Materials, slip. op. at 13.

[17] In a semi-finished products analysis, the Commission generally examines: 1) whether the upstream article is dedicated to the production of the downstream article or has independant uses; 2) whether there are perceived to be separate markets for the upstream and downstream articles; 3) differences in the physical characteristics and functions of the upstream and downstream articles; 4) differences in the costs or value of the vertically differentiated articles; 5) significance and extent of the processes used to transform the upstream into the downstream articles. See Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 (Aug. 2002) at 7; Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom, Inv. Nos. 701-TA-409-412 (Preliminary) and 731-TA-909-912 (Preliminary), USITC Pub. 3388 (Jan. 2001) at 5-6; Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 (July 1999) at 6 n.23.

[18] In the "traditional" six-factor like product analysis, the Commission generally considers a number of factors including: 1) physical characteristics and uses; 2) interchangeability; 3) channels of distribution; 4) common manufacturing facilities, production processes, and production employees; 5) customer or producer perceptions; and, when appropriate, 6) price. See Timkin Co. v. United States, 913 F.Supp. 580, 584 (Ct. Int'l Trade 1996).

[19] See Certain Preserved Mushrooms from Chile, China, India and Indonesia, Inv. Nos. 731-TA-776-779 (Preliminary), USITC Pub. 3086 at 5-8; Beryllium Metal and High-Beryllium Alloys from Kazakhstan, Inv. No. 731-TA-746 (Preliminary), USITC Pb. 2959 (Date) at 5-8; Canned Pineapple Fruit from Thailand, Inv. No. 731-TA-706 (Final), USITC Pub. 2907 (July 1995). There is no such product at issue here as jumbo rolls are not used as a finished product. See CR at I-14; PR at I-10 ("TTR in jumbo rolls (unfinished) are the upstream or intermediate product...[with] no use but the production of slitted certain TTR.").

[20] The Commission has traditionally used the six-factor test in considering whether to define the domestic like product to include a downstream product outside the scope by comparing scope merchandise with the product outside the scope. The approach in this investigation follows that tradition. See Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056, USITC Pub 3734 (November 2004) at 6-17; Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 (July 2004) at 6-7; Beryllium Metal and High-Beryllium Alloys from Kazakstan, Inv. No. 731-TA-746 (Final), USITC Pub. 3019 (Feb. 1997) at 5; Fresh Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Final), USITC Pub. 2825 (Nov. 1994) at I-14 & n.65; Minivans from Japan, Inv. No. 731-TA-522 (Final), USITC Pub. 2529 (July 1992) at 6; Superalloy Degassed Chromium from Japan, Inv. No. 731-TA-1090 (Preliminary), USITC Pub. 3768 (Apr. 2005) at 6-12; Low Enriched

in the domestic industry entities whose interests, as customers of articles within the scope, are contrary to those of domestic producers of those articles within the scope.[21]

In this case, a key downstream product (finished bar code TTR) is within the scope as proposed by petitioner and defined by Commerce.[22] Finished bar code TTR is at the same level of processing as finished fax TTR, which was not included in the scope of the investigations.[23] Our conclusion that jumbo rolls and finished bar code TTR belong in the same like product, as advocated by petitioner itself, makes it possible to consider whether to expand the domestic like product definition beyond the scope to include finished fax TTR by performing a six-factor like product analysis. Throughout the original investigations, petitioner argued that the like product should encompass both jumbo rolls and finished bar code TTR.[24] In the preliminary phase investigations, we conducted a semi-finished product analysis to conclude that the domestic like product indeed encompassed both upstream jumbo rolls and downstream finished bar code TTR, consistent with petitioner's position.[25] We also applied our six-factor like product analysis to find that finished bar code TTR and finished fax TTR, a downstream product outside the scope, existed on a continuum comprising a single like product.[26] In the final phase investigations, petitioner contested the Commission's expansion of the domestic like product definition to include finished fax TTR, but continued to maintain that the like product should include both jumbo rolls and finished bar code TTR.[27]

Petitioner argued that the Commission should apply its semi-finished product analysis to find that finished fax TTR does not belong in the same like product with jumbo rolls.[28] Focusing on the inclusion of jumbo rolls in the like product, petitioner asserted that "[i]n evaluating like product issues when an upstream and downstream product are alleged to be part of the same like product, the ITC will use the semi-finished product analysis first and then turn to the traditional six factor [like product] test if the semi-finished product analysis is inconclusive."[29] Similarly, petitioner argued on appeal before the Court of International Trade that the Commission applies its semi-finished product analysis "where an issue is

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Uranium from France, Germany, the Netherlands, and the United Kingdom, Inv. Nos. 701-TA-409-412 (Preliminary) and 731-TA-909-912 (Preliminary), USITC Pub. 3388 (Jan. 2001) at 6.

[21] See Low-Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom, Inv. Nos. 701-TA-409-412, 731-TA-909-912 (Preliminary), USITC Pub. 3388 (Jan. 2001) at 6; Nitromethane from the People's Republic of China, Inv. No. 731-TA-650 (Preliminary), USITC Pub. 2661 (July 1993) at 10; Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 (Mar. 1991) at 9-10. As previously stated, in these investigations producers of fax TTR are not customers of producers of bar code TTR. See footnote 17, supra. This simply reaffirms our principal point that the semi-finished products analysis was not a useful framework once we determined, at petitioner's behest, that the like product should include both an upstream product (jumbo rolls) and bar code TTR, a product at the same level of processing as fax TTR.

[22] See Petition at 9 & n.12; footnote 13, supra.

[23] See CR at I-6; PR at I-5 ("[TTR]. . . are used in a variety of thermal printing devises (principally bar code printers and facsimile machines."), 14 ("slitted (finished) certain TTR are downstream products").

[24] See Petition at 9 & n. 12; Petitioner's Postconference Brief at 5; Petitioner's Prehearing Brief at 64; Petitioner's Posthearing Brief at 12.

[25] Confidential Original Views at 7-8; Original Views at 6-7. Both jumbo rolls and finished bar code TTR are within the scope of the investigations, making a semi-finished products analysis consistent with Commission practice.

[26] Confidential Original Views at 8; Original Views at 7.

[27] Petitioner's Prehearing Brief at 64.

[28] Petitioner's Prehearing Brief at 67.

[29] Petitioner's Prehearing Brief at 67.

presented as to whether articles at different stages of processing should be included in the same like product."[30]

Petitioner's emphasis on jumbo rolls is misplaced, however, because we already conducted a semi-finished product analysis in the preliminary phase investigations to conclude that jumbo rolls and finished bar code TTR belong in the same like product – a conclusion uncontested in the final phase investigations and in the litigation before the Court of International Trade.[31] Because we have already determined that jumbo rolls and finished bar code TTR comprise a single like product, we need not perform another semi-finished product analysis to determine whether a second finished product outside the scope of the investigations, finished fax TTR, belongs in the same like product as jumbo rolls. We consider this issue by comparing finished fax TTR to that portion of the like product at the same stage of processing: finished bar code TTR. Such an approach is consistent with our general practice of not applying a semi-finished analysis to consider whether to expand a like product definition to include a downstream product outside the scope of an investigation.[32]

Our determination to conduct a six-factor like product analysis in this case is consistent with the Commission's analysis of like product issues in the four prior determinations cited by the Court.[33] In Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan, the Commission performed its six-factor like product analysis to determine that hot-rolled and cold-rolled stainless steel plate in coils should be defined as separate like products because the comparison was between two finished products; most hot-rolled stainless steel plate in coils was sold as a finished product, rather than used as an input in the production of cold-rolled stainless steel plate in coils.[34] In Certain Bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, the Commission performed its six-factor like product analysis and determined that aerospace drive path ("ADP") ball bearings should not be defined as a separate like product, because ADP bearings and the four types of bearings under review were all finished products.[35] As in those cases, we applied our six-factor like product analysis here because in considering whether to expand the domestic like product to encompass a product outside the scope of the investigations, we compared two finished products: finished bar code TTR and finished fax TTR.

The two cases cited by the Court in which we applied our semi-finished product analysis are distinguishable in that both addressed the question of whether a semi-finished product and a finished product made from the semi-finished product, both within the scope of an investigation, belonged in the same like product. In Stainless Steel Bar from Brazil, India, Japan, and Spain, the Commission applied its semi-finished product analysis and determined that hot-formed stainless steel bar, a semi-finished product, and cold-finished stainless steel bar, a finished product made from hot-formed stainless steel bar, belonged in a single like product.[36] In Chlorinated Isocyanurates from China and Spain, the Commission applied its semi-finished product analysis and determined that granular trichlor, a semi-finished product, belonged in the same domestic like product as tableted trichlor, a finished product made from granular

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[30] See Plaintiff's Brief in Support of IIMAK's Rule 56.2 Motion for Summary Judgement (Nov. 8, 2004) at 30.

[31] Confidential Original Views at 8; Original Views at 6-7.

[32] See footnote 14, supra.

[33] Int'l Imaging Materials, slip. op. at 12 n. 6.

[34] Inv. Nos. 701-TA-376- 377, and 379 (Final) and Inv. Nos. 731-TA-788-793 (Final), USITC Pub. 3188 (May 1999) at 5 ("[D]omestic production of cold-rolled stainless steel coiled plate, as defined here, is quite limited.").

[35] Inv. Nos. AA1921-143, 731-TA-341, 731-TA-343-345, 731-TA-391-397, and 731-TA-399 (Review), USITC Pub. 3309 (June 2000) at 8-13.

[36] Inv. Nos. 731-TA-678, 679, 681, and 682 (Final), USITC Pub. 2856 (Feb. 1995) at I-6-9 ("Hot-formed SSB [stainless steel bar] is an intermediate product used primarily to make cold-finished SSB").

trichlor.[37] Unlike either Stainless Steel Bar or Chlorinated Isocyanurates, we considered in this case whether to expand the domestic like product definition to include a product outside the scope of the investigations, and the Commission generally does not apply a semi-finished product analysis in making such a determination. Because we had already determined that both jumbo rolls and finished bar code TTR belonged in the same like product, we considered whether to expand the like product definition beyond the scope to encompass finished fax TTR by comparing finished fax TTR to finished bar code TTR under our six like product factors.

We adopt our six-factor like product analysis from the Original Views in its entirety, and find that no bright line exists between the downstream product within the scope, finished bar code TTR, and the downstream product outside the scope, finished fax TTR.[38] Consequently, we conclude that both products exist on a continuum of TTR products comprising a single domestic like product.[39]

III. PRICE CORRELATIONS BETWEEN SUBJECT IMPORT AND DOMESTIC SHIPMENTS OF PRICING PRODUCTS 1 AND 3

The Court held that the Commission did not address petitioner's argument, raised during the final phase investigations, that subject import and domestic prices were correlated for all shipments of pricing products 1 and 3 with the exception of shipments of product 3 to OEMs:

> "IIMAK complains of the ITC's finding of divergent [pricing] trends, arguing that although U.S. and import prices for sales of Product 3 to OEMs were divergent over the period of investigation, the prices for sales of the same product to slitters/converters and distributors/resellers were strongly correlated. While the ITC explains that it did not use the other products for which it had questionnaire responses because they included some domestic product, it does not provide an explanation in answer to plaintiff's argument. Because the ITC does not address this argument in its papers, on remand, the Commission shall do so, stating with particularity whether plaintiff is correct with respect to its correlation calculations."[40]

We find that petitioner's correlation calculations, although technically correct, are not probative for the Commission's pricing analysis.

The Commission collected pricing data on subject import and domestic shipments of two types of slit TTR to distributors/resellers and OEMs, pricing products 1 and 3, and jumbo rolls to

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[37] Inv. Nos. 731-TA-1082 and 1083 (Preliminary), USITC Pub. 3705 (July 2004) at 9-10. The Commission applied the six-factor test in deciding whether various finished products (dichlorinated versus trichlorinated isocynurates, and blended versus non-blended tablets) were single or multiple like products.

[38] Confidential Original Views at 10-14; Original Views at 8-11.

[39] Confidential Original Views at 14; Original Views at 11. Where a continuum of products comes within the scope, the Commission's general practice is to define a single like product comprised of a continuum rather than divide the like product into separate products. See, e.g., Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 (Nov. 2001) at 8, n. 34. The Commission observed in Aluminum Plate from South Africa that the same rationale applies where a continuum of products extends beyond the scope: "When considering whether to expand the like product beyond the scope to encompass a broader continuum, the Commission is faced with determining where the continuum line ends." Certain Aluminum Plate from South Africa, USITC Pub. 3734 at 5; see also Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Preliminary), USITC Pub. 3654 (Dec. 2003) at 10 n.59.

[40] See Int'l Imaging Materials, slip. op. at 23-24.

slitters/converters, pricing product 2.[41] We do not rely on pricing comparisons for pricing products 1 and 3 because all "subject import" shipments reported for these products consisted of slit TTR produced domestically from imported jumbo rolls,[42] which we have determined to treat as domestic production.[43] The Court has affirmed our determination to treat finished TTR domestically processed from subject imported jumbo rolls as domestic production.[44] Accordingly, price trends and underselling margins for pricing products 1 and 3 reflect domestic competition, not subject import competition. The correlations calculated by petitioner between "subject import" and domestic prices for shipments of pricing product 1 to both distributors and OEMs, and product 3 sold to distributors,[45] are correlations between prices for domestically produced slit TTR, and are therefore not probative for the Commission's analysis of *subject import* underselling and price effects. Although domestic prices for all three pricing products declined over the period of investigation, we adopt our conclusion from the Original Views that this trend could not have resulted from subject import competition because the reported pricing data for products 1 and 3 reflect competition among domestic producers, and subject imports oversold the domestic like product for pricing product 2, jumbo rolls, throughout the period of investigation.[46]

In our Original Views, we found additional support for our conclusion that domestic price trends were unrelated to subject import competition by noting that domestic prices for product 3 sold to OEMs generally increased over the period of investigation notwithstanding the decline in subject import prices.[47] However, as addressed above, domestic price trends for product 3 sold to OEMs reflect only domestic competition, given that all "subject import" shipments of product 3 consisted of slit TTR produced domestically from subject imported jumbo rolls. The only probative subject import pricing data on the record is for subject import shipments of product 2, jumbo rolls, which did not compete with domestic shipments of product 3, slit TTR. Accordingly, upon reflection, we find that we should not have placed any reliance on the increase in domestic prices for product 3 sold to OEMs in considering the effect of

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[41] See CR at V-5; PR at V-4; CR/PR at Tables V-1-2, 4-6. No subject import shipments were reported for sales of products 1 and 3 to slitters/converters. See CR/PR at Tables V-3, 7.

[42] See CR/PR at Table IV-1 n. 1 (indicating that ***) and Appendix E (indicating that all shipments of pricing products 1 and 3 classified as Japanese subject imports were coated in Japan, meaning that they were slit and packaged domestically from jumbo rolls imported from Japan).

[43] Confidential Original Views at 33-34; Original Views at 24.

[44] Int'l Imaging Materials, slip. op. at 17. The Court also held that the Commission had properly predicated its pricing product analysis on pricing product 2, jumbo rolls, as the only pricing product that included actual competition between subject imports and the domestic like product in the merchant market. Id. at 21-22. The Commission found that subject imported jumbo rolls oversold the domestic like product in 9 of 12 quarters by margins ranging from *** percent to *** percent. Confidential Original Views at 34; Original Views at 24. Given this pervasive overselling, the Commission concluded that declining subject import prices for product 2 could not have depressed or suppressed domestic prices for the product. Confidential Original Views at 34-35; Original Views at 24-25. We reiterate that we adopt our pricing analysis from the Original Views in its entirety, as elaborated upon herein.

[45] See Petitioner's Final Comments at Exhibit 2.

[46] Confidential Original Views at 33-34; Original Views at 24 (with respect to products 1 and 3, "these price comparisons do not reflect underselling by subject imports, but rather comparisons of prices of domestic articles, albeit made from imported subject inputs"), Confidential Original Views at 34; Original Views at 24 (with respect to jumbo rolls, "domestic prices declined despite the fact that subject imports were priced higher in the same period"), Confidential Original Views at 35; Original Views at 24 ("We find that the movement of domestic prices (upward and downward) was largely unrelated to the price of imported merchandise. The pricing of jumbo rolls is particularly probative on this issue given that domestic prices declined despite the fact that subject import prices were considerably higher than domestic prices.").

[47] Confidential Original Views at 35 & n. 169; Original Views at 24 & n. 169; CR/PR at Table V-6.

subject import competition, and we attach no weight to the finding for purposes of these remand determinations.

IV. ANALYSIS OF UNIT COST AND UNIT SALES VALUE TRENDS

According to the Court, petitioner claimed that "the ITC relied on erroneous data [in Table D-1] for its finding that price declines were caused by declines in unit costs and increases in productivity."[48] Upon considering this argument, the Court held that:

> An examination of Table D-1 reveals that . . .it pertains only to U.S. coaters' operations, not to slitters. It would appear that the costs of domestic producers should include both coaters and those slitters unrelated to foreign producers. As this omission is unexplained by the Commission, on remand, the ITC is directed to provide an explanation as to why its analysis did not also account for the costs of U.S. non-related party slitters.[49]

Consistent with the Court's instructions, we clarify our analysis of unit cost and unit sales value trends.

In the Original Views, we found that declining domestic prices had primarily resulted from "severe" intra-industry competition -- a finding affirmed by the Court[50] -- and did not cite or rely upon Table D-1 in making this finding.[51] We did not find that the domestic industry's declining unit costs and increasing productivity "caused" price declines, as petitioner suggests, but only that these trends "would also be expected to contribute to price declines, as companies would be able to reduce prices and still remain profitable."[52]

We have re-examined the record in light of the Court's instructions, and find that the domestic industry as a whole experienced declining costs over the period of investigation that would have contributed to the price declines primarily caused by severe intra-industry competition, given that lower costs would have enabled domestic producers to reduce their prices without reducing their profitability. The *** percent decline in the domestic industry's average unit sales value over the period of investigation was nearly matched by a *** percent decline in the domestic industry's unit cost of goods sold.[53] The domestic industry experienced even greater declines in unit labor costs, *** percent, and unit selling, general, and administrative expenses, *** percent, over the period of investigation.[54] We note that the data contained in Table D-1 of the Staff Report, though confined to U.S. coaters, are fully consistent with our finding that the domestic industry's declining costs would have contributed to declining domestic prices.[55]

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[48] Int'l Imaging Materials, slip. op. at 34.

[49] Int'l Imaging Materials, slip. op. at 34-35.

[50] Int'l Imaging Materials, slip. op. at 34.

[51] See Confidential Original Views at 36; Original Views at 25.

[52] Confidential Original Views at 36; Original Views at 25.

[53] CR/PR at Table C-3.

[54] CR/PR at Table C-3.

[55] Table D-1 of the Staff Report indicates that U.S. coaters' unit labor costs declined more (*** percent) than their average unit sales values (*** percent) over the period of investigation. CR/PR at Table D-1.

CONCLUSION

For the foregoing reasons, and the reasons provided in the Original Views undisturbed by the Court and adopted here, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain wax and wax/resin TTR from France and Japan that are sold in the United States at LTFV.