

prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Tariff Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (the Commission), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (section 771(10) of the Tariff Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988) ("the ITC does not look behind ITA's

determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV").

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

In determining whether the domestic petitioner has standing, we considered the industry support data contained in the petition with reference to the domestic like product as defined above in the "Scope of the Investigations" section. To establish standing, petitioner provided its actual production data for the domestic like product for the year 2002. To estimate 2002 production for all other domestic thermal transfer ribbon producers named in the petition, petitioner estimated production data by several means. These estimated production data were added to the actual production data detailed above to arrive at total estimated U.S. production of thermal transfer ribbon for the year 2002 in thousands of square inches (msi). See Petition at Exhibit A-1 and Exhibit A-2 containing an affidavit by an IIMAK thermal transfer ribbon division official describing how the production data were estimated.

Using the data described above, the share of total estimated U.S. production of thermal transfer ribbon in 2002 represented by petitioner (there were no other supporting parties) equals over 50 percent of total domestic production. Therefore, the Department finds the domestic producers who support the Petition account for at least 25 percent of the total production of the domestic like product. In addition, as no domestic producers have expressed opposition to the Petition, the Department also finds the domestic producers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.

With regard to the domestic like product, petitioner's definition of the like product is identical to the scope of these investigations. *See* Petition at 69. Based on our analysis of the information submitted in the Petition we have determined there is a single domestic like product, thermal transfer ribbons in slit or jumbo form, which is defined

further in the "Scope of the Investigations" section above, and we have analyzed industry support in terms of that domestic like product. For more information on our analysis and the data upon which we relied, *see* the Antidumping Investigation Initiation Checklist (Initiation Checklist), dated June 19, 2003, at "Industry Support," and Appendix 1.

Therefore, we find that petitioners have met the requirements of section 732(c)(4)(A) of the Tariff Act.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The source or sources of data for the deductions and adjustments relating to U.S. and foreign market prices and cost of production and constructed value have been accorded treatment as business proprietary information. Petitioner's sources and methodology are discussed in greater detail in the business proprietary version of the Petition and in our Initiation Checklist. We corrected certain information contained in the petition's margin calculations; these corrections are set forth in detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Tariff Act in our preliminary or final determinations, we may re-examine this information and revise the margin calculations, if appropriate.

Period of Investigation

The period of investigation for these cases will be April 1, 2002 through March 31, 2003, or the four most-recently completed fiscal quarters as of the month preceding the month in which the petition was filed. *See* 19 CFR 351.204(b).

France

Constructed Export Price

To calculate constructed export price (CEP) petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in the home market. Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a