

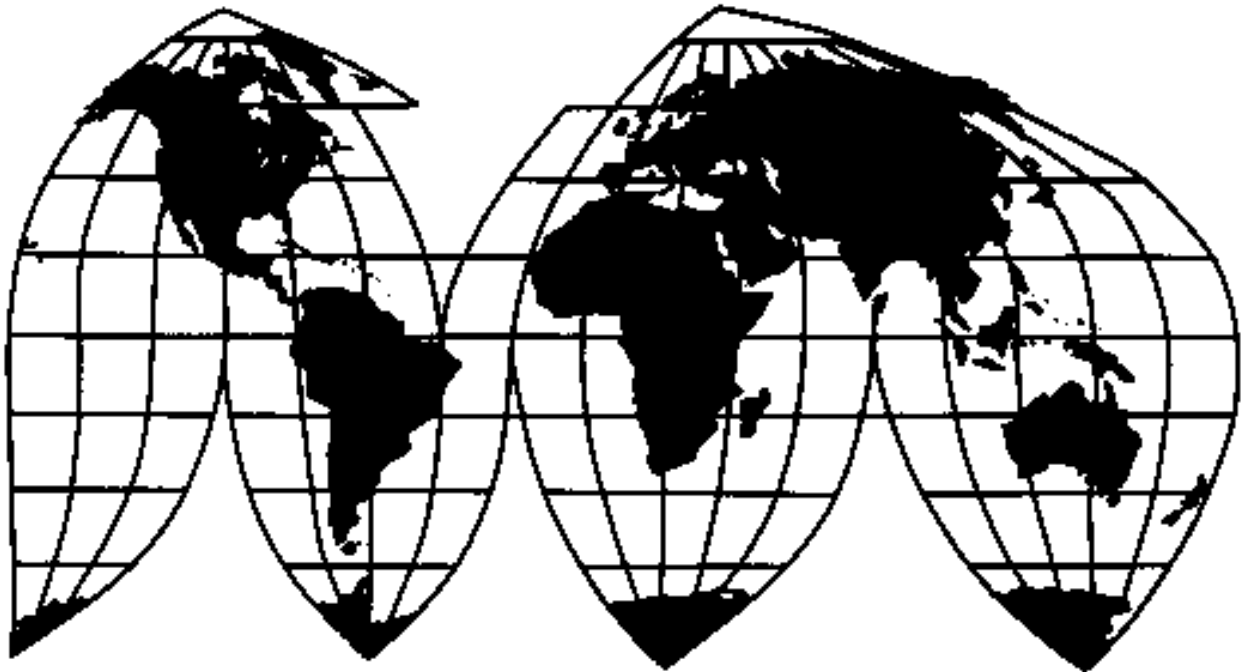
Polyethylene Terephthalate (PET) Film From Korea

Investigation No. 731-TA-459 (Second Review)

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U.S. International Trade Commission



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Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 No. 731-TA-459 (Second Review)

POLYETHYLENE TEREPHTHALATE (PET) FILM FROM KOREA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission determines,² pursuant to section 751(c) of the Tariff Act of 1930 (the Act),³ that revocation of the antidumping duty order on PET film from Korea 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 this review on February 2, 2005 (70 FR 5473), and determined on May 9, 2005, that it would conduct an expedited review (70 FR 30482, May 26, 2005).

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

² Commissioner Shara L. Aranoff not participating.

³ 19 U.S.C. § 1675(c).

UNITED STATES INTERNATIONAL TRADE COMMISSION
Investigation No. 731-TA-459 (Second Review)
POLYETHYLENE TEREPHTHALATE (PET) FILM FROM KOREA

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹

I. BACKGROUND

In May 1991, the Commission determined that an industry in the United States was being materially injured by reason of subject imports of PET film from Korea that were being sold at less than fair value.² On June 5, 1991, Commerce issued an antidumping duty order covering the subject merchandise from Korea.³

In February 2000, in the first five-year review of the original antidumping order, the Commission determined that revocation of the order would be likely to lead to the continuation or recurrence of material injury.⁴

On February 2, 2005, the Commission instituted this second five-year review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuance or recurrence of material injury to the domestic industry.⁵ In response to its notice of institution, the Commission received a joint substantive response from two domestic producers, E.I. du Pont de Nemours & Company (“DuPont”) and Mitsubishi Polyester Film, LLC (“MFA”). DuPont and MFA claimed to represent *** percent of domestic production of PET film in 2004.⁶ No producer, exporter, or U.S. importer of Korean PET film filed a response to the notice of institution in this second review.

¹ Commissioner Aranoff did not participate in this determination.

² Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Inv. Nos. 731-TA-458-459 (Final) USITC Pub. 2383 at 1 (May 1991). Commerce revoked the order on PET film from Japan in 1995 after concluding that requirements for revocation based on changed circumstances (*i.e.*, the order no longer was of interest to interested parties) were met. 60 Fed. Reg. 52366, 52367 (Oct. 6, 1995).

³ 56 Fed. Reg. 25669 (June 5, 1991) (antidumping duty order, amended 62 Fed. Reg. 50557 (Sept. 26, 1997)). Since the original investigation, Commerce has revoked the order with respect to three Korean producers: HSI, Kolon, and Toray Saehan (formerly Cheil). CR/PR at Table I-3 & Table I-7 n.2. Accordingly, these three firms are non-subject Korean producers in this second review. Three known Korean producers (Hyusong, Kohap, and SKC) remain subject Korean producers in this second review. CR/PR at Table I-3.

⁴ Polyethylene Terephthalate Film from Korea, Inv. No. 731-TA-459 (Review), USITC Pub. 3278 (February 2000).

⁵ 56 Fed. Reg. 5473 (February 2, 2005).

⁶ Response of DuPont and MFA to the Notice of Institution (“DuPont/MFA Response”) at 11 (Mar. 23, 2005).

On May 9, 2005, the Commission determined that the domestic interested party group response to the notice of institution was adequate, but that the respondent interested party group response was inadequate.⁷ In the absence of an adequate respondent interested party group response, and finding no circumstances warranting a full review, the Commission determined to conduct an expedited review, pursuant to section 751(b)(3) of the Act.^{8 9} No respondent interested party has provided any information or argument to the Commission.

On September 6, 2005, DuPont and MFA jointly filed comments pursuant to 19 C.F.R. § 207.62(d) arguing, as they had in their response to the notice of institution, that revocation of the antidumping duty order on subject imports of PET film from Korea would likely lead to a recurrence of material injury to the domestic industry within a reasonably foreseeable time.¹⁰

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c) of the Act, the Commission defines the “domestic like product” and the “industry.”¹¹ The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹² The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.¹³

In this second five-year review, Commerce has defined the scope of the antidumping order on Korean subject merchandise exactly as it defined the scope in the original investigation and first review, namely as follows:

all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this antidumping duty order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film

⁷ See Explanation of Commission Determination on Adequacy, Confidential Staff Report (May 16, 2005), Confidential Staff Report (“CR”) at Appendix B.

⁸ 19 U.S.C. § 1675(b)(3).

⁹ See Explanation of Determination on Adequacy (May 16, 2005), CR at Appendix B.

¹⁰ DuPont/MFA Response at 3; Comments of DuPont and MFA (“DuPont/MFA Comments”) at 1-2 (Sept. 6, 2005).

¹¹ 19 U.S.C. § 1677(4)(A).

¹² 19 U.S.C. § 1677(10). See 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, 96th Cong., 1st Sess. 90-91 (1979).

¹³ See e.g., Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

*which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (“HTS”) item number 3920.62.00. The HTS item number is provided for convenience and U.S. Customs purposes. The written description remains dispositive.*¹⁴

In the original investigation, the Commission found a single domestic like product consisting of “all PET film, including equivalent PET film.”¹⁵ In the first five-year review, the Commission likewise found a single domestic like product consisting of “all PET film, including equivalent PET film.”¹⁶

The domestic interested parties agree with the Commission’s like product definition from the original determination and first five-year review: all PET film, including equivalent PET film.¹⁷ We find no new information on the record in this review that would warrant finding a different domestic like product definition than that found in the original investigation and first review.¹⁸ We therefore define the domestic like product in this second review as “all PET film, including equivalent PET film” for the reasons stated in the original determination and the first review.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁹ In both the original determination and in the first five-year review, the Commission defined the domestic industry as all domestic producers of PET film.²⁰ The domestic interested parties agree with this definition of the

¹⁴ 65 Fed. Reg. 57417 (Nov. 15, 2001).

¹⁵ USITC Pub. 2383 at 8. Applying a traditional six-factor like product analysis, the Commission concluded that “the generally similar physical characteristics, regardless of end use, of PET film, U.S. producer perceptions, U.S. production processes, and channels of distribution all indicate that PET film is a continuum product without clear dividing lines.” *Id.* By defining the single domestic like product as all PET film including so-called “equivalent PET film,” or PET film with at least one surface coated with a resinous layer more than 0.00001 inches thick, the Commission expanded its definition beyond Commerce’s scope of the subject merchandise. *Id.* at 15. One Commissioner defined the domestic like product differently. *Id.* at 32-33.

¹⁶ USITC Pub. 3278 at 8.

¹⁷ DuPont/MFA Response at 13. We note that, in Polyethylene Terephthalate from India and Taiwan, 701-TA-415, 731-TA-934-935 (Final) (June 2002), the Commission did not include equivalent PET film in the domestic like product definition. The Commission’s like production definition in that final determination, however, was based upon a different record than that in this second expedited sunset review. Moreover, as noted above, none of the parties participating in this second review has argued for a different like product definition than that used in the original determination and first review.

¹⁸ See, generally, CR/PR at I-8 to I-10.

¹⁹ 19 U.S.C. § 1677(4)(A). 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 domestic merchant market, provided that adequate production-related activity is conducted in the United States. See 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).

²⁰ USITC Pub. 2383 at 8 and USITC Pub. 3278 at 5.

domestic industry,²¹ and no new facts have been presented to warrant a conclusion different from that reached by the Commission in the original investigation and the first five-year review. We therefore define the domestic industry as all domestic producers of PET film.²²

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping 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.”²³ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual 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.”²⁴ Thus, the likelihood standard is prospective in nature.²⁵

²¹ DuPont/MFA Response at 13.

²² None of the domestic interested parties has raised any related parties issues in this second review, although one domestic producer is related to a Korean producer. As the Staff Report indicates, Korean PET film producer SKC Co., Ltd. continues to operate its U.S. subsidiary, SKC America. CR/PR at I-11. In the first review, the Commission concluded that “since no data regarding SKC America’s domestic production were obtained in this review, the related party issue is moot.” USITC Pub. 3278 at 5 n.18. That same conclusion also holds true in this second review.

²³ 19 U.S.C. § 1675a(a).

²⁴ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). 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.” SAA at 883.

²⁵ 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.

The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.²⁶
²⁷ ²⁸ ²⁹ ³⁰ ³¹ The statute states that “the Commission shall consider that the effects of revocation or

²⁶ 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 without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 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, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

²⁷ Chairman Koplan agrees with the Court that “‘likely’ means ‘likely’...” Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int’l Trade April 29, 2002). Because Chairman Koplan also agrees that the term “likely” as used in the statute is not ambiguous, he does not believe that the Commission need supply a synonym for it. Nevertheless, were Chairman Koplan to select a synonym for “likely,” he would accept the Court’s conclusion that “likely” is best equated with “probable,” and that it does not mean “possible.” If some event is likely to happen, under common usage of the term, it probably will happen. If one considers the term “probably” to be tantamount to “more likely than not,” then in the context of a sunset review such as this one, upon revocation of the respective orders either injury probably will continue or recur (more likely than not) or it probably will not continue or recur.

²⁸ Vice Chairman Okun notes that consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” to mean “probable.” See Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int’l Trade April 29, 2002). However, she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See also Dissenting Views of Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson concerning the “likely” standard; 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, Inv. Nos. 731-TA-707-709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

²⁹ Commissioner Hillman interprets the statute as setting out a standard of whether it is “more likely than not” that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of “probable” that the Court intended when the Court concluded that “likely” means “probable”. See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term “Likely”, in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

³⁰ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 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 this review and all other subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

³¹ While, for purposes of this review, Commissioner Pearson does not take a position on the correct interpretation of “likely,” he notes that he would have made the same determination under any interpretation of “likely” other than equating “likely” with merely “possible.” See Commissioner Pearson’s dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

termination may not be imminent, but may manifest themselves only over a longer period of time.”³² 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 antidumping investigations].”^{33 34}

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “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.”³⁵ 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 or the suspension agreement under review, whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³⁶

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review, the Commission may issue a final determination “based on the facts available, in accordance with section 776 of the Act.” We have relied on the facts available in these reviews, which consist primarily of information from the original investigations and first reviews, information submitted by the domestic interested parties, and official Commerce statistics.

Although the record evidence in an expedited review can be limited, the absence of more complete information does not favor a determination that the recurrence or continuation of material injury is not likely upon revocation of the order. The incomplete information in this review resulted in part from the failure of respondent interested parties to respond to the Commission’s notice of institution. By contrast, the domestic interested parties fully responded to the notice of institution with the requested

³² 19 U.S.C. § 1675a(a)(5).

³³ 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.*

³⁴ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

³⁵ 19 U.S.C. § 1675a(a)(1).

³⁶ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the order under review. 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. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

data. We must determine whether material injury is likely to continue or recur within a reasonably foreseeable time were the orders to be revoked, notwithstanding any evidentiary limitations.

For the reasons stated below, we determine that revocation of the antidumping duty order on subject PET film imports from Korea would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

B. Conditions of Competition

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.”³⁷ The following conditions of competition are relevant to our determination.

In the first five-year review, the Commission observed that the current conditions of competition were similar in at least five respects to those existing at the time of the original investigation. First, overall demand for PET film was derived from demand for its primary end-use applications, which included photographic film, magnetic media, and packaging.³⁸ Second, apparent U.S. consumption of PET film, which had increased by *** percent since the time of the original investigation, was expected to increase by an average of *** percent between 1998 and 2002.³⁹ Third, a substantial share (approximately *** percent) of total U.S. capacity to produce PET film remained devoted to the merchant market.⁴⁰ Fourth, the domestic industry consisted of nine domestic producers during the original investigation and consisted of ten domestic producers during the first review.⁴¹ Fifth, the domestic PET film industry remained capital intensive.⁴²

In the first five-year review, the Commission also identified four changes in conditions of competition since the original investigation. First, DuPont and MFA were *** domestic producers of PET film, together accounting for *** percent of U.S. production in 1998 and *** percent of annual domestic capacity to produce PET film in 1998.⁴³ Second, U.S. capacity utilization was *** percent in 1998, which was lower than capacity utilization rates reported in the original investigation.⁴⁴ Third, the number of Korean PET film producers had increased from four producers in the original investigation to six producers during the first review, with a corresponding increase in Korean production capacity from *** pounds per year in 1990 to *** pounds per year in 1998.⁴⁵ Fourth, nonsubject imports from countries other than Korea had increased both in volume and market share since the original investigation, climbing

³⁷ 19 U.S.C. § 1675a(a)(4).

³⁸ USITC Pub. 3278 at 8.

³⁹ Confidential Staff Report in the first five-year review (“CR-1”) at I-11.

⁴⁰ Id. at I-8 to I-9.

⁴¹ USITC Pub. 3278 at 8.

⁴² Id. at 9.

⁴³ CR-1 at I-8 to I-9.

⁴⁴ Id. at Table I-1.

⁴⁵ Calculated from id. at I-15 and Table I-4.

from *** pounds in 1990, or *** percent of total apparent domestic consumption, to *** pounds in 1998, or *** percent of total apparent domestic consumption.⁴⁶

We identify six conditions of competition as relevant to this review. First, apparent domestic consumption has remained relatively flat overall between the original investigation and this second review.⁴⁷ As in the original investigation and first review, overall demand for PET film is derived from its primary end-use applications, which include photographic film, packaging, and magnetic media.⁴⁸

Second, the domestic industry consisted of nine domestic producers during the original investigation and ten domestic producers during the first review.⁴⁹ In 2004, the domestic industry consisted of seven domestic producers, after two firms exited the industry and another firm was acquired by DuPont.⁵⁰ As in the first review, DuPont and MFA remain *** domestic producers of PET film, together accounting for approximately *** percent of domestic production in 2004.⁵¹

Third, the domestic PET film industry remains capital intensive.⁵² As in the original investigation and first review, the high fixed costs associated with operating and maintaining a PET film plant require manufacturers to sustain high capacity utilization rates to remain profitable.⁵³ In order to achieve high capacity utilization rates and remain profitable, domestic producers must fill the base load of production lines with commodity grade PET films, which are produced in long runs at a uniform grade.⁵⁴

Fourth, due to rising fuel prices in recent years, domestic PET film producers now face higher raw material and energy costs than they faced in the original investigation and in the first review.⁵⁵

Fifth, the Korean PET film industry has grown since the original investigation and has continued to remain large since the first review. There were four Korean PET film producers in the original investigation, and six Korean producers in both the first review and this second review.⁵⁶ More

⁴⁶ *Id.* at Tables I-2 and I-3.

⁴⁷ Apparent domestic consumption rose during the original investigation, increasing from *** pounds in 1987 to *** pounds in 1990. Apparent domestic consumption climbed to *** pounds in 1998, the last full year for which data was available during the first review. In 2004, the record indicates that apparent U.S. consumption fell to *** pounds. CR/PR at Table I-8. However, this apparent consumption figure does not include shipments from U.S. producers other than DuPont and MFA, and is therefore understated.

⁴⁸ The photographic applications market remains the largest market segment for PET film, followed by the packaging applications market, and the magnetic media market. The *** is expected to become the largest growth area for PET film during the next five years. *See e.g.*, CR/PR at I-9 to I-10; DuPont/MFA Comments at 6.

⁴⁹ CR/PR at I-10 to I-11.

⁵⁰ Rhone-Poulenc and General Binding Corp. have exited the PET film industry, and ICI was acquired by DuPont. CR/PR at I-11; DuPont/MFA Comments at 6-7.

⁵¹ CR/PR at I-11.

⁵² DuPont/MFA Comments at 7.

⁵³ *Id.*

⁵⁴ DuPont/MFA Response at 7; DuPont/MFA Comments at 7.

⁵⁵ DuPont/MFA Response at 7; DuPont/MFA Comments at 17.

⁵⁶ As of May 1, 2002, there were six Korean producers of PET film: HSI, Hyosung, Kohap, Kolon, SKC, and Toray Saehan. We note that the antidumping duty order has been revoked with respect to three of these producers – Toray Saehan (formerly Cheil), HSI, and Kolon. The antidumping order was revoked for Toray Saehan and Kolon (continued...)

importantly, as discussed below, according to the uncontroverted evidence presented by the domestic industry, Korean capacity to produce PET film was approximately *** pounds in 2004, which is approximately two-and-one-half times greater than the capacity of Korean producers during the original investigation.⁵⁷ Also, SKC, the largest and oldest Korean subject PET film producer, *** expanded its production capacity from *** pounds in 1997 to *** pounds in 2004.⁵⁸

Sixth, nonsubject imports from countries other than Korea have increased both in volume and market share terms since the original investigation and first review.⁵⁹

Based on the record evidence, we find that these conditions of competition in the U.S. PET film market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions in the U.S. PET film market provide us with a basis upon which to assess the likely effects of revocation of the antidumping duty order within a reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty order is 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.⁶⁰ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (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.⁶¹

In the original investigation, the Commission found that the volume of subject PET film imports from Korea and the increase in their market share was significant. It noted that the volume of subject PET film imports from Korea had more than doubled during the period of investigation, increasing from *** pounds in 1987 to *** pounds in 1990.⁶² It also observed that U.S. market penetration by subject imports from Korea had increased from *** percent in 1987 to *** percent in 1990.⁶³

⁵⁶ (...continued)

in 1996, and for HSI in 2001. CR/PR at Table I-3; CR/PR at I-17.

⁵⁷ CR/PR at Table I-9; DuPont/MFA Comments at 8. The data for production capacity in Korea in the original investigation included data for three Korean producers or exporters (HSI, Kolon, and Toray Saehan) that have since become nonsubject producers (see, e.g., CR/PR at Table I-3 & I-8).

⁵⁸ CR/PR at I-17; USITC Pub. 3278 at 9.

⁵⁹ In 1990, nonsubject imports from countries other than Korea totaled *** pounds, or *** percent of total apparent U.S. consumption. In 1998, nonsubject imports from countries other than Korea had risen to *** pounds, or *** percent of total apparent U.S. consumption. By 2004, nonsubject imports from countries other than Korea had increased to *** pounds, or *** percent of total apparent U.S. consumption. CR/PR at Table I-8.

⁶⁰ 19 U.S.C. § 1675a(a)(2).

⁶¹ 19 U.S.C. § 1675a(a)(2)(A-D).

⁶² USITC Pub. 2383 at 10.

⁶³ Id.

In the first review, the Commission found that the volume of subject PET film from Korea was likely to increase to a significant level for four reasons, if the antidumping duty order were revoked. First, it found that “overall Korean capacity to produce PET film has grown rapidly since the original investigation which has resulted in considerable excess capacity.”⁶⁴ Second, it noted that the “imposition of the antidumping duty order appears to have limited” the volume of imports from Korea into the U.S. market.⁶⁵ Third, it found that “there is evidence of oversupply in some of the Korean industry’s other major export markets, in addition to that in its home market.”⁶⁶ Fourth, it observed that the U.S. market would be “particularly attractive” to three new Korean producers, which had started up in 1997 and had experienced severe adverse economic conditions shortly after commencing operations.⁶⁷ Based upon all of this, the Commission concluded that “[w]ithout the discipline of the antidumping duty order, Korean producers have an incentive to redirect the large PET film oversupply in the Korean market, as well as its exports to oversupplied third countries, to the U.S. market.”⁶⁸

In this second review, we find that subject import volume would likely increase significantly if the order were revoked for seven reasons. First, since imposition of the original antidumping duty order in 1991, imports of PET film from Korea have increased in terms of both quantity and market share.⁶⁹ More specifically, imports from Korea increased from *** pounds in 1990 to *** pounds in 1998, and fell only *** to *** pounds in 2004.⁷⁰ U.S. market share for imports of PET film from Korea increased from *** percent in 1990 to *** percent in 1998 to *** percent in 2004.⁷¹

Second, Korean capacity to produce PET film in 2004 was approximately 600,000 million pounds, approximately two-and-one-half times greater than the capacity of Korean producers during the original investigation.⁷² Third, SKC, the largest and oldest Korean subject PET film producer, *** expanded its production capacity from *** pounds in 1997 to *** pounds in 2004.⁷³ Fourth, according to the un rebutted evidence presented by DuPont and MFA in this second review, PET film production capacity in Korea exceeded home market demand in that country in 2004 by approximately 250 million pounds.⁷⁴ DuPont and MFA point out that if Korean producers were to export all their excess capacity to

⁶⁴ USITC Pub. 3278 at 10.

⁶⁵ *Id.* at 11.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ The data for subject import volume in the original investigation included imports from three Korean producers that have since become nonsubject producers (*see, e.g.*, CR/PR at Tables I-3 & I-8). In this second review, total import data for Korea in 2004 includes imports for three subject Korean producers (Hyusong, Kohap, and SKC) and three nonsubject Korean producers (HSI, Kolon, and Toray Saehan). CR/PR at Tables I-3 & I-7. The publicly available Census import data does not distinguish between subject and nonsubject imports from Korea, and because producers in Korea have declined to participate or furnish information in this second review, including information on the volume of subject imports, the Commission is constrained to rely on the facts available on the record, and thus, to analyze the current volume of subject imports in terms of total imports from Korea.

⁷⁰ CR/PR at Table I-7.

⁷¹ CR/PR at Table I-8.

⁷² CR/PR at Table I-9; DuPont/MFA Comments at 8.

⁷³ CR/PR at I-17; USITC Pub. 3278 at 9.

⁷⁴ DuPont/MFA Comments at 5.

the United States, this would represent approximately *** percent of total domestic production for DuPont and MFA in 2004.⁷⁵

Fifth, while the antidumping duty order was revoked for three Korean producers since the original investigation, it has not been revoked for three other Korean producers, whom together accounted for a substantial amount of Korean production capacity during the period examined in this second review.⁷⁶ Sixth, the imposition of antidumping duty orders against Korean PET film by the European Union and India in 2001 provides Korean PET film producers with additional incentive to export into the U.S. market if the order were revoked.⁷⁷ Seventh, because the 2002 antidumping orders imposed against PET film imports from Taiwan and India have eliminated competition against Korean producers in the U.S. market, this also provides Korean PET film producers with even greater incentive and ability to export into the U.S. market if the order were revoked.⁷⁸

Accordingly, for the foregoing reasons, and based on the available information, including the unrebutted information provided by the domestic industry, we find that subject import volume would likely increase significantly if the antidumping duty order were revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports 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.⁷⁹

In the original investigation, the Commission found that subject imports consistently undersold the domestic like product and had an adverse impact on prices in the domestic industry. More specifically, the Commission observed that subject imports of PET film from Korea undersold the comparable domestic like product in *** quarters out of *** quarters of price comparisons reported by producers and importers, and in *** out of *** quarters of price comparisons reported by purchasers.⁸⁰ Accordingly, the Commission concluded that there was significant underselling by subject imports.⁸¹ The Commission also found that subject imports had a price depressing effect on the prices of PET film in the United States based on evidence that domestic prices of PET film fell during the latter part of the investigation period.⁸²

⁷⁵ *Id.*

⁷⁶ These three subject Korean producers (Hyosung, Kohap, and SKC) accounted for *** percent of Korean production capacity during the period examined in this second review. CR/PR at I-17; CR/PR at Table I-3.

⁷⁷ DuPont/MFA Comments at 10-11.

⁷⁸ *Id.* at 11-12.

⁷⁹ 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.

⁸⁰ USITC Pub. 2383 at A-77, A-84, and Tables 25, 27, and 28.

⁸¹ *Id.* at 28.

⁸² *Id.*

In the first review, the Commission noted that while pricing data was limited, the average unit value for Korean imports of PET film was substantially lower in 1998 than in 1990, whereas the average unit value of U.S. shipments by domestic producers had risen since the original investigation.⁸³ Furthermore, it found that the average unit value for imports from Korea of PET film was significantly lower than the average unit value for non-subject imports of PET film from countries other than Korea.⁸⁴ Accordingly, the Commission found that revocation of the antidumping duty order would likely lead to significant price effects, including significant underselling by subject imports, as well as significant price depression or suppression.⁸⁵

In this second review, much like the first review, there is relatively little information in the record regarding prices of subject imports. However, the available information supports the conclusion that subject imports from Korea would be likely to have significant price effects for four reasons if the order were revoked.⁸⁶ First, there is no new information available suggesting that Korean producers of PET film are now less likely than they were in the original investigation and first review to increase market share by underselling U.S. producers. Second, the average unit value for imports of PET film from Korea was lower for the period examined in this second review than in the original investigation, and the average unit value for imports of PET film from Korea was lower for most of the period examined in this second review compared with the average unit value for imports of PET film from Korea during the period examined in the first review.⁸⁷ Third, the average unit value for Korean imports of PET film was lower than the unit value for non-subject imports from countries other than Korea in every year from 1999 through 2004.⁸⁸ Fourth, according to the un rebutted evidence presented by the domestic producers, the average unit value for Korean imports of PET film was *** lower than DuPont's average selling price for domestically-produced PET film during the period examined in this second review.⁸⁹

Given these conditions and the likely significant increase in volume of subject imports discussed above, without the discipline of the antidumping duty order, the Korean producers would have an incentive to export their excess capacity of PET film into the United States at prices that would be likely to undersell their domestic competition in order to increase market share, as in the original determination. Accordingly, for the foregoing reasons, we find that revocation of the antidumping duty order would be likely to lead to significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is 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: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2)

⁸³ *Id.* at 12-13.

⁸⁴ *Id.* at 13.

⁸⁵ *Id.*

⁸⁶ In this second review, average unit value data for imports from Korea include data for both subject and nonsubject imports. As noted above, current imports from Korea can be considered only in the aggregate because Korean producers have not participated in this second review.

⁸⁷ CR/PR at Table I-7.

⁸⁸ *Id.*

⁸⁹ DuPont/MFA Comments at 13-14.

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.⁹⁰ 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.⁹¹ 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 order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁹²

In the original investigation, the Commission found material injury to the domestic industry as evidenced by declines in the domestic industry's commercial shipments and market share.⁹³ The Commission also found declines in the domestic industry's profitability, operating margins, operating income, and capital expenditures.⁹⁴

In the first review, while observing that the limited information on the record did not permit a finding as to whether or not the domestic industry was vulnerable to injury if the order were revoked,⁹⁵ the Commission found that the volume and price effects of subject imports from Korea would likely have a significant adverse impact on the domestic industry's production, sales, profitability, and ability to raise capital and make capital investments.⁹⁶ The Commission also found that the volume and price effects of subject imports from Korea would likely cause the domestic industry to lose further market share, and that this loss in market share and subsequent decrease in capacity utilization would be particularly harmful in this capital intensive industry. Based upon these considerations, the Commission concluded that subject imports of PET film from Korea would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the order were revoked.⁹⁷ Because the information available in this second review is limited, we find (as we found in the first review) that the evidence is inconclusive on whether the domestic industry is vulnerable if the order is revoked. At the

⁹⁰ 19 U.S.C. § 1675a(a)(4).

⁹¹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" 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.

In its final results of expedited sunset review, Commerce found a likely dumping margin of 13.92 percent on subject imports for SKC Limited and SKC America, Inc. and a likely dumping margin of 21.50 percent for all other subject imports. 70 Fed. Reg. 53627, 53628 (Sept. 9, 2005).

⁹² 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.

⁹³ USITC Pub. 2383 at 29.

⁹⁴ Id. at 29-30.

⁹⁵ USITC Pub. 3278 at 14.

⁹⁶ Id.

⁹⁷ Id.

same time, however, we note that there have been *** declines in both domestic production and U.S. shipments since the first review, as shown by evidence submitted by the domestic industry.⁹⁸

As the Commission found in the original investigation and the first review, the PET film industry is capital intensive, and as such requires high capacity utilization levels and operating margins in order to sustain its competitiveness and profitability. Thus, even small increases in the volume of imports from Korea would have an adverse impact on the domestic industry's profitability.

As discussed above, revocation of the antidumping duty order would likely lead to significant increases in the volume of subject imports at prices that would likely undersell the domestic like product and significantly depress U.S. prices. In addition, the volume and price effects of subject imports would likely cause the domestic industry to lose further market share and lead to a subsequent decline in capacity utilization that would have particularly severe consequences for this capital-intensive industry. These losses in market share and capacity utilization would be particularly harmful to the domestic industry, which depends upon achieving high capacity utilization rates and selling commodity grade PET film at prices high enough to generate sustainable profits, net income, and cash flow, especially given the high fixed costs associated with operating and maintaining PET film plants.

The price and volume declines also would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels, together with rising raw material and energy costs, would likely have an adverse impact on both the domestic PET film industry's profitability and ability to raise capital and to make and maintain capital investments. Accordingly, based on the limited record in this review, we conclude that if the antidumping order was revoked, subject imports from Korea would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the above-stated reasons, we determine that revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

⁹⁸ In 1998, DuPont and MFA accounted for *** percent of domestic PET film production. USITC Pub. 3278 at 8. In 2004, these same two firms accounted for an estimated *** percent of domestic PET film production. DuPont/MFA Response at 11. In the first review, like in this second review, DuPont and MFA were the only two domestic producers who provided data to the Commission regarding domestic production and U.S. shipments. Domestic production declined from *** pounds in 1998 to *** pounds in 2004. By quantity, U.S. shipments declined from *** pounds in 1998 to *** pounds in 2004. CR/PR at Table I-6.

INFORMATION OBTAINED IN THE SECOND REVIEW

INTRODUCTION

Background

On February 2, 2005, in accordance with section 751(c) of the Tariff Act of 1930 (“the Act”),¹ as amended, the U.S. International Trade Commission (“Commission”) gave notice² that it had instituted a second five-year (“sunset”) review to determine whether revocation of the antidumping duty order on polyethylene terephthalate (“PET”) film from Korea would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{3 4} On May 9, 2005, the Commission determined that the domestic interested party response to its notice of institution was adequate;⁵ the Commission also determined that the respondent interested party group response was inadequate.⁶ The Commission found no other circumstances that would warrant conducting a full review.⁷ Accordingly, the Commission determined⁸ that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.⁹ Information relating to the background of this review is presented in table I-1.

The Original Investigation and Initial Five-Year Review

A historical chronology of the original investigation and first five-year review is presented in table I-2. The original investigation resulted from a petition filed on April 27, 1990,¹⁰ by E.I. du Pont de Nemours & Company (“DuPont”), Hoechst Celanese Corp. (“Hoechst”),¹¹ and ICI American Inc.

¹ 19 U.S.C. 1675(c).

² 70 FR 5473, February 2, 2005.

³ All interested parties were requested to respond to the notice by submitting information requested by the Commission. Copies of the Commission’s *Federal Register* notices are presented in app. A.

⁴ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution (70 FR 5415, February 2, 2005).

⁵ The Commission received one submission in response to its notice of institution for the subject review. See joint response to Commission’s notice of institution of DuPont Teijin Films (“DuPont”) and Mitsubishi Polyester Film, LLC (“MFA”) (“DuPont/MFA joint response”), March 23, 2005. See also Commission’s memorandum of April 27, 2005, INV-CC-056, *Polyethylene Terephthalate (PET) Film from Korea: Investigation No. 731-TA-459 (Second Review)–Recommendation on Adequacy of Responses to Notice of Institution*.

⁶ The Commission did not receive a response from any respondent interested party. See Commission’s memorandum of April 27, 2005, INV-CC-056, *Polyethylene Terephthalate (PET) Film from Korea: Investigation No. 731-TA-459 (Second Review)–Recommendation on Adequacy of Responses to Notice of Institution*.

⁷ A copy of the *Explanation of Commission Determination on Adequacy* is presented in app. B.

⁸ See Commission’s News Release 05-049, May 9, 2005. See also 70 FR 30282, May 26, 2005.

⁹ 19 U.S.C. § 1675(c)(3).

¹⁰ See the Commission’s notice of institution of a preliminary investigation (55 FR 18969, May 7, 1990).

¹¹ Hoechst is the predecessor firm to MFA.

Table I-1
PET film: Chronology of investigation No. 731-TA-459 (Second Review)

Date	Action
February 2, 2005	Commission publishes notice of institution of second five-year review in <i>Federal Register</i> ¹
February 2, 2005	Commerce publishes notice of initiation of second five-year review in <i>Federal Register</i> ²
May 9, 2005	Commission votes to conduct an expedited second five-year review
May 26, 2005	Commission publishes notice of scheduling for second five-year review in <i>Federal Register</i> ³
May 26, 2005	Commerce publishes notice of extension of time limit for its final results in <i>Federal Register</i> ⁴
September 9, 2005	Commerce publishes final results of expedited second five-year review ⁵
September 20, 2005	Commission's vote
September 29, 2005	Commission's transmittal of determination and views to Commerce
¹ 70 FR 5473. ² 70 FR 5415. ³ 70 FR 30482. A copy of this <i>Federal Register</i> notice is presented in app. A. ⁴ 70 FR 30416. A copy of this <i>Federal Register</i> notice is presented in app. A. ⁵ 70 FR 53627. A copy of this <i>Federal Register</i> notice is presented in app. A.	
Source: Cited <i>Federal Register</i> notices.	

Table I-2
PET film: Selected historical actions taken by the Commission and Commerce

Action	Date of action	Federal Register citation
Inv. No. 731-TA-459 (Final):		
Commission publishes determination	06/05/1991	56 FR 25669
Commerce publishes antidumping duty order (A-570-007)	06/05/1991	56 FR 25669
Commerce publishes amended antidumping duty order (A-570-007) ¹	09/26/1997	62 FR 50557
Inv. No. 731-TA-459 (Review): ²		
Commission publishes notice of institution of review	07/01/1999	64 FR 35685
Commerce publishes notice of initiation of review	07/01/1999	64 FR 35588
Commission publishes determination	02/24/2000	65 FR 9298
Commerce publishes continuation of antidumping duty order	03/07/2000	65 FR 11984
¹ The original antidumping duty order was amended pursuant to a final court decision. ² The Commission's first five-year review was also expedited.		
Source: Cited <i>Federal Register</i> notices.		

(“ICI”),¹² and concerned imports from Japan, Korea, and Taiwan.¹³ The Commission completed its original investigation in May 1991, determining that an industry in the United States was materially injured by reason of imports of PET film from Japan and Korea that were sold at less than fair value.¹⁴ As a result, Commerce issued antidumping duty orders on imports of PET film from Japan and Korea.¹⁵

The antidumping duty order on imports of PET film from Japan was revoked on October 6, 1995, following a request from DuPont, Hoechst, and ICI for a changed circumstances administrative review and revocation of the order on the basis that the order was no longer of interest to the petitioners.¹⁶

On July 1, 1999, the Commission instituted the initial five-year review on PET film from Korea.¹⁷ On October 1, 1999, the Commission determined that it would conduct an expedited review.¹⁸ On February 9, 2000, the Commission determined that revocation of the antidumping duty order on PET film from Korea would be likely to lead to a continuation or recurrence of material injury.¹⁹

Related Investigations

In June 2002, the Commission made affirmative determinations that an industry in the United States was materially injured by reason of imports from India of PET film that had been found by Commerce to be subsidized by the Government of India and by reason of imports from India and Taiwan of PET film that had been found by the Department of Commerce to be sold in the United States at less than fair value (“LTFV”).²⁰ Antidumping and countervailing duty orders were published on July 1, 2002.²¹

Commerce’s Administrative and Five-Year Reviews

Between 1994 and 2001, Commerce conducted nine administrative reviews with respect to imports of PET film from Korea. Table I-3 presents information on Commerce’s antidumping duty order, administrative reviews, and initial five-year review.

¹² ICI’s PET film operations were purchased by DuPont in 1997.

¹³ The Commission made a negative preliminary determination with respect to imports from Taiwan (55 FR 25181, June 20, 1990).

¹⁴ 56 FR 25695, June 5, 1991.

¹⁵ 56 FR 25669, June 5, 1991.

¹⁶ 60 FR 52366, October 6, 1995.

¹⁷ 64 FR 35685, July 1, 1999.

¹⁸ 64 FR 55958, October 15, 1999.

¹⁹ See Commission’s News Release 00-024, February 9, 2000. See also 65 FR 9298, February 24, 2000.

²⁰ The Commission instituted these investigations effective May 17, 2001, following receipt of a petition filed with the Commission and Commerce by DuPont, MFA, and Toray Plastics (America), Inc., North Kensington, RI. See *Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Investigations Nos. 701-TA-415 and 731-TA-933-934 (Final)*, USITC Publication 3518 (June 2002).

²¹ See 67 FR 44179 (countervailing duty order on India), 67 FR 44175 (antidumping duty order on India), and 67 FR 44174 (antidumping duty order on Taiwan).

Since the original order, antidumping duty orders have been revoked for three firms, Cheil Synthetics (Cheil),²² Kolon Industries (Kolon),²³ and H.S. Industries (HSI).²⁴ SKC is currently subject to an antidumping duty rate of 1.91 percent *ad valorem*. STC is currently subject to an antidumping duty rate of 0.37 percent *ad valorem*. Hyosung Living Industry (Hyosung) is currently subject to an antidumping duty rate of 0.00 percent *ad valorem*. All other producers and exporters (including Kohap) are subject to an “all other” antidumping duty rate of 21.50 percent *ad valorem*.

Commerce’s Final Results of Second Expedited Five-Year Review

On September 9, 2005, Commerce published its final results of its expedited five-year review concerning the antidumping duty order on PET film,²⁵ determining that revocation of the antidumping duty order on PET film from Korea would likely lead to continuation or recurrence of dumping at the weighted-average margins of 13.92 percent *ad valorem* for SKC Limited and SKC America, and 21.50 percent *ad valorem* for all other manufacturers, exporters, and producers in Korea (table I-3).

²² The firm is now Toray Saehan. The antidumping duty order was revoked on July 5, 1996 (61 FR 35177).

²³ The antidumping duty order was revoked on November 14, 1996 (61 FR 58374).

²⁴ The antidumping duty order was revoked on November 15, 2001 (66 FR 57418).

²⁵ A copy of Commerce’s *Federal Register* notice is presented in app. A.

Table I-3
PET film: Commerce's administrative and five-year reviews

Action	Date of action	Federal Register citation	Period of review	Antidumping duty margins by firms						
				SKC	Kolon	STC	Cheil/Saehan	HSI	Hyosung	All others
				<i>Percent ad valorem</i>						
Final determination ¹	04/22/1991	56 FR 16305	11/01/1989–04/30/1990	5.38	(²)	(²)	3.88	(²)	(²)	4.88
Order (A-580-807)	06/05/1991	56 FR 25669	(²)	5.38	(²)	(²)	3.71	(²)	(²)	4.82
Administrative review ³	08/17/1995	60 FR 42835	11/30/1990–05/31/1992	0.80	0.94	16.87	0.06	(²)	(²)	(²)
Amended A.R. ⁴	02/12/1996	61 FR 5375	11/30/1990–05/31/1992	0.11	0.60	11.41	0.07	(²)	(²)	(²)
Administrative review	07/05/1996	61 FR 35177	06/01/1992–05/31/1993	5.89	0.11	0.47	0.00	(²)	(²)	(²)
Administrative review ⁵	07/05/1996	61 FR 35177	06/01/1993–05/31/1994	0.52	0.12	0.93	0.01	(²)	(²)	(²)
Administrative review ⁶	11/14/1996	61 FR 58374	06/01/1994–05/31/1995	0.70	0.14	4.95	(⁷)	(²)	(²)	(²)
Amended A.R. ⁴	01/13/1997	62 FR 1735	06/01/1994–05/31/1995	0.70	(⁷)	1.68	(⁷)	(²)	(²)	(²)
Administrative review ⁸	07/16/1997	62 FR 38064	06/01/1995–05/31/1996	0.45	(⁷)	0.37	(⁷)	(²)	(²)	21.50
Administrative review	07/10/1998	63 FR 37334	06/01/1996–05/31/1997	0.36	(⁷)	(⁹)	(⁷)	(²)	(²)	21.50
Administrative review	11/17/1999	63 FR 37334	06/01/1997–05/31/1998	0.69	(⁷)	(⁹)	(⁷)	(²)	(²)	21.50
Initial 5-year review ¹⁰	02/04/2000	65 FR 5592	(²)	13.92	(⁷)	(²)	(⁷)	(²)	(²)	21.50
Continuation of order	03/07/2000	65 FR 11984	(²)	(²)	(²)	(²)	(²)	(²)	(²)	21.50
Administrative review	09/12/2000	65 FR 55004	06/01/1998–05/31/1999	1.23	(⁷)	(⁹)	(⁷)	0.00	0.00	21.50
Administrative review	11/15/2001	66 FR 57418	06/01/1999–05/31/2000	1.91	(⁷)	(⁹)	(⁷)	(¹¹)	0.00	21.50
Second 5-year review ¹⁰	09/09/2005	70 FR 53627	(²)	13.92	(⁷)	(²)	(⁷)	(²)	(²)	21.50

¹ On September 26, 1997, Commerce amended its final determination following a final and conclusive court decision (62 FR 50558). The final determination antidumping duty margins were amended as follows: SKC (13.92 percent *ad valorem*); Cheil (36.33 percent *ad valorem*); and "all others" (21.50 percent *ad valorem*).

² Not applicable.

³ On September 30, 1998, following a conclusive court decision, Commerce amended its final results administrative review determination for STC to 11.62 percent *ad valorem* (63 FR 52242). On February 17, 1999, following a conclusive court decision, Commerce amended its final results administrative review determinations for STC (0.11 percent *ad valorem*) and Cheil (0.07 percent *ad valorem*) (64 FR 7856).

⁴ Amended administrative review.

⁵ The antidumping duty order was revoked for Cheil on July 5, 1996 (61 FR 35177).

⁶ The antidumping duty order was revoked for Kolon on November 14, 1996 (61 FR 58374).

⁷ Not applicable. The antidumping order was previously revoked.

⁸ On May 20, 1996, pursuant to court remand, Commerce established an "all others" rate of 21.50 percent *ad valorem*.

⁹ STC did not request an administrative review.

¹⁰ Commerce conducted an expedited five-year review.

¹¹ The antidumping duty order was revoked for HSI on November 15, 2001 (66 FR 57418).

Source: Cited *Federal Register* notices.

Distribution of Continued Dumping and Subsidy Offset Funds to Affected Domestic Producers

Since September 21, 2001, qualified U.S. producers of PET film have been eligible to receive disbursements from the U.S. Customs and Border Protection (“Customs”) under the Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”), also known as the Byrd Amendment.²⁶ Two firms, DuPont and MFA, received such funds.²⁷ Table I-4 presents U.S. producers’ CDSOA claims and disbursements for federal fiscal years 2001-04.

Table I-4
PET film: U.S. producers’ CDSOA claims and disbursements, federal fiscal years 2001-04

Fiscal year ¹ /firm	Claim number	Share of yearly allocation	Certification amount filed ²	Amount disbursed ³
		<i>Percent</i>	<i>Dollars</i>	
2001:				
DuPont	110721	100.0	1,261,281,000	1,433,919
2002:				
DuPont	120876	27.8	311,028,000	295,440
MFA ⁴	120852	72.2	806,834,192	766,397
Subtotal		100.0	1,117,862,192	1,061,837
2003:				
MFA ⁴	131257	100.0	977,030,663	469,884
2004:				
DuPont	141614	67.2	2,186,380,641	223,960
MFA ⁴	140121	32.8	1,069,287,049	109,531
Subtotal		100.0	3,255,667,690	333,491
¹ The Federal fiscal year is October 1-September 30. ² Qualifying expenditures incurred by domestic producers since the issuance of an order, as presented in Section I of the <i>CDSOA Annual Reports</i> . ³ As presented in Section I of Customs’ <i>CDSOA Annual Reports</i> . ⁴ Mitsubishi Polyester Film (MFA) is the successor firm to Hoechst Celanese. Source: Customs’ <i>CDSOA Annual Reports</i> .				

²⁶ 19 CFR 159.64(g).

²⁷ See Customs’ *CDSOA Annual Reports* for fiscal years 2001, 2002, 2003, and 2004.

THE PRODUCT

Scope

Commerce defines the scope of the subject merchandise as follows:

shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded . . . are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.²⁸

U.S. Tariff Treatment

Table I-5 presents current tariff rates for PET film. In addition to the general column-1 duty rates, imports of PET film from Korea are currently subject to antidumping duties ranging from 0.0 to 21.50 percent *ad valorem*.

Table I-5
PET film: Tariff rates, 2005

HTS subheading	Article description ¹	General ²	Special ³	Column 2 ⁴
		Rates (<i>percent ad valorem</i>)		
3920.62.00 ⁵	Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials: Of polycarbonates, alkyd resins, polyallyl esters or other polyesters: Of poly(ethylene terephthalate)	4.2	Free	25.0
¹ An abridged description is provided for convenience; however, an unabridged description may be obtained from the respective headings, subheadings, and legal notes of the HTS. ² Normal trade relations rates, formerly known as the most-favored-nation duty rate, applicable to imports from Korea. ³ For eligible goods under the Generalized System of Preferences, Australia Free Trade Agreement, Caribbean Basin Economic Recovery Act, Andean Trade Preference Act, Israel Free Trade Agreement, Jordan Free Trade Agreement, Chile Free Trade Agreement, Singapore Free Trade Agreement, and NAFTA-originating goods of Canada and Mexico. ⁴ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. ⁵ As of July 1, 2003, HTS subheading 3920.62.00 was annotated with statistical reporting numbers 3920.62.0010 (metallized PET film) and 3920.62.0090 (non-metallized PET film). The subject merchandise includes only non-metallized PET film. Source: Harmonized Tariff Schedule of the United States (2005).				

²⁸ See 66 FR 57417, November 15, 2001, which is Commerce's most recent "Final Results of Antidumping Duty Administrative Review."

Domestic Like Product and Domestic Industry

In the original 1991 investigation, the Commission defined the domestic like product as “all PET film, including equivalent PET film.”²⁹ During the initial expedited review in 2000, DuPont and MFA agreed with the Commission’s previous like product and industry definitions,³⁰ and the Commission subsequently defined the domestic like product as “all PET film, including equivalent PET film,”³¹ and defined the domestic industry as “consisting of all domestic producers of PET film, including equivalent PET film.”³² In its joint response to the notice of institution in this second expedited review, neither responding U.S. producer objected to the Commission’s continued use of its definitions of the domestic like product or domestic industry definitions as stated in the notice of institution.³³

Description and Uses³⁴

PET film is a high-performance, clear, flexible, transparent, or translucent material produced from PET polymer, a linear, thermoplastic polyester resin. It is generally more expensive than other plastic films and is only used when its unique properties are required. PET film has certain inherent desirable qualities such as high tensile strength, low moisture absorption, good retention of physical properties over a fairly wide temperature range, excellent electrical properties, durability, heat resistance, good gas-barrier properties, excellent dimensional stability, chemical inertness, and good optical clarity.

PET film is available commercially in a range of widths, thicknesses, and properties depending upon the needs of end users. It can be made as a single layer or can be coextruded with other polymers into a multilayer film encompassing the desired characteristics of each material. PET film is available from the production line in widths generally ranging from about 20 inches up to about 400 inches, and in thicknesses reportedly ranging from about 2 gauge up to about 1,400 gauge (i.e., 0.00002 to 0.014 inch).

The broad range of chemical, physical, and thermal properties available in PET film permits this product to enter a wide range of markets. In the original investigation, the petitioners reported that there were over 150 different areas of application for PET film in the United States. The highest volume PET film end uses are industrial applications; packaging applications; magnetic media; imaging; and electrical. Industrial applications include release films, labels and decals, office products, hot-stamping film, pressure-sensitive tapes, lamination films and smart cards, and duct work. Packaging applications include

²⁹ *Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea: Invs. Nos. 731-TA-458-459 (Final)*, USITC Publication 2383, May 1991, p. 8. By defining the domestic like product to include equivalent PET film, or PET film with at least one surface coated with a resinous layer more than 0.00001 inch thick, the Commission expanded its definition beyond Commerce’s scope of the subject merchandise. *Id.*, p.15. Equivalent PET film, which is PET film that is thickly coated during the production process (e.g., Cronar® and Estar®), is used primarily for photographic applications.

³⁰ See DuPont/MFA joint response, August 20, 1999, p. 13. See also *Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea: Invs. Nos. 731-TA-458-459 (Final)*, USITC Publication 2383, May 1991, p. 5.

³¹ *Polyethylene Terephthalate (PET) Film From Korea: Inv. No. 731-TA-459 (Review)*, USITC Pub. 3278, February 2000, p. 5.

³² *Id.*

³³ See DuPont/MFA joint response, March 23, 2005, p. 13.

³⁴ Information presented in this section is from the following sources: *Staff Report of May 13, 1991*, pp. A-5 through A-11, A-25 through A-28, A-66 through A-80, and B-42 through B-44; and *1999 Chemical Economics Handbook, Marketing Research Report, SRI International*, pp. 580.1170E-G and P-W.

snack foods, boil-in-bag pouches, cheese wrap, meat wrap, and peel-able lid film. Magnetic media applications include videotape, cassette tape, and floppy disks. Imaging applications include microfilm, printing and pre-press films, color proofing, printing plates, drafting film, X-ray film, instant photos, business graphics, and wide format displays, and graphic arts film. Electrical applications include photosensitive resists, motor and generator insulation, wire and cable wrap, membrane switches, capacitors, and flexible printed circuits.³⁵

The photographic applications market is the largest and most mature market for PET film, representing approximately *** percent of the domestic consumption of PET film. Magnetic media applications, which represented almost *** percent of total domestic consumption during 2001, were an area of growth prior to 1994, primarily because of the videotape and floppy disk market. However, magnetic media are now being replaced by competing technologies. Representing approximately *** percent of total domestic consumption, *** are expected to be the largest area of growth for PET film during the next five years.³⁶

Domestic and imported PET films are generally employed in the same range of end uses; however, the specific end-use markets where PET film is shipped may differ somewhat depending on the producer and the country of origin. Most PET film, domestic and foreign, is produced in response to orders, or anticipated orders, and is shipped directly from the producer to the end user. A smaller percentage is sold to distributors, or shipped initially to producer-owned warehouses. The majority of U.S.-produced and imported PET film is sold on a contract basis, although smaller volumes of surplus and second-grade film are sold on a spot basis. Most of the contracts have meet-or-release clauses which allow price changes to occur because of market conditions. Average lead times for warehouse sales of U.S.-produced and imported PET film are between 1 and 3 days. Lead times for domestic made-to-order PET film range from 10 to 45 days, whereas imported made-to-order sales require longer lead times of between 45 and 120 days.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

During the original investigation, the Commission identified the following nine domestic producers of PET film: (1) Bemis Co. Inc. (Curwood); (2) DuPont; (3) Eastman Kodak; (4) Hoechst; (5) ICI; (6) 3M; (7) Rhone-Poulenc; (8) Toray Plastics (America); and (9) General Binding Corp. At that time, the three original petitioning firms (DuPont, Hoechst (predecessor to MFA), and ICI (purchased by DuPont in 1997)) accounted for *** percent of annual U.S. capacity to produce PET film.³⁷

In 2001, there were nine producers of PET film in the United States with annual effective capacities totaling approximately *** pounds.³⁸ In 2004, there were reported to be seven producers of PET film in the United States: (1) DuPont; (2) MFA; (3) 3M; (4) Curwood; (5) Kodak;

³⁵ Association of Manufacturers of Polyester Film (AMPEF) found at <http://www.ampef.com>.

³⁶ 2002 Chemical Economics Handbook, Marketing Research Report, SRI International, p. 580.1170F.

³⁷ Staff Report of May 13, 1991, pp. A-22 through A-24.

³⁸ 2002 Chemical Economics Handbook, Marketing Research Report, SRI International, p. 580.1170J-K.

(6) SKC America; and (7) Toray Plastics (America), Inc. DuPont and MFA were believed to account for approximately *** percent of U.S. production.³⁹

As of April 2002, approximately *** percent of the total U.S. capacity to produce PET film was devoted to the merchant market;⁴⁰ the remainder was captively converted to photographic films, magnetic media, and several other products. DuPont was *** U.S. PET film producer, accounting for *** percent of total capacity and *** percent of merchant capacity. Eastman Kodak and 3M were *** captive producers of PET film, representing *** percent of total domestic capacity of PET film. The two producers responding to the Commission’s notice of institution in this review, DuPont and MFA, were *** domestic producers of PET film, together accounting for *** percent of annual 2001 domestic capacity to produce PET film.⁴¹

U.S. Producers’ Trade, Employment, and Financial Data

Table I-6 presents information on U.S. producers’ trade, employment, and financial data during 1987-90, 1998, and 2004. Higher levels of domestic production, capacity, and shipments of PET film were reported for 1998 than during 1987-90; however, domestic capacity utilization in 1998 was lower than that reported in the original investigation. Also, the average unit value of U.S. shipments made by U.S. producers in 1998 was higher than that reported in the original investigation, although DuPont and MFA described PET film prices in the U.S. market as being at ***.⁴² According to information gathered by SRI International, U.S. prices for general-purpose PET film during 2001 ranged from \$*** to \$*** per pound depending on the transparency and gauge of the material.⁴³

Table I-6
PET film: U.S. producers’ trade, employment, and financial data, 1987-1990, 1998, and 2004

*	*	*	*	*	*	*
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³⁹ DuPont/MFA joint response, March 23, 2005, p. 11.

⁴⁰ DuPont and MFA accounted for *** percent of merchant market capacity as of April 1, 2002. *2002 Chemical Economics Handbook, Marketing Research Report, SRI International*, p. 580.1170J-K.

⁴¹ *2002 Chemical Economics Handbook, Marketing Research Report, SRI International*, p. 580.1170J-K. DuPont and MFA estimated that they accounted for *** percent of U.S. production in 2004. DuPont/MFA joint response, March 23, 2005, p. 11.

⁴² DuPont/MFA joint response from the initial five-year review, p. 9.

⁴³ *2002 Chemical Economics Handbook, Marketing Research Report, SRI International*, p. 580.1171D.

Prices are higher for PET film with special properties such as higher transparency, matte finish, or higher longitudinal tensile strength. In 2001, prices dropped substantially because of the decline in terephthalic acid feedstock prices and oversupply of polyester film from Asian markets.⁴⁴

DuPont and MFA stated in their joint response to this review, that producer Agfa ceased U.S. PET film production for photographic film and that DuPont and 3M have retired *** lines that had previously served the magnetic media markets.⁴⁵

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

Table I-7 presents information on U.S. imports of PET film during 1987-1990 and 1997-2004. Figure I-1 presents information on U.S. imports of PET film from 1997-2004.

Apparent U.S. Consumption and Market Shares

Table I-8 presents information on apparent U.S. consumption and market shares for the periods 1987-1990, 1998, and 2004.

⁴⁴ Ibid. It should be noted that 2001-02 were recessionary years, and prices should be up substantially in 2004 because of soaring feedstock costs and rising demand. *See Polyethylene Terephthalate (PET) Resin from India, Indonesia, and Thailand: Investigations Nos. 701-TA-439 and 731-TA-1077, 1078 and 1080 (Final)*, USITC Publication 3769, May 2005.

⁴⁵ DuPont/MFA joint response, March 23, 2005, p. 6.

Table I-7
 PET film:¹ U.S. imports, 1987-90 and 1997-2004²

Item	1987	1988	1989	1990	1997	1998	1999	2000	2001	2002	2003	2004
Quantity (1,000 pounds)												
Korea	11,767	22,338	21,086	28,899	68,265	64,418	80,435	52,389	38,623	45,354	48,556	60,007
All other	58,734	65,434	66,075	73,406	89,335	118,560	160,239	186,949	145,265	141,335	154,977	160,942
Total	70,501	87,772	87,161	102,305	157,600	182,977	240,674	239,338	183,888	186,689	203,533	220,949
Landed duty-paid value (\$1,000)												
Korea	14,933	28,910	30,786	38,220	89,782	70,493	73,362	53,147	41,571	46,637	53,919	72,835
All other	117,338	145,002	146,582	151,480	189,841	217,488	256,613	295,891	216,228	217,725	220,904	248,408
Total	132,271	173,912	177,368	189,700	279,623	287,981	329,974	349,037	257,799	264,362	274,823	321,243
Unit value (per pound)												
Korea	\$1.27	\$1.29	\$1.46	\$1.32	\$1.32	\$1.09	\$0.91	\$1.01	\$1.08	\$1.03	\$1.11	\$1.21
All other	\$2.00	\$2.22	\$2.22	\$2.06	2.13	1.83	1.60	1.58	1.49	1.54	1.43	1.54
Total	\$1.88	\$1.98	\$2.03	\$1.85	1.77	1.57	1.37	1.46	1.40	1.42	1.35	1.45
Share of quantity (percent)												
Korea	16.7	25.5	24.2	28.2	43.3	35.2	33.4	21.9	21.0	24.3	23.9	27.2
All other	83.3	74.6	75.8	71.8	56.7	64.8	66.6	78.1	79.0	75.7	76.1	72.8
Average	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0%	100.0
Share of value (percent)												
Korea	11.3	16.6	17.4	20.1	32.1	24.5	22.2	15.2	16.1	17.6	19.6	22.7
All other	88.7	83.4	82.6	79.9	67.9	75.5	77.8	84.8	83.9	82.4	80.4	77.3
Average	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

¹ Compiled using HTS subheading 3920.62.00. Effective July 1, 2003, HTS subheading 3920.62.00 was annotated with statistical reporting numbers 3920.62.0010 (metallized PET film) and 3920.62.0090 (other than metallized PET film). The subject merchandise includes only non-metallized PET film. However, the official import data presented prior to July 1, 2003, includes both non-metallized (subject) and metallized (nonsubject) PET film. The official import data presented are overstated to the extent that they include imports of nonsubject "metallized" PET film.

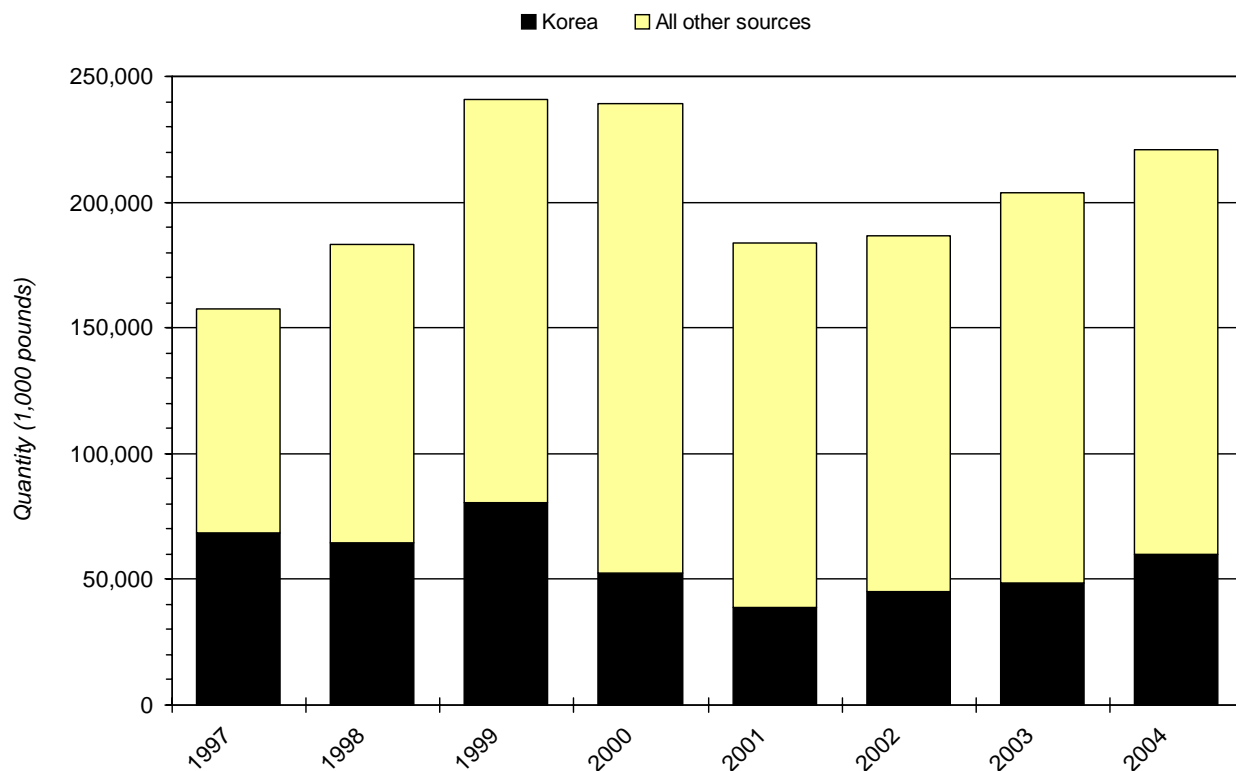
² Since the original order, antidumping duty orders have been revoked for three firms, Cheil (Toray Saehan), Kolon, and HSI. SKC is currently subject to an antidumping duty rate of 1.91 percent *ad valorem*. STC is currently subject to an antidumping duty rate of 0.37 percent *ad valorem*. Hyosung Living Industry (Hyosung) is currently subject to an antidumping duty rate of 0.00 percent *ad valorem*. All other producers and exporters (including Kohap) are subject to an "all other" antidumping duty rate of 21.50 percent *ad valorem*.

³ Not applicable.

Note.—Data presented for the period 1987-90 are based on the staff report of May 13, 1991, p. A-60 (based on questionnaire responses). Data for all other periods are based on official Commerce statistics.

Source: Compiled from the staff report of May 13, 1991, and official Commerce statistics.

Figure I-1
PET film: U.S. imports,¹ by sources, 1997-2004



¹ Compiled using HTS subheading 3920.62.00. Effective July 1, 2003, HTS subheading 3920.62.00 was annotated with statistical reporting numbers 3920.62.0010 (metallized PET film) and 3920.62.0090 (other than metallized PET film). The subject merchandise includes only non-metallized PET film. However, the official import data presented prior to July 1, 2003, includes both non-metallized (subject) and metallized (nonsubject) PET film. The official import data presented are overstated to the extent that they include imports of nonsubject "metallized" PET film.

The import data for Korea include subject and nonsubject imports. Three firms, Cheil (Toray Saehan), Kolon, and HSI, have had their orders revoked, and one firm, Hyosung, has a 0.00 percent *ad valorem* antidumping duty rate.

Source: Table I-7.

Table I-8
PET film:¹ U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1987-90, 1998, and 2004²

Item	1987	1988	1989	1990	1998	2004 ²
	Quantity (1,000 pounds)					
U.S. producers' domestic shipments ³	***	***	***	***	***	***
U.S. imports from: ⁴						
Korea ⁵	11,767	22,338	21,086	28,899	64,419	60,007
All other sources	58,734	65,434	66,075	73,406	118,560	160,942
Total imports	70,501	87,772	87,161	102,305	182,979	220,949
Apparent U.S. consumption	***	***	***	***	***	***
	Value (\$1,000)					
U.S. producers' domestic shipments ³	***	***	***	***	***	***
U.S. imports from: ⁴						
Korea ⁵	14,933	28,910	30,786	38,220	70,493	72,835
All other sources	117,338	145,002	146,582	151,480	217,488	248,408
Total imports	132,271	173,912	177,368	189,700	287,981	321,243
Apparent U.S. consumption	***	***	***	***	***	***
	Share of apparent U.S. consumption based on quantity (percent)					
U.S. producers' domestic shipments	***	***	***	***	***	***
U.S. imports from:						
Korea	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
	Share of apparent U.S. consumption based on value (percent)					
U.S. producers' domestic shipments	***	***	***	***	***	***
U.S. imports from:						
Korea	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***

¹ PET film consists of PET film and equivalent PET film such as Cronar® and Estar®.

² The data for 2004 are understated since they are based on the responses of only two firms, DuPont and MFA, that accounted for approximately *** percent of U.S. production in 2004.

³ U.S. producers' shipments data for 2004 are based on the responses of two U.S. producers, DuPont and MFA, which are believed to account for approximately *** percent of U.S. production.

⁴ Based on official Commerce statistics compiled using HTS subheading 3920.62.00. Effective July 1, 2003, HTS subheading 3920.62.00 was subdivided into statistical reporting numbers 3920.62.0010 (metallized PET film) and 3920.62.0090 (other than metallized PET film). Official import data are overstated to the extent that they include imports of nonsubject "metallized" PET film.

⁵ The import data presented for Korea include subject and nonsubject imports. Three firms, Cheil (Toray Saehan), Kolon, and HSI, have had their orders revoked, and one firm, Hyosung, has a 0.00 percent *ad valorem* antidumping duty rate.

Note.--Data presented for U.S. producers' domestic shipments for the period 1987-90 are based on the staff report of May 13, 1991; imports are based on official Commerce statistics and include subject and nonsubject imports; data for 1998 are based on memorandum INV-X-002, staff report of January 4, 2000. Data for 2004 are based on the DuPont/MFA joint response, March 23, 2005.

Source: Compiled from data presented in the staff reports in the original investigation and the first five-year review; DuPont/MFA joint response, March 23, 2005; and official Commerce statistics.

THE INDUSTRY IN KOREA⁴⁶

During the original investigation, the Commission identified four Korean producers of the subject merchandise. As of May 1, 2002, there were six manufacturers of PET film in Korea. Information on the Korean PET film industry is presented in the following tabulation:

Company	Annual capacity (1,000 pounds)
HSI	***
Hyosung	***
Kohap ¹	***
Kolon	***
SKC	***
Toray Saehan	***
Total	***

¹ DuPont/MFA's April 8, 2005, response to supplemental questions (p. 2) omits this firm as a current producer.

Total Korean capacity, production, and shipment data for 1987-90 and 1998 are presented in table I-9. Capacity for PET film grew rapidly in Korea since the original investigation, from 235 million pounds per year in 1990 to *** pounds per year in 1998.⁴⁷ Production of PET film in Korea has also increased; however, capacity utilization fell from 91 percent in 1990 to *** percent in 1998.⁴⁸ Although Korean consumption of PET film grew from 1990 to 1998, due to primarily the growth in magnetic tape applications, exports of Korean PET film grew much more rapidly during that period.

The United States has been the major destination for Korean exports of PET film, accounting for *** percent of Korean PET film exports during 1998. Germany, Hong Kong, and Japan are other major destinations for Korean PET film exports. However, since SKC reportedly began PET film operations at its U.S. plant in 1999 and since Korean producers had a large oversupply to the home market, Japan was expected to become the major target for Korean exports in the future.

SKC

SKC, *** Korean PET film producer, was the first commercial producer of PET film in Korea. Beginning PET film production in 1978, the company expanded its capacity from *** pounds to *** pounds in 1997. In addition to commercial production, SKC captively consumed PET film, primarily for the production of magnetic media, including videotape and audiotape. During 1999, the company reportedly began PET film production in the United States and was expected to scale up U.S. production capacity to *** pounds by ***.

⁴⁶ Unless otherwise indicated, the information in this section is from *2002 Chemical Economics Handbook, Marketing Research Report, SRI International*, p. 580.1171Z; 580.1172A.

⁴⁷ DuPont and MFA estimate that in 2004, Korean PET film producers had an annual production capacity of more than 600 million pounds to service a domestic market of less than 350 million pounds. See DuPont/MFA joint response, March 23, 2005, p. 5.

⁴⁸ *2002 Chemical Economics Handbook, Marketing Research Report, SRI International*, p. 580.1170J-K.

Table I-9

PET film: Korea's capacity, production, and shipments, 1987-90,¹ 1998,² and 2004

Item	1987	1988	1989	1990	1998	2004 ³
	Quantity (1,000 pounds)					
Capacity	***	170,550	203,700	234,663	***	600,000
Production	***	153,135	194,830	213,147	***	(⁴)
Capacity utilization	***	89.8	95.6	90.8	***	(⁴)
Shipments:						
Home market	***	80,744	108,298	127,555	***	(⁴)
Exports:						
United States	***	25,104	26,815	25,474	64,419	(⁴)
Other	***	43,189	49,741	58,171	***	(⁴)
Total exports	***	68,293	76,556	83,645	***	(⁴)
Total shipments	***	149,037	184,854	211,200	***	(⁴)
<p>¹1987-90 data were derived from the Staff Report of May 13, 1991, p. A-55 (which were based on the questionnaire responses of SKC, Cheil, Kolon, and STC).</p> <p>²Included in the data for 1998 are two Korean firms that were excluded from the order by Commerce. These two firms accounted for *** percent of the Korean annual capacity to produce PET film, as of February 1, 1999. 1998 Korean capacity, production, and capacity utilization data were derived from 1999 <i>Chemical Economics Handbook, Marketing Research Report, SRI International</i>, p. 580.1172D-E. 1998 shipment data were derived using official Commerce import statistics and 1999 <i>Chemical Economics Handbook, Marketing Research Report, SRI International</i>, p. 580.1172E.</p> <p>³DuPont/MFA joint response, March 23, 2005, p. 5.</p> <p>⁴Data not available.</p>						
Source: <i>Staff Report of May 13, 1991</i> , p. A-55, and 1999 <i>Chemical Economics Handbook, Marketing Research Report, SRI International</i> .						

Toray Saehan

Toray Saehan (formerly known as Cheil) began expanding its capacity to produce PET film in January 1996.⁴⁹ In 1999, the company had a *** pounds-per-year capacity. Toray Industries Inc. (a Japanese producer of PET film) recently acquired Saehan and according to an article published in the *Daily Industry*, Toray intends to commit Saehan's PET film production to the U.S. market as part of Toray's plan to "increase its share."⁵⁰

Kolon

Kolon also expanded its annual capacity from *** pounds to *** pounds during 1995-97, but has subsequently downsized.⁵¹ In addition to these expansions by existing manufacturers, H.S. Industries, Hyosung Living Industry, and Kohap Ltd. initiated production of PET film in 1997. The only recent closure reported was at the end of 1996 when SKC closed a *** pounds-per-year facility; however, the newcomers to the PET film industry have reportedly faced severe economic conditions since 1998 and

⁴⁹ Commerce revoked the order with respect to Cheil, effective July 5, 1996.

⁵⁰ DuPont/MFA joint response, March 23, 2005, p. 7.

⁵¹ Commerce revoked the order with respect to Kolon, effective November 14, 1996.

were considering exiting the PET film market; however, they recently seemed to overcome the situation. Kolon had a reported annual capacity to produce PET film of *** pounds as of May 1, 2002.

ANTIDUMPING DUTY ORDERS IN THIRD COUNTRY MARKETS

On August 13, 2001, the European Union (EU) imposed antidumping orders on imports of PET film from India and Korea.⁵² The EU's antidumping duties on imports of PET film from India range from 7.0 percent to 72.4 percent *ad valorem*. The EU's antidumping duties on imports of PET film from Korea are presented in table I-10. On October 5, 2001, India imposed antidumping orders on imports of PET film from Korea.⁵³

Table I-10
PET film: The European Union's antidumping duties on imports from Korea, by firms¹

Company	Antidumping duty margins
	<i>Percent ad valorem</i>
HS Industries	7.5
Hyosung Corp.	7.5
Kohap Corp.	7.5
Kolon Industries	0.0
SKC Industries	7.5
Toray Saehan	0.0
All other companies	13.4

¹ Counsel Regulation (EC) 1676/2001, Imports of Polyethylene Terephthalate Film Originating in India and the Republic of Korea (August 13, 2001).

⁵² See DuPont/MFA joint response, March 23, 2005, p. 5. See also Counsel Regulation (EC) 1676/2001, Imports of Polyethylene Terephthalate Film Originating in India and the Republic of Korea (August 13, 2001).

⁵³ See DuPont/MFA joint response, March 23, 2005, p. 5. See also Indian Department of Revenue, notification of October 5, 2001, available at <http://www.cbec.gov.in/cae/customs/cs-act/notifications/cs-notfns-idx.htm>.

APPENDIX A

FEDERAL REGISTER NOTICES

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-459 (Second
Review)]****Polyethylene Terephthalate (PET) Film
From Korea****AGENCY:** United States International
Trade Commission.**ACTION:** Institution of a five-year review
concerning the antidumping duty order
on PET film from Korea.**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 PET film
from Korea 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;¹ to be assured of
consideration, the deadline for
responses is March 23, 2005. Comments
on the adequacy of responses may be
filed with the Commission by April 18,
2005. 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).**EFFECTIVE DATE:** February 2, 2005.**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

¹ 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. 05-5-110, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 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.

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:

Background—On June 5, 1991, the Department of Commerce issued an antidumping duty order on imports of PET film from Korea (56 FR 25669). The original order was amended pursuant to final court decision on September 26, 1997 (62 FR 50557). Following five-year reviews by Commerce and the Commission, effective March 7, 2000, Commerce issued a continuation of the antidumping duty order on imports of PET film from Korea (65 FR 11984). The Commission is now conducting a second review to determine whether revocation of the order 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 a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Korea.

(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 and expedited five-year review determinations, the Commission defined the *Domestic Like Product* as all PET film, including equivalent PET film. One Commissioner defined the *Domestic Like Product* differently in the original investigation.

(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 and expedited five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of

PET film, including equivalent PET film. One Commissioner defined the *Domestic Industry* differently in the original investigation.

(5) 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 review 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 review 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 review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, 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 this review available to authorized applicants under the APO issued in the review, 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 review. 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 this review 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 March 23, 2005. 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 an expedited or full review. The deadline for filing such comments is April 18, 2005. 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 review must be served on all other parties to the review (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 review 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 determination in the review.

Information to be Provided in Response to This Notice of Institution: 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 this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order 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 the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 1998.

(7) 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 2004 (report quantity data in pounds 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) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds 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 the *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 the *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 the *Subject Country*.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds 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 the *Subject Country* accounted for by your firm's(s') production; and

(b) 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 the *Subject Country* accounted for by your firm's(s') exports.

(10) 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 the *Subject Country* after 1998, 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*, and such merchandise from other countries.

(11) (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: This review is 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.

Issued: January 21, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-1946 Filed 2-1-05; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731–TA–459 (Second Review)]

**Polyethylene Terephthalate (PET) Film
From Korea**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on polyethylene terephthalate (PET) film from Korea.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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).

Effective Date: May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Fred Fischer ((202) 205–3179 or fred.fischer@usitc.gov), 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:

Background. On May 9, 2005, the Commission determined that the domestic interested party group response to its notice of institution (70

FR 5473, February 2, 2005) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 2, 2005, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before September 6, 2005, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 6, 2005. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper

¹ 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.

² The Commission has found the responses submitted by DuPont Teijin Films and Mitsubishi Polyester Film, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (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.

Determination. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

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.

By order of the Commission.

Issued: May 20, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-10493 Filed 5-25-05; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-807]

Polyethylene Terephthalate Film from Korea; Five-year (Sunset) Reviews of Antidumping Duty Order; Final Results

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

SUMMARY: On February 2, 2005, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on polyethylene terephthalate (PET) film

from Korea, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of the notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and no response from respondent interested parties, the Department conducted an expedited sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order on PET film from Korea would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 9, 2005.

FOR INFORMATION CONTACT: Dana Mermelstein or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-1391 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2005, the Department initiated a sunset review of the antidumping duty order on PET film from Korea pursuant to section 751(c) of the Act. *See Initiation of Five-year ("Sunset") Reviews*, 70 FR 5415 (February 2, 2005). The Department received a notice of intent to participate from two domestic interested parties, DuPont Teijin Films (DTF) and Mitsubishi Polyester Film LLC (Mitsubishi), within the deadline specified in 19 C.F.R. § 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as a U.S. producer of a domestic like product. We received a complete substantive response from domestic interested parties within the 30-day deadline specified in 19 C.F.R. § 351.218(d)(3)(i). However, we did not receive any response from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 C.F.R. § 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of the order.

On May 26, 2005, the Department extended the time limit for the final results of this sunset review to not later than August 31, 2005. *See Polyethylene Terephthalate Film from South Korea; Extension of Time Limit for Final Results of Sunset Review of Antidumping Duty Order*, 70 FR 30416 (May 26, 2005).

Scope of the Order

The antidumping duty order on PET film from Korea covers shipments of all gauges of raw, pre-treated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or co-extruded. The films excluded from this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00.¹ While the HTS subheading is provided for convenience and for customs purposes, the written description remains dispositive as to the scope of the product coverage.

This sunset review covers imports from all producers and exporters of PET film from Korea, other than imports by Toray Saehan, Inc.² and Kolon Industries, for which the order was revoked.

Analysis of Comments Received

All issues raised in this case are addressed in the "Issues and Decision Memorandum" from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 30, 2005 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this sunset review

¹ Effective July 1, 2003, the HTS subheading 3920.62.00.00 was divided into 3920.62.00.10 (metallized PET film) and 3920.62.00.90 (non-metallized PET film).

² In a changed circumstances review, the Department determined that Toray Saehan, Inc. was the successor-in-interest to Saehan Industries, Inc. (Saehan). *See Polyethylene Terephthalate Film, Sheet and Strip from Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 65 FR 34661 (May 31, 2000). Prior to that, in another changed circumstances review, the Department determined that Saehan was the successor-in-interest to Cheil Synthetics, Inc. (Cheil). *See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 3703 (January 26, 1998). The Department calculated margins for Cheil in the investigation of PET film from Korea and in subsequent reviews.

and the corresponding recommendation in this public memorandum, which is on file in room B-099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>, under the heading "September 2005." The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on PET Film from Korea would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
SKC Limited and SKC America, Inc.	13.92
All Others	21.50

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. § 351.305 of the Department's regulations. Timely notification of the return or 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.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5-4942 Filed 9-8-05; 8:45 am]

BILLING CODE 3510-DS-S

APPENDIX B

STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Polyethylene Terephthalate (PET) Film from Korea
Inv. No. 731-TA-459 (Second Review)

On May 9, 2005, the Commission determined that it should proceed to an expedited review in the subject five-year review 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 domestic interested party group response to the notice of institution was adequate. The Commission received a single response filed on behalf of two domestic producers, DuPont Teijin Films and Mitsubishi Polyester Film, LLC. Because the Commission received an adequate response from domestic producers that collectively account for a significant portion of U.S. production of the domestic like product, the Commission determined that the domestic interested party response was adequate.

The Commission did not receive a response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response, and any other circumstances that it deemed warranted proceeding to a full review, the Commission determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site (<http://www.usitc.gov>).

