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Exhibits 2-4, 9, 14, 16-18 of Volume I.

**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

In the Matter of)	PETITIONS FOR THE IMPOSITION
)	OF ANTIDUMPING AND
CERTAIN PAPER SHOPPING BAGS)	COUNTERVAILING DUTIES
FROM CAMBODIA, CHINA,)	
COLOMBIA, INDIA, MALAYSIA)	
PORTUGAL, TAIWAN, TURKEY,)	<u>VOLUME I: GENERAL ISSUES</u>
AND VIETNAM)	<u>AND INJURY</u>

**Petitioner:
Coalition For Fair Trade in Shopping Bags**

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**PETITIONS FOR THE IMPOSITION OF ANTIDUMPING DUTIES AND
COUNTERVAILING DUTIES ON IMPORTS OF CERTAIN PAPER SHOPPING BAGS
FROM CAMBODIA, CHINA, COLOMBIA, INDIA, MALAYSIA, PORTUGAL,
TAIWAN, TURKEY, AND VIETNAM**

VOLUME I: GENERAL ISSUES AND INJURY

I. INTRODUCTION

These petitions are filed by the Coalition for Fair Trade in Shopping Bags (the “Coalition” or “Petitioner”).¹ For purposes of this volume, we will refer to the products at issue as “paper shopping bags.”

The petitions seek the imposition of antidumping duties on U.S. imports paper shopping bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam, pursuant to Section 731 of the Tariff Act of 1930, as amended (the “Act”), codified at 19 U.S.C. § 1673. The petitions present evidence that imports of shopping bags from each subject country is being sold in the United States at less than normal value. The petitions also seek the imposition of countervailing duties on U.S. imports of shopping bags from China and India, pursuant to Section 701 of the Act, codified at 19 U.S.C. § 1671. The petitions present evidence that imports of shopping bags from China and India are benefiting from countervailable subsidies.

The petitions also show that dumped and subsidized imports from the subject countries have: (1) taken sales from the domestic industry, (2) made it impossible for domestic producers to obtain a fair rate of return on their operations, and (3) put the future of the domestic industry at risk. In short, trade relief is not only appropriate – but essential – to prevent further harm to domestic producers of paper shopping bags.

¹ Members of the Coalition include Novolex Holdings, LLC (“Novolex”) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“United Steelworkers” or “USW”) on behalf of the U.S. industry producing certain paper shopping bags.

The petitions contain separate volumes for the allegations of dumping for Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam,² and two separate volumes for the allegations of subsidies for China and India.³ This volume contains general information related to all the petitions, as well as required information concerning material injury and threat of material injury to the domestic industry. The allegations contained in these petitions consist of information that is reasonably available to the Petitioner to support the allegations made. The petitions are being filed in conformity with the requirements of Section 351.202 of the regulations of the U.S. Department of Commerce (“the Department”)⁴ and Section 207.11 of the regulations of the U.S. International Trade Commission (“ITC” or “Commission”).⁵

II. GENERAL INFORMATION

A. The Petitioner And The Degree Of Industry Support For The Petitions

1. The Petitioner

The petitioner in this investigation is the *ad hoc* Coalition for Fair Trade in Shopping Bags.

Novolex produces subject merchandise under the Duro Brand at its manufacturing facilities in Florence, KY, Walton, KY, Monroe, GA, Vancouver, WA, and Meriden, CT. Novolex also operates a warehouse for subject merchandise in Erlanger, KY. In addition, Novolex has a paper shopping bag manufacturing facility in Rio Bravo, Mexico. Novolex has approximately 950 employees working in facilities that produce paper shopping bags in the

² See Volumes II to X of these petitions.

³ See Volume XI-XII of these petitions.

⁴ See generally 19 C.F.R. § 351.202.

⁵ See generally 19 C.F.R. 207.11(b)(2)(i).

United States. Novolex is an interested party within the meaning of the Act.⁶ Contact information for Novolex is provided below:

Novolex Holdings, LLC
3436 Toringdon Way, Suite 100
Charlotte, NC 28277
Contact: Daniel L. Rikard, General Counsel & Secretary
Tel: (980) 498-4049
E-mail: dan.rikard@novolex.com
<https://www.novolex.com>

The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”) supports these petitions.⁷ The USW is a union representing 850,000 workers employed in manufacturing, metals, mining, pulp and paper, rubber, chemicals, glass, auto supply, and the energy-producing industries, along with a growing number in tech, public sector, and service occupations. The USW represents workers at Novolex’s paper shopping bag manufacturing facilities in Florence, KY, and Walton, KY, as well as the workers at the Erlanger, KY warehouse. Thus, the USW is an interested party within the meaning of the Act.⁸ Contact information for the USW is provided below:

United Steelworkers
60 Boulevard of the Allies
Pittsburgh, PA 15222
Contact: Roy Houseman, Legislative Director
rhouseman@usw.org
(412) 562-2400
<https://www.usw.org>

⁶ See 19 U.S.C. § 1677(9)(C) (defining “interested party” to include “a manufacturer, producer, or wholesaler in the United States of a domestic like product”).

⁷ See Declaration of Roy Houseman, provided at **Exhibit I-1**.

⁸ See 19 U.S.C. § 1677(9)(D) (defining “interested party” to include “a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product”).

2. Other U.S. producers⁹

Petitioner believes that there are two other domestic producers of subject merchandise, listed below.

American Paper Bag, LLC

1110 Hanover Street

Sugar Notch, PA 18706

Contact: Ryan Hollis, Chairman and Chief Operating Officer

Tel: (570) 331-8122

E-mail: ryan@americanpaperbag.com

<https://www.americanpaperbag.com>

ProAmpac, LLC

Corporate Headquarters

12025 Tricon Road

Cincinnati, OH 45246

Contact: Adam Grose, Chief Commercial Officer

Tel: (413) 875-9836

E-mail: Adam.Grose@proampac.com

<https://www.proampac.com>

3. Industry support for the petitions

The Department will determine that the petitions have sufficient industry support if the following criteria are met: (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product made by that portion of the industry expressing support for or opposition to the petition.¹⁰

⁹ See 19 C.F.R. § 207.11(b)(2)(ii) and 19 C.F.R. § 351.202(b)(2).

¹⁰ See 19 U.S.C. § 1673a(c)(4)(A).

This petition is supported by Novolex and by American Paper Bag.¹¹ []¹² Novolex and American Paper Bag collectively account for significantly more than 25 percent of production in the United States, and [

] Please see **Exhibit I-4** for the calculation of industry support.

B. Related Proceedings And Previous Requests For Relief¹³

Antidumping and Countervailing Duty Proceedings. Petitioner is not aware of any previous antidumping or countervailing duty cases on the merchandise covered by these petitions.

Novolex, through its subsidiary and division now known as Hilex Poly Co., LLC (“Hilex Poly”), previously participated in the antidumping investigations and five-year reviews covering *Polyethylene Retail Carrier Bags* (“PRCBs”) from China, Malaysia, and Thailand.¹⁴ Hilex Poly was also a petitioner in the antidumping and countervailing investigations and participated in the five-year reviews covering PRCBs from Indonesia, Taiwan, and Vietnam.¹⁵

Section 301. In April 2018, the U.S. Trade Representative (“USTR”) determined that acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation were unreasonable or discriminatory and burden or restrict

¹¹ See Letter of Support from American Paper Bag provided in **Exhibit I-2**.

¹² See [] provided in **Exhibit I-3**.

¹³ See 19 C.F.R. § 351.202(b)(4).

¹⁴ *Polyethylene Retail Carriers Bags from China, Malaysia, and Thailand*, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 (Aug. 2004). Hilex Poly purchased the high-density film division of a member of the petitioning coalition, Sonoco Products, Co., in February 2004.

¹⁵ *Polyethylene Retail Carriers Bags from Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144 (Apr. 2010).

U.S. commerce.¹⁶ In response to these acts, policies, and practices, the USTR used its authority under Section 301 of the Trade Act of 1974 to impose additional duties on several products from China.¹⁷ At that time, Section 301 duties did not apply to shopping bags.

On August 20, 2019, USTR modified its Section 301 measures by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion.¹⁸ The tariff subheadings subject to these additional duties were separated into two lists with different effective dates (*i.e.*, Annex A and Annex B). The list in Annex A had an effective date of September 1, 2019. That list included the following HTS subheadings, both of which include products within the scope of these investigations: 4819.30.0040 and 4819.40.0040.¹⁹

USTR subsequently increased the rate of the additional duty applicable to the tariff subheadings covered by Section 301 duties covered by the action announced on August 20 from 10 percent to 15 percent.²⁰ However, on January 22, 2020, USTR reduced the level of additional duties on these products from 15 percent to 7.5 percent, effective February 14, 2020.²¹ These duties remain in place today. There are no Section 301 duties imposed on other subject countries.

¹⁶ See 83 Fed. Reg. 14906 (Apr. 6, 2018).

¹⁷ See 83 Fed. Reg. 28710 (June 20, 2018); 83 Fed. Reg. 40823 (Aug. 16, 2018); 83 Fed. Reg. 47974 (Sept. 21, 2018).

¹⁸ See 84 Fed. Reg. 43304 (Aug. 20, 2019).

¹⁹ *Id.*

²⁰ See 84 Fed. Reg. 45821 (Aug. 30, 2019).

²¹ See 85 Fed. Reg. 3741 (Jan. 22, 2020).

C. Description Of The Subject Merchandise

The Department's regulations ask petitioners to provide a "detailed description of the subject merchandise that defines the requested scope of the investigation, including the technical characteristics and uses of the merchandise and its current U.S. tariff classification number."²²

This information is provided below.

1. Technical characteristics and end uses

Paper shopping bags are bags with handles. They are commonly used by commercial establishments as shopping carrier bags or delivery bags by restaurants as take-away bags or delivery bags. Paper shopping bags are typically made from Kraft paper. The Kraft paper can be made with virgin fiber or recycled fiber to meet customers' demands. Petitioner purchases the paper used to make their paper shopping bags from unrelated suppliers. Petitioner believes that the two other domestic producers also purchase the paper they use to make paper shopping bags.

Paper shopping bags can be brown, white, or colored paper. They can be sold unprinted or printed with a design or logo. Paper shopping bags can be used as a vehicle to project the brand image of retailers and food service providers. Paper is very tactile due to its texture and shape. Its print quality and color reproduction allow for creativity in advertising and development of brand image. Paper shopping bags are recyclable.

2. U.S. tariff classification numbers

Paper shopping bags are classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheadings 4819.30.0040 and 4819.40.0040. Petitioner understands these tariff categories are basket categories that include products other than paper shopping bags,

²² 19 C.F.R. § 351.202(b)(5).

including grocery sacks and other paper bags. The General Duty rate of tariffs under each of these subheadings and statistical reporting numbers is “Free.”²³

3. Requested scope of the investigations

The following language describes the imported merchandise that Petitioner intends to be included in the scope of these investigations:

The products within the scope of these investigations are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.*, folded, serrated, or otherwise), and regardless of whether the tops can be sealed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Excluded from the scope are:

- Multiwall sacks and bags;
- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.*, 11.5-12.5 inches in width, 6.5-7.5 inches in depth, and 13.5-17.5 inches in height) with flat paper handles;
- Paper sacks or bags with die-cut handles, a standard basis paper weight of less than 38 pounds, and a height of less than 11.5 inches;
- Shopping bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags; and
- Gift bags marked for retail sale that are physically bundled into the saleable unit prior to importation such that each bundled unit is composed of no less than three individual bags and no more than 30 individual bags.

This merchandise is currently classifiable under HTS item numbers 4819.30.0040 and 4819.40.0040.

D. Class Or Kind Of Merchandise And Domestic Like Product²⁴

The paper shopping bags covered by these investigations comprise a single class or kind of merchandise. Pursuant to 19 U.S.C. § 1677(10), paper shopping bags represent the product that is “like, or in the absence of like, most similar in characteristics and uses with the article

²³ See Relevant pages from HTS Chapter 48, attached as **Exhibit I-5**.

²⁴ 19 C.F.R. § 207.11(b)(2)(iv).

subject to investigation.” Thus, as explained in **Section III** below, there is a single like product in these investigations, and that category includes all paper shopping bags described by the scope of these investigations.

E. Countries Of Exportation²⁵

The countries in which the subject merchandise is manufactured or produced are Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam. Data regarding U.S. imports from these countries is included in **Exhibit I-6**. The Petitioner is not aware of significant volumes of subject merchandise being imported from a country other than the country of manufacture or production.

F. Producers, Exporters,²⁶ Importers,²⁷ And Purchasers²⁸ Of The Subject Merchandise

The names, addresses, and contact information of the foreign producers/exporters of the subject merchandise are provided in **Exhibit I-7**. The Petitioner has not been able to obtain information that would enable them to estimate the percentage of exports accounted for by each individual exporter.

The names, addresses, and contact information of the companies that the Petitioner believes may have imported the subject merchandise into the United States during the most recent twelve-month period preceding the filing of the petitions are listed in **Exhibit I-8**. A list of purchasers is provided in **Exhibit I-9**.

²⁵ See 19 C.F.R. § 351.202(b)(6).

²⁶ See 19 C.F.R. § 351.202(b)(7)(i)(A-B).

²⁷ See 19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9).

²⁸ See 19 C.F.R. § 207.11(b)(2)(v).

Contact information for all parties was collected via Petitioner's market knowledge, as supplemented by research on the Internet and elsewhere. The exhibits referenced above reflect all information that is reasonably available to Petitioner at this time.

G. Volume And Value Of Subject Merchandise

The volume and value of subject merchandise imported into the United States for 2020, 2021, 2022, January-March 2022, and January-March 2023, can be found in Exhibit I-6. As noted above, the HTS classification that includes paper shopping bags includes out-of-scope products, so the volume and value contained in Exhibit I-6, likely overstates the volume and value of subject merchandise.

III. THE DOMESTIC LIKE PRODUCT AND THE DOMESTIC INDUSTRY

A. The Domestic Like Product Includes All Paper Shopping Bags Covered By The Scope Of These Investigations

The domestic like product is defined as the product that is "like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation."²⁹ In these petitions, the "article subject to investigation" includes all items covered by the scope.

By statute, the Commission's analysis of the domestic like product begins with the "article subject to an investigation," *i.e.*, the subject merchandise as determined by the Department.³⁰ Therefore, the scope of the imported merchandise is the starting point for the Commission's analysis.³¹ The Commission then defines the domestic like product in light of the imported articles covered by the scope. The decision regarding the appropriate domestic like product is a factual determination, and the Commission has applied the statutory standard of

²⁹ 19 U.S.C. § 1677(10).

³⁰ See *Thermal Paper from Germany, Japan, Korea, and Spain*, Inv. Nos. 731-TA-1546-1549 (Final), USITC Pub. 5237 (Nov. 2021) at 4 (hereinafter *Thermal Paper*).

³¹ *Id.*

“like” on a case-by-case basis.³² The Commission normally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price.³³ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.³⁴ The Commission looks for clear dividing lines among possible like products and disregards minor variations.³⁵

1. Physical characteristics and uses

The paper shopping bags covered by the scope of these petitions are made from paper and have handles that are commonly, although not necessarily, made from paper. The paper used in paper shopping bags can be made with 100 percent virgin pulp or 100 percent recycled pulp, or some combination of the two. The paper used in paper shopping bags can come in various basis weights typically ranging from 50 pounds (“lbs”) to 80 lbs.³⁶ Paper shopping bags typically are rectangular in shape, have a flat bottom, and have three dimensions – height, width, and length. The height measures how tall the bag is. The length is the measurement of the base of the bag from side to side. The width of a paper shopping bag refers to the measurement of the base of the bag from front to back. The width of the bag is also known as the gusset. Paper shopping bags are designed with indented folds on the side or bottom of the bag to allow it to

³² *Id.* at 5.

³³ See *Nippon Steel Corp. v. United States*, 19 C.I.T. 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

³⁴ *Thermal Paper* at 5.

³⁵ *Id.*

³⁶ Basis weight is the weight of a sheet of paper based on a standard size and typically is equivalent to the weight in pounds of a ream (500 sheets) of paper for a particular grade of paper. See Novolex Product Catalog at 20-21, provided in **Exhibit I-10**.

ship flat, but to expand to full capacity when opened. The flat bottom permits the bag to stand up for ease of loading. Paper shopping bags typically have an envelope shaped fold at the bottom and typically are more precisely finished than grocery bags.

The paper shopping bags covered by these petitions have varying dimensions, but are at least 4.5 inches wide and 2.5 inches deep. There are no fixed industry standard sizes for paper shopping bags. The paper shopping bags covered by the scope commonly have handles made from twisted paper or flat handles made from folded paper, but the handles can be made of other materials. The handles commonly are attached to the bag with a patch that is glued to the inside of the bag, but handles can be affixed using different means. The top edge of the bag can be serrated or folded down to make a smooth edge. Serration and edge folding are done to help prevent paper cuts. The paper shopping bags covered by the scope can be brown, white, or colored. They can be printed or unprinted with words and/or designs.

Paper shopping bags have physical characteristics that differentiate them from other types of paper bags. Other paper bags include grocery bags, self-opening sacks (“SOS bags”), merchandise bags, and industrial bags.

In the United States, grocery bags come in industry standard sizes of 1/6 and 1/7 BBL.³⁷ Grocery bags typically have a serrated top, and sometimes come with a semicircular notch in the top of the bag for easy opening. Most grocery bags do not have handles, but some grocery bags can have flat handles which are typically attached to the outside of the bag. Grocery bags are typically made with paper ranging from 52 to 70 lbs in basis weight. Some grocery bags are made with wet strength kraft paper to prevent bag failure from wet produce or other damp

³⁷ BBL stands for “barrel” and denotes the total capacity of the bag in relation to a barrel of flour or sugar. A 1/6 BBL grocery bag would typically have dimensions of 12.0 x 7.0 x 17.0 inches. A 1/7 BBL grocery bag would typically have dimensions of 12.0 x 7.0 x 14.0 inches. See **Exhibit 11**.

products. Grocery bags and sacks typically have a serrated top edge.³⁸ Grocery bags sometimes have a squared fold on the bottom of the bag, unlike paper shopping bags which are more typically made with an envelope fold.

SOS and merchandise bags are typically made with lighter paper than paper shopping bags, with basis weights typically ranging from 30 lbs. to 50 lbs. Some SOS bags are three dimensional, like paper shopping bags and grocery bags, while merchandise bags are flat (no gusset) or have a satchel bottom, for items such as liquor bottles or bread. SOS bags often have a semicircular notch, known as a thumb notch, on the top for ease of opening. SOS bags vary in size and are typically designated by an industry standard bag size number ranging from 1/2# to 25# that corresponds to the bag dimensions.³⁹ SOS bags do not typically have handles.

Industrial bags are typically multi-wall in design, that is they are made from two or more plies of paper to increase strength and tear resistance. Some industrial paper bags also can have a barrier coating made with plastic. They also are often larger than paper shopping bags, grocery bags, and SOS bags. Industrial bags do not have paper handles.

Paper shopping bags are used by retailers and restaurants to package purchases for customers. Grocery bags, on the other hand, are used primarily by grocery stores for packaging food purchases. SOS bags can be used by retailers to package lighter-weight merchandise or food purchases. Industrial bags are generally used to store and transport heavy, bulk items like cement, pet food, fertilizer, chemicals, building materials, and yard waste.

³⁸ See Novolex Product Catalog at 14-15, provided in Exhibit I-10.

³⁹ See Novolex Product Catalog, at Exhibit I-10.

2. Interchangeability

Paper shopping bags are not interchangeable with other types of paper bags. Paper shopping bags have handles, while nearly all other types of paper bags do not. Handles make paper shopping bags the preferred option for many retailers and restaurants for holding merchandise and food purchases.

3. Channels of distribution

Paper shopping bags can be sold directly to retailers or restaurants, or they can be sold through distributors. Most of petitioner's grocery bags are sold through distributors. SOS bags are sold primarily through distributors. Industrial bags are typically sold to companies producing other products like cement, pet food, fertilizer, chemicals, and building materials, but can also be sold to retailers/wholesalers for sale as bags for collecting and transporting yard waste.

4. Customer and producer perceptions of the products

Customers and producers perceive paper shopping bags differently than they do other types of paper bags. Because paper shopping bags have handles, they are perceived as more convenient and user-friendly than paper bags without handles, including grocery bags and SOS bags. Moreover, paper shopping bags are a means for retailers and restaurants to convey their brand image with printing on the bag.

5. Common manufacturing facilities, production processes, and production employees

The original machinery first used to mass-produce paper bags was invented by a woman, Margaret Knight, who patented her invention in 1880.⁴⁰ The machinery could automatically cut, fold, and glue flat-bottomed paper bags and revolutionized production techniques. Her invention

⁴⁰ Margaret Knight, *National Inventors Hall of Fame*, provided in **Exhibit I-12**.

also allowed for the replacement of less useful v-shaped bags with self-standing flat bottomed bags.⁴¹ Modern paper shopping bag equipment has been improved since this original invention, including the addition of a process step to add the paper handles to the bags.

For Novolex, paper shopping bags are typically produced in separate facilities from those producing grocery bags, SOS bags, and industrial bags. The equipment used by the domestic industry to produce paper shopping bags and grocery bags, SOS bags, and industrial bags is also different. The employees that produce paper shopping bags are not the same employees that produce grocery bags, SOS bags, and industrial bags.

6. Price

Shopping bags typically have a higher price point than grocery bags, SOS bags, and industrial bags.

Given the lack of interchangeability of paper shopping bags with other types of paper bags, the Commission should conclude that paper shopping bags represent a single like product co-extensive with the scope.⁴²

B. The Domestic Industry Includes All U.S. Producers Of Paper Shopping Bags

The Act defines the term “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 total domestic production of the product.”⁴³ To the best of the Petitioner’s knowledge and belief, the companies listed in Section II.A. above account for the vast majority

⁴¹ *Id.*

⁴² *Id.*

⁴³ 19 U.S.C. § 1677(4)(A).

of domestic production in the United States. The Petitioner does not at this time believe that any U.S. producers should be excluded from the domestic industry due to related-party status.⁴⁴

IV. THE DOMESTIC INDUSTRY IS MATERIALLY INJURED BY REASON OF SUBJECT IMPORTS⁴⁵

A. Subject Imports Should Be Cumulated

U.S. law provides that the Commission shall cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which petitions were filed on the same day, if such imports compete with each other and with the domestic like product in the U.S. market.⁴⁶

In these investigations, the Commission should cumulate imports from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam. Petitions against paper shopping bag imports from all these countries are being filed on the same day. Furthermore, as demonstrated below, subject imports from each country compete with each other and the with the domestic like product.

In determining whether imports compete with each other and with the domestic like product, the Commission has generally considered the following four factors:

- The degree of fungibility between the imports from different countries and between imports and the domestic like product;
- The presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;
- The existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

⁴⁴ See 19 U.S.C. § 1677(4)(B)(i).

⁴⁵ See 19 C.F.R. § 351.202(b)(10).

⁴⁶ 19 U.S.C. § 1677(7)(G).

- Whether the imports are simultaneously present in the market.⁴⁷

In these investigations, each factor above weighs in favor of cumulation.

Fungibility. Paper shopping bags all have common characteristics, regardless of the source. For this reason, paper shopping bags made by subject producers and domestic producers are highly fungible. Paper shopping bags produced domestically can, and are, easily substituted with paper shopping bags produced in subject countries, particularly when the price of the imported product is lower than the domestic price. Imports of paper shopping bags from each of the subject countries can be substituted for the domestic like product. In fact, head-to-head competition between such imports and the domestic like product is common, as seen in the Lost Sales/Lost Revenue information provided in these petitions. Thus, fungibility is a factor that weighs in favor of cumulation.

Same Geographic Markets. Domestic producers sell paper shopping bags throughout the U.S. market. **Exhibit I-13** provides data regarding the distribution of subject imports by region throughout the United States. These data indicate that subject merchandise enters the U.S. market through ports throughout the United States. These facts strongly indicate that imports from each subject country compete with each other and with the domestic like product in the same geographic markets.

Channels of Distribution. Domestic producers sell paper shopping bags directly to end users or through distributors. Subject producers also sell paper shopping bags directly to end users and through distributors.

⁴⁷ See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

Simultaneous Presence. Domestic producers have been active in the U.S. market at all times from 2020 through the first quarter of 2023.⁴⁸ The data contain in Exhibit I-5 demonstrate that imports from all nine subject countries were also present in the U.S. market throughout this same period. Thus, this factor certainly supports a finding of cumulation.

Conclusion. All factors normally considered by the Commission support a finding that there is a reasonable overlap of competition between imports from each of the subject countries and the domestic like product. Thus, as part of its analysis of material injury, the Commission should cumulate all subject imports.

B. Negligibility Is Not An Issue In These Investigations

If the Commission finds that imports of the subject merchandise from a particular country are “negligible,” then the investigation into those imports shall be terminated.⁴⁹ Under the Act, dumped and subsidized imports are “negligible” if such imports account for less than three percent of the volume of all such merchandise imported into the United States in the most recent 12-month period.⁵⁰ Imports that would otherwise be negligible under 19 U.S.C. § 1677(24)(A)(i) will not be found to be negligible if the aggregate volume of imports of the merchandise from all countries that account for less than three percent of the total import volume exceeds seven percent of the volume of all such merchandise imported into the United States during the applicable 12-month period.⁵¹ The Act further provides that in the context of a threat

⁴⁸ Trade and Financial Data of Domestic Industry, provided in **Exhibit I-14**.

⁴⁹ See 19 U.S.C. §§ 1671b(a)(1), 1673b(a)(1).

⁵⁰ See 19 U.S.C. § 1677(24)(A)(i). The Act provides that in the case of countervailing duty investigations, the threshold for negligibility shall be 4 percent for imports from a developing country. 19 U.S.C. § 1677(24)(B). In this case, the only countervailing duty petition involves imports from China, and the United States does not regard China as a developing country for purposes of this provision. See Office of the U.S. Trade Representative, *Designations of Developing and Least-Developed Countries Under the Countervailing Duty Law*, 85 Fed. Reg. 7613 (Feb. 10, 2020).

⁵¹ See 19 U.S.C. § 1677(24)(A)(ii).

of injury determination, the Commission shall not treat imports as negligible if it determines that subject imports will imminently exceed the relevant negligibility threshold.⁵² In analyzing negligibility, the Commission may make reasonable estimates on the basis of available statistics.⁵³

Information on subject imports for the most recent 12-month period for which Census data are available is contained in **Exhibit I-15**. The Census data are provided for HTS numbers 4819.30.00.40 and 4819.40.0040. As noted above, these tariff classifications are basket categories for paper bags that includes products that are outside the scope of these petitions. However, these data represent the most accurate publicly available information reasonably available to Petitioner. These data establish that imports from China, Vietnam, India, and Taiwan all exceed the three percent negligibility threshold for the last 12-month period for which data are available. Imports from Colombia, Malaysia, Portugal, Cambodia, and Turkey are below the three percent negligibility threshold, but collectively account for 10.2 percent of total imports for the last 12-month period for which data are available. Imports from Colombia, Malaysia, Portugal, Cambodia, and Turkey should thus be cumulated with each other and with the imports from China, Vietnam, India, and Taiwan for purposes of the Commission's injury analysis, consistent with 19 U.S.C. § 1677(24)(A)(ii).

C. Subject Imports Have Caused Material Injury To The Domestic Industry

In antidumping and countervailing duty investigations, the Commission must determine whether an industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise.⁵⁴ The Act defines “material injury” as “harm

⁵² 19 U.S.C. § 1677(24)(A)(iv).

⁵³ 19 U.S.C. § 1677(24)(C).

⁵⁴ See 19 U.S.C. §§ 1671d(b)(1), 1673d(b)(1).

which is not inconsequential, immaterial, or unimportant.”⁵⁵ When analyzing the causal link between unfair trade and material injury, the Commission has recognized that “{i}n many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry.”⁵⁶ The Commission “need not isolate the injury caused by other factors from injury caused by unfairly traded imports.”⁵⁷ Furthermore, the law does not “require that unfairly traded imports be the ‘principal’ cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.”⁵⁸

In making determinations of material injury by reason of imports of subject merchandise, the Commission considers: (1) the volume of imports of the subject merchandise, (2) the effect of imports of subject merchandise on prices in the United States for domestic like products, and (3) the impact of imports of such merchandise on domestic producers of the domestic like product in the context of production operations within the United States.⁵⁹ As shown below, each of these statutory factors shows that subject imports have caused material injury to the domestic industry.

1. The Volume of Subject Imports Is Significant

a) Import volumes from subject countries

The Department’s regulations state that a petition should contain the “volume and value of the subject merchandise imported during the most recent two-year period and any other recent

⁵⁵ 19 U.S.C. § 1677(7)(A).

⁵⁶ See *Sodium Nitrate from Russia*, Inv. No. 701-TA-680 (Final), USITC Pub. 5342 (Aug. 2022) at 18.

⁵⁷ *Id.* at 19.

⁵⁸ *Id.* at 19-20.

⁵⁹ 19 U.S.C. § 1677(7)(B)(i). The Commission may also consider “such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.” 19 U.S.C. § 1677(7)(B)(ii).

period that the petitioners believe to be more representative.”⁶⁰ In this case, the best information reasonably available to the Petitioner regarding subject import volumes comes from U.S. Census data showing imports under the following HTSUS categories: 4819.30.00.40 and 4819.40.0040. Petitioner believes that these categories cover all imports of the paper shopping bags at issue here, however, certain imports not covered by the scope of these investigations may also be reported under those categories, including grocery bags and SOS bags. Nevertheless, at this time the best information available is the Census data under the HTSUS categories listed above. Furthermore, the Petitioner believes that these data accurately reflect import trends for each of the subject countries. Thus, throughout this discussion, we will use Census data under the HTSUS categories listed above to estimate the volume and value of subject merchandise. Exhibit I-5 contains such data for the period most likely to be considered by the Commission in its preliminary investigations: data for full years 2020 to 2022, and data for January-March 2022 and January-March 2023.

b) Available information indicates that subject import volumes were significant in both absolute and relative terms

The Act provides that “{i}n evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁶¹ As shown in more detail below, the evidence available to Petitioner leaves no doubt that subject imports are significant, both in absolute terms and relative to domestic production.

⁶⁰ 19 C.F.R. § 351.202(b)(8).

⁶¹ 19 U.S.C. § 1677(7)(C)(i).

The table below shows the volume of U.S. imports of paper shopping bags since 2020 (all figures given in short tons):

	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Cambodia	804	2,477	6,041	1,390	825
China	90,567	123,662	119,800	28,409	18,349
Colombia	3,940	7,276	8,715	2,269	1,458
India	7,306	21,318	37,083	9,598	6,722
Malaysia	3,096	8,038	7,865	1,524	1,729
Portugal	4,445	7,679	6,997	1,606	635
Taiwan	6,133	10,946	12,197	3,249	1,852
Turkey	9,194	14,564	9,232	2,583	896
Vietnam	22,952	44,978	50,050	13,137	7,851
SUBJECT IMPORTS	148,438	240,939	257,980	63,764	40,318
Other Countries	101,081	118,938	116,824	29,742	21,991
TOTAL IMPORTS	249,518	359,877	374,804	93,506	62,309

The Census data indicate that subject imports increased by 73.8 percent from 2020 to 2022 but fell by 36.8 percent from January-March 2022 to January-March 2023 (as demand in the U.S. fell in the first quarter of 2023).⁶²

Petitioner's best estimate of apparent consumption of paper shopping bags is contained in **Exhibit I-16**. Based on these estimates, subject import market share of apparent consumption increased from [] percent in 2020 to [] percent in 2022.

Under these circumstances, it seems clear that the increase in subject imports – both in absolute terms and relative to the U.S. market – is significant. Thus, the information available to Petitioner strongly indicates that the volume of subject imports is significant.

⁶² See Exhibit I-6.

2. The Price Effects of Subject Imports Are Significant

In evaluating the effects of subject imports on prices, the Commission shall consider whether: (1) there has been significant underselling by the imported merchandise as compared with the price of the domestic like product, and (2) the effect of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁶³ As shown below, both of these factors support a finding that the adverse price effect of unfairly traded paper shopping bags was significant.

a) Evidence regarding underselling

Petitioner has experienced significant underselling by subject imports throughout the period of investigation, and underselling continues today. This underselling has resulted in significant lost revenues to the domestic industry, as well as lost volumes when the domestic industry was not in a position to lower prices down to the level of dumped subject imports. In fact, many of the offers of subject imports are at prices that are [

]

Underselling of domestic producer prices by subject imports is evident from a comparison of domestic producer's average unit values ("AUVs) with the AUVs of subject producers based on Census data. As these data demonstrate, the average AUV for subject imports undersold domestic producers' prices by [] percent in 2021, by [] percent in 2022, and by [] percent in the first quarter of 2023.⁶⁴

⁶³ 19 U.S.C. § 1677(7)(B)(ii).

⁶⁴ See Underselling analysis, provided in **Exhibit I-17**.

These facts represent the best information available to Petitioner at this time. However, as part of its preliminary investigation, the Commission can obtain pricing data for both the domestic like product and subject imports. Petitioner requests that the Commission collect data for the following representative products:

- **Product 1** – Plain kraft (brown) bag with a serrated top that has an 8-inch wide face, with a 4.5-inch gusset, and that is 10.25 inches tall (without measuring the handles), with paper twisted handles affixed to the bag by patches. Bags that are within +/- 0.5 inches of any defined measurement should be included in this category.
- **Product 2** – Plain kraft (brown) bag with a serrated top that has a 10-inch wide face, with a 6.75-inch gusset, and that is 12 inches tall (without measuring the handles), with paper twisted handles affixed to the bag by patches. Bags that are within +/- 0.5 inches of any defined measurement should be included in this category.
- **Product 3** – Plain kraft (brown) bag with a serrated top that has a 16-inch wide face, with a 6-inch gusset, and that is 12 inches tall (without measuring the handles), with paper twisted handles affixed to the bag by patches. Bags that are within +/- 0.5 inches of any defined measurement should be included in this category.
- **Product 4** – Plain kraft (brown) bag with a serrated top that has a 14-inch wide face, with a 10-inch gusset, and that is 15.5 inches tall (without measuring the handles), with paper twisted handles affixed to the bag by patches. Bags that are within +/- 0.5 inches of any defined measurement should be included in this category.
- **Product 5** – 5. Plain white bag with a serrated top that has a 10-inch wide face, with a 6.75-inch gusset and, that is 12 inches tall (without measuring the handles), with paper twisted handles affixed to the bag by patches. Bags that are within +/- 0.5 inches of any defined measurement should be included in this category.

Volumes should be reported on the basis of cases. For each pricing product, respondents should include the number of units per case.

b) Other evidence of adverse price effects

In addition to the evidence above regarding underselling, further evidence suggests that the effects of subject imports “otherwise depresses prices to a significant degree or prevents price

increases, which otherwise would have occurred, to a significant degree.”⁶⁵ As we have demonstrated above, subject imports are entering the U.S. market in significant volumes and taking sales from domestic producers. These developments will inevitably make it impossible for domestic producers to obtain a true, market-based price for their paper shopping bags. Paper shopping bags are a commodity product, and imported product is easily substitutable for domestically-produced product. As such, price is a critical factor in purchasing decisions of paper shopping bag customers, and the U.S. market for paper shopping bags is highly price sensitive.

Furthermore, between 2020 and 2022 – when the volumes and market share of the subject imports increased significantly – Petitioner believes that the domestic industry [] due to the subject imports’ aggressive sales and pricing practices.⁶⁶ As a result of this aggressive competition by the subject imports, the domestic industry []

[] throughout this period.⁶⁷ Given these facts, it is clear that the aggressive pricing practices of the subject imports have harmed the domestic industry’s sales volumes, market share levels, and profitability. In sum, aggressive competition by subject imports has made it impossible for domestic producers to obtain a true, market-based price for their paper shopping bags.

⁶⁵ 19 U.S.C. § 1677(7)(B(ii)(II)).

⁶⁶ In this regard, the domestic industry’s cost of goods sold to net sales revenue was [] percent in 2020, [] percent in 2021, and [] percent in 2022. *See* Exhibit I-14 (Trade and Financial Data).

⁶⁷ In this regard, the domestic industry’s operating margins [] percent in 2020, to [] percent in 2022, and to [] percent in the first quarter of 2023.

c) Evidence of lost sales and lost revenues

Exhibit I-18 contains available information relating to certain examples of lost sales and lost revenues for the Petitioner.⁶⁸ [] combined with the strong evidence of lost sales and lost revenue provide significant support for a finding of adverse price effects.

3. The Adverse Impact of Subject Imports Is Significant

The Act provides that in examining the impact of subject imports, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to:

- actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity,
- factors affecting domestic prices,
- actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and
- actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁶⁹

The Commission shall evaluate all relevant economic factors within the context of the business cycle and conditions of competition that are distinctive to the affected industry.⁷⁰

The available evidence indicates that, during the period between 2020 and 2022, growing volumes of dumped and subsidized paper shopping bags from the subject countries have had a significant impact on the domestic industry's condition.

⁶⁸ In accordance with 19 C.F.R. § 207.11(b)(2)(v), Petitioner will submit lost sales and lost revenues allegations electronically in the manner specified in the Commission's Handbook on Filing Procedures.

⁶⁹ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁰ 19 U.S.C. § 1677(7)(C)(iii).

Production of paper shopping bags has fallen over the past three years from [] pounds in 2020 to [] pounds in 2022, a drop of [] percent. Production also fell from the first quarter of 2022 to the first quarter of 2023, from [] pounds to [] pounds, a drop of [] percent.⁷¹

The industry's capacity utilization rates have also fallen, from [] percent in 2020 to [] percent in 2023.⁷²

U.S. commercial shipments of paper shopping bags have fallen from [] pounds in 2020 to [] pounds in 2022, a drop of [] percent. Commercial shipments also fell from the first quarter of 2022 to the first quarter of 2023, from [] pounds to [] pounds, a drop of [] percent.⁷³

The domestic industry's profitability was also negatively impacted by low priced subject imports. Gross profit fell from [] to [] from 2020 to 2022, a drop of [] percent. Gross profits also fell from [] in the first quarter of 2022 to [] in the first quarter of 2023, a drop of [] percent.⁷⁴

Operating profits were [] negatively impacted by subject imports. Operating profit fell from [] in 2020 to [] in 2022, a drop of [] percent. Operating profits continued to be negatively impacted in 2023, with operating profits falling from [] in the first quarter of 2022 to [] in the first quarter of 2023, a drop of [] percent. The domestic industry's operating margin fell [] from []

⁷¹ See Exhibit I-14 (Trade and Financial Data). []

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

percent in 2020 to [] percent in 2022, and falling again to [] percent in the first quarter of 2023.⁷⁵

The domestic industry's net profits fell from [] in 2020 to [] in 2022 and fell from [] in the first quarter of 2022 to [] in the first quarter of 2023. The industry's net profit margin [] percent in the first quarter of 2023.⁷⁶

The domestic industry's financial results also indicate that unfairly traded subject imports are causing the domestic industry to suffer a significant cost-price squeeze. The industry's cost of goods sold rose from [] per thousand pounds in 2020 to [] per thousand pounds in 2022, an increase of [] percent. Over this same period, unit prices [] percent. Low-priced subject imports made it impossible for domestic producers to increase their prices to cover their increasing costs, with a significantly negative impact of the industry's profitability.

4. Conclusion

As shown above, each statutory factor that the Commission considers with respect to material injury – the volume of subject imports, the adverse price effect of subject imports, and the adverse impact of subject imports – is significant. Thus, there can be no question that these petitions allege evidence showing that subject imports have caused material injury to the domestic industry.

D. Subject Imports Threaten The Domestic Industry With Further Material Injury Going Forward

The Act identifies eight specific factors for the Commission to consider when deciding whether an industry in the United States is threatened with material injury by reason of sales of

⁷⁵ *Id.*

⁷⁶ *Id.*

the subject merchandise.⁷⁷ In addition to these eight factors, the Commission shall also consider “any other demonstrable adverse trends that indicate the probability that there is likely to be material injury” by reason of subject imports.⁷⁸ As discussed below, these factors indicate that in the absence of trade relief, subject imports threaten domestic producers with additional material injury going forward.

1. The likely volume of subject imports is significant

Several factors the Commission is supposed to consider relate to the likely volume of subject imports in the absence of trade relief. For example, the Commission is supposed to consider whether subject producers benefit from export subsidies.⁷⁹ Obviously, to the extent subject producers obtain government support that is tied to exports of the subject product, that support will likely lead to increased exports to the United States. Volumes XI and XII of these petitions shows that subject producers in China and India, are, in fact, benefiting from export subsidies. Thus, this factor indicates that the likely volume of subject imports will be significant.

As part of its threat analysis, the Commission is also directed to consider “a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports.”⁸⁰ The fact that subject imports have rapidly gained market share at the expense of the domestic industry provides compelling evidence that producers of that subject merchandise already have the contacts and market connections that they need to grow sales in the U.S. market – and that they will likely continue growing their market share in the absence of trade relief. As shown above, subject imports grew

⁷⁷ See 19 U.S.C. §§ 1677(7)(F)(i)(I) to (VIII). Please note that one of these factors relates to raw agricultural products and is therefore not relevant here. See 19 U.S.C. § 1677(7)(F)(i)(VII).

⁷⁸ 19 U.S.C. § 1677(7)(F)(i)(IX).

⁷⁹ 19 U.S.C. § 1677(7)(F)(i)(I).

⁸⁰ 19 U.S.C. § 1677(7)(F)(i)(III).

significantly over the period of investigation, and are taking market share from domestic producers as a result. These facts show that in the absence of trade relief, subject imports will continue to cause further material injury to domestic producers.

The Commission is further directed to consider the potential for product shifting by subject producers.⁸¹ If a subject producer can use the same equipment and employees to shift output from another product to paper shopping bags, then that producer can increase shipments of paper shopping bags to the United States. Petitioner believes that foreign producers could, with a minimum amount of retooling, switch from the production of other paper bags, like grocery bags and SOS bags, to the production of in-scope paper shopping bags.

The Commission is directed to consider two other factors that are relevant to the issue of likely volume. First, it considers unused capacity in the subject countries.⁸² Second, it considers inventories of the subject merchandise.⁸³ Obviously, at this stage of the proceedings, Petitioner does not have access to much information regarding these factors – we expect to develop these points further as the Commission conducts its investigations and issues questionnaires to subject producers. Nevertheless, the fact that subject imports have grown in recent years – and that those imports have taken [] market share from domestic producers – compels the conclusion that they can, and will, continue gaining market share unless trade relief is imposed. Given these facts, the Commission should certainly find that the likely volume of subject imports is significant.

⁸¹ 19 U.S.C. § 1677(7)(F)(i)(VI).

⁸² 19 U.S.C. § 1677(7)(F)(i)(II).

⁸³ 19 U.S.C. § 1677(7)(F)(i)(V).

2. The likely price effects of subject imports are significant

As part of its threat analysis, the Commission is directed to consider “whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports.”⁸⁴ There can be no question that this is happening here. As we have shown above, the Petitioner has seen [] due to low-priced imports. Indeed, Petitioner has been forced to sell paper shopping bags [] and it faces [] in the absence of trade relief. Thus, it seems clear that subject imports are being sold at prices that are not only likely to drive down U.S. prices, but that those low prices will likely “increase demand for further imports.” Thus, the Commission should conclude that this factor indicates that in the absence of trade relief, the likely adverse price effects of subject imports will be significant.

3. The likely impact of subject imports is significant

As part of its analysis of threat, the Commission is directed to consider “the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.”⁸⁵

V. CONCLUSION

For several years, domestic producers of paper shopping bags have faced unfair pricing competition from subject imports. These imports have made it impossible for domestic producers to obtain a healthy, market-based rate of return. As a result of these developments, the

⁸⁴ 19 U.S.C. § 1677(7)(F)(i)(IV).

⁸⁵ 19 U.S.C. 1677(7)(F)(i)(VIII).

future of the domestic industry is in peril. If trade relief is not granted soon, the United States may lose [] of its ability to make paper shopping bags.

To prevent such a catastrophic outcome, Petitioner urges the Department to initiate antidumping investigations on imports of paper shopping bags products from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam, and to initiate a countervailing duty investigation paper shopping bags from China and India. The Petitioner further urges the Commission to make affirmative determinations of material injury or threat of material injury by reason of such unfairly traded imports.

Respectfully submitted,

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