

UNITED STATES INTERNATIONAL TRADE COMMISSION

ARAMID FIBER FORMED OF POLY PARA-PHENYLENE TEREPHTHALAMIDE  
FROM THE NETHERLANDS

Investigation No. 731-TA-652 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION  
(USITC Publication No. 3394, February 2001)

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## ARAMID FIBER FORMED OF POLY PARA-PHENYLENE TEREPHTHALAMIDE FROM THE NETHERLANDS

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide from the Netherlands would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>2</sup>

### BACKGROUND

The Commission instituted this review on December 1, 1999 (64 FR 67302) and determined on March 3, 2000 that it would conduct a full review (65 FR 13988, March 15, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on August 21, 2000 (65 F.R. 50720). The hearing was held in Washington, DC, on January 9, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

<sup>2</sup> Commissioner Dennis M. Devaney did not participate in this investigation.

## VIEWS OF THE COMMISSION

Based on the record<sup>3</sup> in this five-year review, we determine<sup>4</sup> under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order covering aramid fiber formed of poly para-phenylene terephthalamide (“PPD-T aramid fiber”) from the Netherlands would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. BACKGROUND

The original investigation of PPD-T aramid fiber from the Netherlands was instituted when E.I. du Pont de Nemours & Co. (“DuPont”) filed a petition with Commerce and the Commission on July 2, 1993. Subsequently, the Commission determined that an industry in the United States was materially injured by reason of imports of PPD-T aramid fiber that were being sold at less than fair value (“LTFV”).<sup>5</sup> On June 21, 1994, the Department of Commerce (“Commerce”) issued an antidumping duty order on PPD-T aramid fiber from the Netherlands.<sup>6</sup>

On December 1, 1999, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on PPD-T aramid fiber would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>7</sup> In five-year reviews, the Commission determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses of interested parties to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by each of two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.<sup>8</sup> If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it will determine to conduct a full review.

In the instant review, the Commission received a response to the Notice of Institution from the sole domestic producer of PPD-T aramid fiber, DuPont, and a joint response from Twaron Products V.o.F. and

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<sup>3</sup> For purposes of this determination, we are disregarding the new factual information submitted by DuPont in its final comments dated February 2, 2001, that is described in OINV Memorandum INV-Y-018 dated February 6, 2001. This new factual information was not included in the factual record which closed on January 31, 2001. See 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.68(b).

<sup>4</sup> Commissioner Devaney did not participate in this determination.

<sup>5</sup> Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 (June 1994). Hereinafter, we refer to the public version of the Commission’s original opinion as “USITC Pub. 2783” and to the confidential version as “Confidential Original Opinion.” Commissioner Bragg did not participate in the Commission’s original determination; USITC Pub. 2783 at I-3, n.2.

<sup>6</sup> 59 Fed. Reg. 32678 (June 24, 1994).

<sup>7</sup> 64 Fed. Reg. 67302 (December 1, 1999).

<sup>8</sup> See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

Twaron Products, Inc., respectively the sole producer and exporter of aramid fiber in the Netherlands, and the primary U.S. importer of the subject merchandise (collectively “Twaron”).<sup>9</sup>

On March 3, 2000, the Commission determined that the domestic interested party group response to its notice of institution was adequate, and that the respondent interested party group response was adequate with respect to PPD-T aramid fiber from the Netherlands. Accordingly, the Commission voted unanimously to proceed with full reviews with respect to PPD-T aramid fiber from the Netherlands pursuant to section 751(c)(5) of the Act.<sup>10</sup>

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making determinations under section 751(c), the Commission defines “the domestic like product” and the “industry.”<sup>11</sup> The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>12</sup>

Commerce has defined the subject merchandise in this review as follows:

all forms of aramid fiber from the Netherlands. These consist of aramid fiber in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber and floc. Tire cord is excluded from the class or kind of merchandise under review.<sup>13 14</sup>

PPD-T aramid fiber is a high-performance synthetic fiber. All forms of PPD-T aramid fiber are produced from the same raw materials, have the same chemical composition, and have the same special characteristics: high strength, high modulus (resists deformation by stretching), high thermal stability, fire

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<sup>9</sup> On April 1, 2000, Twaron Products V.o.F. officially began using the name Twaron Products bv. \*\*\*. \*\*\*. Teijin, Ltd. of Japan acquired Twaron in December 2000, and Twaron Products bv and Twaron Products, Inc. became Teijin Twaron bv and Teijin Twaron, USA, Inc. Transcript of the Commission's hearing (“Tr.”) at 10; Twaron Posthearing Brief Attachments at Exhibit 16 \*\*\*. For consistency, we refer to the sole foreign producer and exporter from the Netherlands and its related U.S. importer both prior to and after the sale as “Twaron.”

<sup>10</sup> See Explanation of Commission Determination on Adequacy in Inv. No. 731-TA-652 (Review); 65 Fed. Reg. 13988 (March 15, 2000).

<sup>11</sup> 19 U.S.C. § 1677(4)(A).

<sup>12</sup> 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 96-249, at 90-91 (1979).

<sup>13</sup> Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-phenylene Terephthalamide from the Netherlands. 65 Fed. Reg. 65294 (November 1, 2000).

<sup>14</sup> All further references in these views to “aramid fiber” or to “PPD-T aramid fiber” are to aramid fiber formed of poly para-phenylene terephthalamide aramid fiber. There is no indication in the record that Commerce intended to expand the scope of this review beyond the original scope, which was limited to PPD-T aramid fiber. See Antidumping Duty Order and Amended Final Determination: Aramid Fiber Formed of Poly-Phenylene Terephthalamide From The Netherlands, 59 Fed Reg. 32678 (June 24, 1994).

resistance, and chemical resistance. The fiber's chemical properties determine its physical and performance characteristics, which are shared among all forms of the fiber.<sup>15</sup>

Demand for PPD-T aramid fiber is derived from the demand for the products using it. PPD-T aramid fiber is utilized in a variety of end uses including: protective apparel, friction products, fiber optic cable, gaskets and seals, hoses and belts, aircraft, military ballistic applications and composites, and automatic transmission paper.<sup>16</sup>

PPD-T aramid fiber comes in various forms: filament yarn, staple, pulp, floc, chopped fiber, and nonwovens.<sup>17</sup> A customer may choose one fiber form over another for incorporation in a downstream end product. It may be difficult for a customer to switch from one fiber form to another after the "designing in" process has occurred.<sup>18</sup> Filament yarn can be used to make ropes and cables, including fiber optic cables. Staple can be used to make protective apparel. Floc can be used as a reinforcement material, and as an input in circuit boards. Chopped fiber is used in friction materials and rubber goods.<sup>19</sup> In the original investigation, the Commission found that all forms of PPD-T aramid fiber corresponding to Commerce's scope should be treated as one domestic like product.<sup>20</sup> The Commission reached this conclusion because of generally common physical characteristics and product qualities that distinguished aramid fiber from other fibers, common channels of distribution, largely common production employees, and producer perceptions of aramid fiber as a single product.<sup>21</sup> The Commission found that the differences among the various forms of aramid fiber were "less significant than the common product characteristics shared by all forms."<sup>22</sup> In the instant review, DuPont has urged the Commission to readopt its original like product definition, and Twaron has indicated that the like product definition is not an ongoing issue since it was addressed in the original investigation.<sup>23</sup> We find no information in the record of this review to suggest that a different like product definition is appropriate. We therefore define the domestic like product in this review as all PPD-T aramid fiber corresponding to Commerce's scope.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>24</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant

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<sup>15</sup> Confidential Staff Report ("CR") at I-9-10; Public Staff Report ("PR") at I-5-6 .

<sup>16</sup> CR at II-15-16, & n.8; PR at II-6-7, & n.8.

<sup>17</sup> CR at I-9; PR at I-5.

<sup>18</sup> CR at I-10; PR at I-6.

<sup>19</sup> CR at I-9-10; PR at I-5-6.

<sup>20</sup> USITC Pub. 2783 at I-6.

<sup>21</sup> *Ibid.* at I-8.

<sup>22</sup> *Ibid.*

<sup>23</sup> Tr. at 41 (Testimony of John Greenwald, counsel for DuPont), Tr. at 109-110 (Testimony of Barbara Murphy, counsel for Twaron).

<sup>24</sup> 19 U.S.C. § 1677(4)(A).

market, provided that adequate production-related activity is conducted in the United States.<sup>25</sup> The Commission bases its analysis on a firm's production-related activities in the United States.<sup>26</sup>

In the original investigation, the Commission defined the domestic industry as the sole domestic producer of PPD-T aramid fiber, petitioner DuPont, as well as DuPont's U.S.-based subcontractors that further processed yarn into staple and pulp forms.<sup>27</sup> The Commission included DuPont's subcontractors in the domestic industry because the record indicated that pulp and staple production required specialized equipment and some technical expertise and because the value added by the further processing activities was not de minimis.<sup>28</sup>

The situation has changed since the original investigation insofar as \*\*\*.<sup>29</sup> Both DuPont and Twaron agree that DuPont's current subcontractors perform minor activities and therefore should not be included in the domestic industry.<sup>30</sup> Subcontractors \*\*\* aramid fiber for \*\*\*, which owns the processing equipment for \*\*\*.<sup>31</sup> The subcontractors' further processing of the yarn is less complex than yarn production and adds little value to the product.<sup>32</sup> Therefore, given the more limited operations now performed by subcontractors, the fact that all parties agree that the subcontractors do not engage in sufficient production-related activities to be part of the domestic industry, and the low value-added to the product by DuPont's subcontractors, we do not include these subcontractors in the domestic industry.

Twaron also has some U.S.-based subcontractors.<sup>33</sup> These subcontractors \*\*\*. Similar to DuPont's subcontractors, these subcontractors perform minor activities compared to yarn production, and

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<sup>25</sup> See, e.g., Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 at 8-9 (July 1999); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.19 (November 1995) ("the Commission has generally included toll producers that engage in sufficient production-related activity to be part of the domestic industry"). See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>26</sup> In deciding whether a firm qualifies as a domestic producer, the Commission typically considers six factors: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product. See Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Invs. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 at 8-9 (January 2000).

<sup>27</sup> USITC Pub. 2783 at I-9.

<sup>28</sup> Ibid.

<sup>29</sup> In 1996, DuPont \*\*\* of aramid pulp production \*\*\*. CR at III-1; PR at III-1. \*\*\*. CR at II-5; PR at II-2.

<sup>30</sup> DuPont describes its current subcontractors' activities as \*\*\*. DuPont Posthearing Brief, Answers to Commission Questions at 25. Twaron describes the DuPont subcontractors' activities as "ancillary" to yarn production. Twaron Posthearing Brief, Responses of Teijin Twaron BV and Teijin Twaron USA, Inc. to Questions of Commissioners and Staff ("Responses to Commission Questions") at 10.

<sup>31</sup> CR at III-8-9 & n.11; PR at III-3 & n.11.

<sup>32</sup> CR at I-11-12; PR at I-7. \*\*\*. Staff Trip Notes, John Benedetto, October 25, 2000. Staff approximated the value added by the reporting subcontractors as \*\*\* percent in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999, and interim periods (January-September) 1999 and 2000. CR at III-16, n.21; PR at III-6, n.22.

<sup>33</sup> Twaron Posthearing Brief, Responses to Commission Questions at 9-10. Consistent with our prior practice, we consider the overall nature of Twaron's subcontractors' production-related activities in the United States in deciding whether their U.S. activities are sufficient to constitute domestic production, including considering the value added by them to the product in the United States.

do not add significant value to the product. For the reasons discussed above, we do not include Twaron's subcontractors in the domestic industry.

Consistent with our definition of the like product, we define a single domestic industry consisting of producers of PPD-T aramid fiber. In this investigation, the domestic industry consists of DuPont, the sole domestic producer of PPD-T aramid fiber.<sup>34</sup>

#### **IV. NO 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 a countervailing or antidumping duty order and terminate a suspended investigation unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>35</sup> 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.”<sup>36</sup> Thus, the likelihood standard is prospective in nature.<sup>37</sup> The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>38</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”<sup>39 40</sup>

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<sup>34</sup> There are no related parties issues in this review. \*\*\*. CR at IV-1; PR at IV-1. In addition, \*\*\*. DuPont Questionnaire at 4, 13.

<sup>35</sup> 19 U.S.C. § 1675a(a).

<sup>36</sup> SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

<sup>37</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [*sic*] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>38</sup> 19 U.S.C. § 1675a(a)(5).

<sup>39</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>40</sup> 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;

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, 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.”<sup>41</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, and whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated.<sup>42 43</sup>

We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination.<sup>44</sup> We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors, and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”<sup>45</sup>

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked or the suspended investigation is terminated, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to the production or consumption in the United States.<sup>46</sup> 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.<sup>47</sup>

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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.

<sup>41</sup> 19 U.S.C. § 1675a(a)(1).

<sup>42</sup> 19 U.S.C. § 1675a(a)(1). 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.

<sup>43</sup> Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption findings with respect to this review. CR at I-7, PR at I-4.

<sup>44</sup> 19 U.S.C. § 1675(e).

<sup>45</sup> SAA at 869.

<sup>46</sup> 19 U.S.C. § 1675a(a)(2).

<sup>47</sup> 19 U.S.C. § 1675(a)(2)(A)-(D).

In evaluating the likely price effects of subject imports if the orders are revoked or the suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.<sup>48</sup>

In evaluating the likely impact of imports of subject merchandise if the orders are revoked or the suspended investigation is terminated, 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) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>49</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>50</sup> 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 antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.<sup>51</sup>

For the reasons stated below, we determine that revocation of the antidumping duty order on PPD-T aramid fiber from the Netherlands would not 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.”<sup>52</sup>

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<sup>48</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>49</sup> 19 U.S.C. § 1675a(a)(4).

<sup>50</sup> 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 the final results of its full review regarding subject imports from the Netherlands, Commerce found that revocation of the order would be likely to lead to continuation or recurrence of dumping at margins of 2.90 for Netherlands producer Akzo (named “Azko” in Commerce’s final results, and now Twaron), and 66.92 percent for all other producers/exporters. CR at I-7, PR at I-4; 65 Fed. Reg. 65294 (November 1, 2000).

<sup>51</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>52</sup> 19 U.S.C. § 1675a(a)(4).

DuPont and Twaron are the only two global producers of PPD-T aramid fiber. DuPont's product is marketed under the name "Kevlar®" and Twaron markets its product under the name "Twaron®." DuPont originally developed PPD-T aramid fiber and \*\*\*.<sup>53</sup> The United States is the largest market worldwide for PPD-T aramid fiber, although Europe and other markets are significant.<sup>54</sup> \*\*\* is currently experiencing \*\*\* and, apparently, \*\*\*. Nevertheless, no new producers have entered the market, and none are expected to do so.<sup>55</sup>

Production of PPD-T aramid fiber industry requires sophisticated technology and a very large investment in capital to build a plant and develop product applications. DuPont states that since 1967, it has spent \$1 billion in plant facilities, research, and market development for aramid fiber.<sup>56</sup> It also states that a quarter of that investment was for product development,<sup>57</sup> and an additional quarter was for market development.<sup>58</sup> At the design stage, PPD-T aramid fiber competes with alternative fibers to be designed into an end-use. Aramid fiber manufacturers usually work not only with their purchasers at this stage but with their purchasers' downstream customers to design aramid fiber into an end-use product.<sup>59</sup> Depending on the application, and the testing involved, it could take a short time or several years to develop an application.<sup>60</sup> There are substitutes for aramid fiber, but in most cases, these substitutes would involve re-designing the end-use product, a process which could take over a year.<sup>61</sup> \*\*\* maintains that alternative products \*\*\*.<sup>62</sup> Thus, \*\*\*.<sup>63</sup>

Apparent U.S. consumption of PPD-T aramid fiber has increased since the original investigation, ranging between \*\*\* and \*\*\* pounds during 1991-1993 and between \*\*\* and \*\*\* pounds during 1997-1999.<sup>64</sup> There has been a significant increase in fiber optic cable demand, as well as some new end uses.<sup>65</sup> Both DuPont and Twaron agree that demand will continue to increase, but disagree on the rate of increase.<sup>66</sup> Demand growth is not expected in all market segments.<sup>67</sup> However, there is currently a global

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<sup>53</sup> CR at II-1, II-9; PR at II-1, II-3.

<sup>54</sup> DuPont Posthearing Brief at 10, Answers to Commission Questions at 24. Twaron Posthearing Brief, Exhibit 1.

<sup>55</sup> Twaron Prehearing Brief at 10-11. \*\*\*. Tr. at 127 (Testimony of Richard Boltuck, economist for Twaron).

<sup>56</sup> Tr. at 14-15 (Testimony of William Harvey, DuPont).

<sup>57</sup> Tr. at 45 (Testimony of Ronald Meltzer, counsel for DuPont).

<sup>58</sup> Tr. at 16 (Testimony of William Harvey, DuPont).

<sup>59</sup> CR at II-1; PR at II-1.

<sup>60</sup> Tr. at 43-44 (Testimony of Marcelo Van de Kamp, DuPont).

<sup>61</sup> CR at II-21; PR at II-10.

<sup>62</sup> CR at II-14-15, PR at II-6 & Appendix E. DuPont maintains that \*\*\*. Id.

<sup>63</sup> CR at II-14-15, CR at II-21-22; PR at II-6, PR at II-10.

<sup>64</sup> Table I-1, CR at I-3; PR at I-2.

<sup>65</sup> CR at II-1, II-4; PR at II-1, II-2. Twaron Prehearing Brief at 5, 9-10, 19 n.33 and Exhibits 2 & 3; Twaron Posthearing Brief, Responses to Commission Questions at 1-2 and Exhibit 2. Twaron emphasizes \*\*\*. Twaron provides \*\*\*. Twaron Posthearing Brief, Exhibit 2, unnumbered pages 9 and 11. See also DuPont Questionnaire at 29 \*\*\*.

<sup>66</sup> DuPont projects a \*\*\* annual demand growth, whereas Twaron projects a \*\*\* annual demand growth. DuPont Posthearing Brief at 8; Twaron Posthearing Brief at 9.

<sup>67</sup> The Commission recognizes that at the present time, demand for PPD-T aramid fiber by the automotive industry may be declining due to softening new car production, and may decline in the reasonably foreseeable future, although any decline would be \*\*\*. Tr. at 23, 55. See also DuPont's Prehearing Brief, Exhibit A, and

shortage of aramid fiber with demand increases in several critical market segments.<sup>68</sup> Strong demand has caused both producers to allocate aramid fiber among various customers.<sup>69</sup> DuPont has \*\*\*.<sup>70</sup> The shortage is so acute that Twaron asserts that the two producers have referred customers to each other.<sup>71</sup> DuPont says that Twaron has \*\*\*, but that rather than \*\*\*.<sup>72</sup> DuPont states that it is not bidding on “a number of Asian and European helmet and vest tender opportunities” due to their low prices, and that it \*\*\*.<sup>73</sup> Twaron has submitted extensive documentation of an acute shortage in aramid fiber and global customer allocations, including \*\*\*.<sup>74</sup> Purchaser questionnaire responses further confirm allocations by the two producers.<sup>75</sup>

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DuPont Posthearing Brief, Answers to Commission Questions at 5-6 & Exhibit O. Twaron Posthearing Brief, Responses to Commission Questions at 1, Tr. at 131-132 (Testimony of Richard Boltuck, economist for Twaron). Most purchasers in automotive sectors reported decreased demand or no increase in demand for aramid fiber. CR at II-12; PR at II-5.

The market segments most heavily relying on the automobile industry applications are friction, gaskets and seals, and belts and hoses. These market segments represented \*\*\* of DuPont’s U.S. commercial shipments in 1999 by quantity and \*\*\* by value. Table III-3, CR at III-5-6; PR at III-2. DuPont also expects \*\*\* if demand for aramid fiber in the automotive sector declines, \*\*\*. DuPont Posthearing Brief, Answers to Commission Questions at 6. However, it appears that DuPont shifted somewhat its product mix \*\*\*. The \*\*\* segment comprised \*\*\* of DuPont’s U.S. shipments in 1999, but only \*\*\* in 2000. Similarly, the \*\*\* segment comprised \*\*\* of DuPont’s U.S. shipments in 1999, but only \*\*\* in 2000. CR at II-2, PR at II-1. DuPont Posthearing Brief, Attachment B. Furthermore, in \*\*\*. DuPont Posthearing Brief, Answers to Commission Questions at 14.

<sup>68</sup> CR at II-1; PR at II-1. Tr. at 16, 37, 57 (Testimony of William Harvey, DuPont). Tr. at 165 (Testimony of John Greenwald, counsel for DuPont). Tr. at 23, 55 (Testimony of Marcelo Van de Kamp, DuPont). In its testimony at the hearing, one of DuPont’s representatives stated that demand peaks had been in all market segments, and another said that demand peaks were in several critical market segments, but that demand had begun to fall in the auto sector. Compare Tr. at 16, 57 with Tr. at 23, 55. Twaron agrees with DuPont’s assessment that demand is strong, and characterizes it as increasing in “all applications worldwide.” Tr. at 83-84 (Testimony of Gert Frederiks, Twaron). Tr. at 12 (Testimony of Barbara Murphy, counsel for Twaron). Purchasers reported that both DuPont and Twaron were operating at \*\*\* at the end of 2000. Eight purchasers reported that PPD-T aramid fiber production limits had either just begun to affect price and availability or were about to begin. \*\*\* said that there was a “worldwide aramid shortage status.” \*\*\* described increased demand for PPD-T aramid fiber as “sharp,” “heavy,” and “significant,” with \*\*\* forecasting that aramid fiber demand in the \*\*\* would grow 10 percent annually for the next three years. Most purchasers expected either continuing stability or continuing growth in demand. CR at II-7, II-13-14; PR at II-2-3, II-5-6. See also Twaron Prehearing Brief at 16, n.29 (quoting various purchasers’ \*\*\*).

<sup>69</sup> Tr. at 54 (Testimony of John Greenwald, counsel for DuPont). DuPont Posthearing Brief, Answers to Commission Questions at 13-15. Tr at 83-84 (Testimony of Gert Frederiks, Twaron).

<sup>70</sup> DuPont Posthearing Brief, Answers to Commission Questions at 13-15. See also Tr. at 35-37 (Testimony of William Harvey, DuPont, regarding DuPont’s focus on “sustainable” end uses).

<sup>71</sup> Tr. at 83-84 (Testimony of Gert Frederiks, Twaron).

<sup>72</sup> DuPont Posthearing Brief, Answers to Commission Questions at 31. See also Tr. at 70-71 (Testimony of Marcelo Van de Kamp, DuPont)

<sup>73</sup> DuPont Posthearing Brief, Answers to Commission Questions at 13-14. Twaron submitted evidence that \*\*\*. Twaron Posthearing Brief, Exhibit 9. \*\*\*.

<sup>74</sup> Twaron Posthearing Brief, Responses to Commission Questions 1-2 and Exhibits 2-9. Twaron’s documentation specifies \*\*\*: \*\*\*, \*\*\*, \*\*\*, and \*\*\*. Id. at Exhibit 4, 6, 7, and 8. These anticipated shortages total \*\*\*. Although not always designated as such, these are apparently \*\*\*.

<sup>75</sup> CR at II-7; PR at II-3. One purchaser, \*\*\*, stated that DuPont was phasing out several products that were high production and low yield, and that as a result \*\*\* was working on qualifying replacement products. \*\*\* said

Kevlar® and Twaron® are substitutable. DuPont, Twaron, and fourteen out of fifteen purchasers stated that imported and U.S. PPD-T aramid fiber could be used in the same end-use applications.<sup>76</sup> Purchasers report that \*\*\*.<sup>77</sup> Purchasers state that quality, customer specifications, price, and availability were the most important factors in their purchasing decisions.<sup>78</sup> The preference of their end-use customers for one supplier over another can also be important.<sup>79</sup>

Both DuPont and Twaron negotiate with customers individually to price their products based on “value-in-use.”<sup>80</sup> In this pricing system, the price paid by the customer is based on the value the product brings to the particular application.<sup>81</sup> This system allows DuPont and Twaron to \*\*\*.<sup>82</sup> Thus, \*\*\*, in some cases, \*\*\*.<sup>83</sup>

As stated earlier, Teijin, Ltd. has recently acquired Twaron. In its questionnaire response, Twaron reported that \*\*\*.<sup>84</sup> One Twaron representative testified that it would not affect its ongoing expansion investment application, except that a different board would review it, and an economist testified that \*\*\*.<sup>85</sup>

We find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

### C. Likely Volume of Subject Imports

In the original investigation, the Commission found that both the volume of LTFV imports and the increase in that volume, relative to consumption in the United States, were significant. At that time, the Commission noted the \*\*\* in the volume of U.S. shipments of LTFV imports by quantity and value throughout the period of investigation, and a \*\*\* increase in their market share.<sup>86</sup>

The order has not resulted in a \*\*\* in subject import volumes. U.S. shipments of subject imports increased by quantity and by value between 1993 and 1997.<sup>87</sup> Between 1997 and 1999, U.S. shipments of

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that both DuPont and Twaron were allocating supply and cutting back small or marginal users. Id.

<sup>76</sup> CR at II-15, II-18; PR at II-6, II-7.

<sup>77</sup> Staff telephone notes dated January 10-11, 2001. \*\*\*. CR at II-15; PR at II-6.

<sup>78</sup> CR at II-17; PR at II-7.

<sup>79</sup> CR at II-17-19; PR at II-7-8.

<sup>80</sup> CR at V-2-3; PR at V-2-3.

<sup>81</sup> Tr. at 42 (Testimony of William Harvey, DuPont).

<sup>82</sup> Tr. at 128 (Testimony of Richard Boltuck, economist for Twaron).

<sup>83</sup> Compare unit values for \*\*\*. Table III-3, CR/PR at III-5. Table IV-3, CR/PR at IV-4-5.

<sup>84</sup> Twaron Questionnaire at Insert to page 3. Twaron Posthearing Brief, Answers to Commission Questions at 6.

<sup>85</sup> Tr. at 93 (Testimony of Eiso Alberda van Ekenstein, Twaron). Tr. at 142-143 (Testimony of Richard Boltuck, economist for Twaron).

<sup>86</sup> Confidential Original Opinion at I-21.

<sup>87</sup> In 1993, U.S. shipments of subject imports were \*\*\* pounds in quantity and \*\*\* by value. In 1997, U.S. shipments of subject imports were \*\*\* pounds in quantity and \*\*\* by value. Table I-1, CR at I-3; PR at I-2; Table I-3, CR at I-18; PR at I-9. A \*\*\* of imports from the Netherlands entered the U.S. during the review period as temporary imports under bond (TIBs). These TIB imports were re-exported \*\*\*. CR at IV-6, n.2; PR at IV-2, n.2. Consistent with prior Commission determinations, we are not treating TIB imports re-exported to non-NAFTA countries as subject imports. Certain Cut-To-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea and Macedonia, Invs. Nos. 701-TA-387-392 (Preliminary) and 731-TA-815-822

subject imports fell \*\*\* in terms of quantity and fell \*\*\* by value, but were higher in quantity and value in interim 2000 as compared to interim 1999.<sup>88</sup>

Despite increasing import volumes, Twaron's share of apparent U.S. consumption has not changed significantly since the imposition of the order, due to the increase in demand. Its market share \*\*\* over the review period, but was \*\*\* in interim 2000 as compared to interim 1999.<sup>89</sup> Twaron was operating at \*\*\* during the original investigation.<sup>90</sup> Twaron's capacity utilization rate was \*\*\* than during the original investigation in 1997 to 1998 and then \*\*\*. In 1999 and interim 2000, Twaron's capacity utilization \*\*\*.<sup>91</sup> Twaron's \*\*\* is explained by \*\*\*.<sup>92</sup> Given today's current shortage, the record indicates that Twaron has \*\*\*.<sup>93</sup>

Twaron's inventory levels were approximately the same in 1997 as in 1999. However, the record also indicates that there was a \*\*\* drop in Twaron's end-of-period inventories in interim 2000 as compared to interim 1999. This same pattern is reflected in Twaron's ratio of end-of-period inventories to production and shipments.<sup>94</sup> Although duties vary from country to country, there are no quantitative barriers to the importation of PPD-T aramid fiber into countries other than the United States.<sup>95</sup> Twaron cannot shift production from other products to produce aramid fiber.<sup>96</sup>

Twaron's sales in all markets have increased due to strong global demand, as noted above.<sup>97</sup> Twaron has provided extensive documentation that there is an acute global shortage of aramid fiber and that it has had to \*\*\*.<sup>98</sup> Twaron's \*\*\* are in all market sectors, and in all markets around the world.<sup>99</sup>

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(Preliminary), USITC Pub. 3181 (April 1999) at 13-14; Titanium Sponge from Japan, Kazakhstan, Russia and Ukraine, Invs. Nos. 751-TA-17-20, USITC Pub. 3119 (August 1998) at 18.

<sup>88</sup> In terms of quantity, U.S. shipments of subject imports were \*\*\* pounds in 1997, \*\*\* pounds in 1998, and \*\*\* pounds in 1999. In the interim periods, they were \*\*\* pounds in 1999 as compared to \*\*\* pounds in 2000. Table I-3, CR/PR at I-18. In terms of value, U.S. shipments of subject imports were \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999. In the interim periods, they were \*\*\* by value in 1999 as compared to \*\*\* in 2000. Table I-3, CR at I-18, PR at I-9.

<sup>89</sup> Twaron's market share of apparent U.S. consumption was \*\*\* in 1993 and \*\*\* in 1997. Twaron's market share \*\*\* from \*\*\* in 1997 to \*\*\* in 1998, and then \*\*\* to \*\*\* in 1999. In interim 1999, Twaron's market share was \*\*\* as compared to \*\*\* in interim 2000. Table I-1, CR at I-3, PR at I-2 and Table I-4, CR at I-19, PR at I-10.

<sup>90</sup> In the original investigation, Twaron's capacity utilization was \*\*\*. Table 15, Original CR at I-56.

<sup>91</sup> Over the review period, Twaron's capacity utilization was \*\*\* in 1997, \*\*\* in 1998, and \*\*\* percent in 1999. Twaron's capacity utilization was \*\*\* in interim 1999 and \*\*\* in interim 2000. Table IV-5, CR at IV-9, PR at IV-3.

<sup>92</sup> CR at IV-8, PR at IV-3.

<sup>93</sup> Twaron Prehearing Brief at 15. Twaron's Posthearing Brief, Responses to Commission Questions at 2-3 & Exhibits 2 - 9.

<sup>94</sup> Table IV-5, CR at IV-9, PR at IV-3. \*\*\*. Id.

<sup>95</sup> CR at IV-8, PR at IV-3.

<sup>96</sup> CR at IV-8, PR at IV-3. Twaron Prehearing Brief at 17.

<sup>97</sup> CR at II-8-10, PR at II-3-4.

<sup>98</sup> Tr. at 129 (Testimony of Richard Boltuck, economist for Twaron).

<sup>99</sup> Twaron Posthearing Brief, Exhibits 3-9.

We recognize that given the currently higher prices in the United States, compared to other markets,<sup>100 101</sup> revocation of the order may result in some increase in subject import volume, as the U.S. market could be viewed as an attractive one after the order is lifted. Given the projected significant continued shortages in all markets,<sup>102</sup> and Twaron's lack of excess capacity, we do not find it likely that the volume of imports would increase significantly.<sup>103</sup> Indeed, Twaron has been struggling to supply its existing customers in a severe shortage situation.<sup>104</sup>

DuPont argues that Twaron's planned \*\*\* will cause material injury to the domestic industry.<sup>105</sup> We first note that Twaron's expansion plans<sup>106</sup> would not result in increased product until mid-2003 at the earliest.<sup>107</sup> In the near term, the \*\*\* in place for both DuPont and Twaron, and the allocations, will continue.<sup>108</sup>

If Twaron's entire planned capacity expansion takes place, increasing its production by \*\*\*, Twaron has provided evidence that \*\*\*.<sup>109</sup> Twaron also asserts that \*\*\*.<sup>110</sup>

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<sup>100</sup> CR at V-5-6; PR at V-3.

<sup>101</sup> European prices, however, are increasing. Twaron presented documentation indicating that European prices \*\*\*. Twaron Posthearing Brief, Exhibit 10. Twaron also states that since January 1, 2001, it has announced \*\*\* for some of its European customers. Twaron Posthearing Brief at 3 & n.9. Purchasers confirm that prices are \*\*\*. Staff Telephone Notes, January 10-11, 2001. CR at V-4; PR at V-3.

<sup>102</sup> Demand for aramid fiber is also increasing in markets outside Europe and the United States. Twaron Posthearing Brief, Exhibit 2 \*\*\*. The replacement of asbestos by aramid fiber in brake pads in countries such as China and India is also a major demand area. Twaron Prehearing Brief at 10. DuPont agrees that asbestos replacement in brake and gasket applications outside the United States is providing additional demand. CR at II-11; PR at II-4-5.

<sup>103</sup> We recognize that Twaron may receive some additional military business by virtue of a recent waiver of the Berry Amendment once the order is revoked. The Berry Amendment restricts the foreign sourcing of synthetic fabric, including fibers and yarns used in such fabrics, by the Department of Defense. The Under Secretary of Defense instituted a waiver to the Berry Amendment on February 12, 1999, authorizing the procurement of articles containing para-aramid fibers and yarns manufactured in the Netherlands. 64 Fed. Reg. 24528, 24528-24529 (May 7, 1999). However, the record reflects that DuPont receives a \*\*\*. Twaron Posthearing Brief, Responses to Commission Questions at 4. Moreover, the Under Secretary of Defense, in his findings of fact in granting this waiver, noted that sole-source contracts could result in higher prices and less favorable terms, including delivery schedules, for the U.S. military. Twaron Posthearing Brief, Exhibit 12 at 2. Purchasers frequently wish to dual source aramid fiber to assure supply. CR at II-19, PR at II-8 \*\*\*; Telephone Notes of January 10-11, 2001 \*\*\*. Twaron Posthearing Brief, Responses to Commission Questions at 7.

<sup>104</sup> Tr. at 84-85 (Testimony of Gert Frederiks, Twaron). Tr. at 123-124 (Testimony of Barbara Murphy, counsel for Twaron). Twaron Posthearing Brief at 8, Exhibit 3. \*\*\*.

<sup>105</sup> DuPont Prehearing Brief at 23-24; DuPont Posthearing Brief at 9.

<sup>106</sup> Twaron's planned capacity expansion is not a certainty. \*\*\*. Twaron Posthearing Brief, Exhibit 17. Twaron maintains that its 2003 capacity expansion is contingent on healthy demand growth for aramid fiber to justify the project. Twaron Posthearing Brief at 13.

<sup>107</sup> Tr. at 82 (Testimony of Eiso Alberda van Ekenstein, Twaron).

<sup>108</sup> Twaron reports that it is \*\*\*. Twaron Prehearing Brief at 15. DuPont's capacity utilization rate in interim 2000 was \*\*\*. \*\*\*. CR at III-2, PR at III-1; & Table III-1, CR at III-2, PR at III-1. DuPont Posthearing Brief, Answers to Commission Questions at 3, n.1.

<sup>109</sup> Twaron Posthearing Brief at 14, Exhibit 14. \*\*\*.

<sup>110</sup> Twaron Posthearing Brief at 13-14. Tr. at 82 (Testimony of Eiso Alberda van Ekenstein). Tr. at 200 (Testimony of Barbara Murphy, counsel for Twaron).

Assessing the significance of Twaron's potential expansion for the period of 2003 and beyond is speculative given the difficulty of forecasting medium-to long term demand for this product.<sup>111</sup> The existence of a significant current shortage of PPD-T aramid fiber means that even at current levels of demand the market can absorb some additional supply without displacing existing suppliers. Moreover, we are persuaded that demand will continue to rise at a moderate to fast pace in the near term.<sup>112</sup> Thus, we do not find that Twaron's potential expansion in capacity will result in a significant increase in the volume of imports in the reasonably foreseeable future, should the order be revoked.<sup>113</sup>

We conclude that the likely volume of subject imports from the Netherlands would not be significant within a reasonably foreseeable time if the antidumping duty order is revoked.<sup>114</sup>

#### **D. Likely Price Effects of the Subject Imports**

In the original investigation, the Commission found significant price underselling by the subject imports as compared with the domestic product. It found that the pervasive underselling was significant because of the interchangeability of the domestic and imported products.<sup>115</sup>

PPD-T aramid fiber is primarily priced based on value-in-use, which means that the same product can be sold at \*\*\* to different end users. The Commission gathered pricing information on twelve products. Over the review period, prices for both the domestic and imported products generally either remained constant or fell somewhat, and there was mixed under and overselling by Twaron of the domestic product.<sup>116</sup>

We have found that there will be no likely significant increase in the volume of subject imports if the order is revoked, and given the current shortage, there will be no need for Twaron to cut prices to generate sales volumes. While it is possible that U.S. prices could be somewhat negatively affected in some instances when the order is lifted, given the present disparity of prices in the United States and

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<sup>111</sup> Industry demand has historically fluctuated over relatively short periods of time, and this fluctuation has affected capacity expansions. Twaron has delayed capacity expansion decisions due to slower than expected growth. Tr. at 80-81 (Testimony of Eiso Alberda van Ekenstein, Twaron). Twaron also \*\*\*. CR at IV-8; PR at IV-3. Similarly, \*\*\*. DuPont Questionnaire at 15.

<sup>112</sup> Fourteen purchasers reported that U.S. demand for PPD-T aramid fiber had increased in at least one end-use segment since 1994. One purchaser reported being told that demand was heaviest in the fiber optic and ballistics segment. Most purchasers expect either continuing stability or continuing growth in PPD-T aramid fiber demand. CR at II-13-14; PR at II-5-6.

<sup>113</sup> In its final comments, DuPont comments on a \*\*\*. DuPont suggests that Twaron is \*\*\* and that this would "erase the current shortage" because aramid fiber \*\*\*. DuPont Final Comments at 13. DuPont's statement that "[t]here is an increasing customer preference for lower denier items in the product mix that is most notable in \*\*\*\*" refutes its comment. DuPont Posthearing Brief, Answers to Commission Questions at 3, n.1. \*\*\*. This increasing customer preference is more likely to \*\*\* the shortage.

<sup>114</sup> Commissioners Miller and Hillman find that the current volume and market share of subject imports is large and conclude that the likely volume would continue to be significant upon revocation of the order. However, as described above, they do not find it likely that there would be a substantial increase in volume upon revocation.

<sup>115</sup> USITC Pub. 2783 at I-13.

<sup>116</sup> CR at V-8-V-29, V-33; PR at V-5-V-8, V-9.

Europe,<sup>117</sup> we note that overall prices are currently rising in both the United States and Europe.<sup>118</sup> Furthermore, with the order in place, Twaron has maintained a significant presence in the U.S. market without engaging in significant underselling. Given the shortages of the product, and likely further expanding demand, it is unlikely that the small additional volumes of subject imports would generate significant price depressing or suppressing effects, or that Twaron would significantly reduce prices on its existing sales volume in the United States.

For the foregoing reasons, we find that revocation of the antidumping duty order would not be likely to lead to significant underselling by the subject imports of the domestic like product, or to significant price depression and suppression, within a reasonably foreseeable time.

### **E. Likely Impact of the Subject Imports**

In the original investigation, the Commission found that the domestic industry suffered declines in sales, market shares, financial condition, and employment levels during the period of investigation, and curtailed critical research and development and capital expenditures, by reason of LTFV imports.<sup>119</sup>

The industry's condition has improved \*\*\* since the original investigation. DuPont has increased production since the order was imposed, while its capacity has remained virtually constant.<sup>120</sup> DuPont \*\*\* production and capacity utilization over the review period,<sup>121</sup> and is currently operating at \*\*\*. DuPont's capacity utilization was \*\*\* percent in 1999; and \*\*\* in interim 2000 as compared to \*\*\* in interim 1999.<sup>122</sup> DuPont's inventories fell from 1997 to 1999, although in interim 2000 Dupont had \*\*\* higher inventories as compared to interim 1999. Its ratio of inventories to production has also fallen.<sup>123</sup>

In the original investigation, DuPont's operating income margins declined over the period of investigation, from \*\*\* in 1991 to \*\*\* in 1992, ending at \*\*\* in 1993.<sup>124</sup> In contrast, DuPont's operating income margins have been \*\*\* in the review period, \*\*\*, \*\*\* in 1998, and \*\*\* in 1999. Furthermore, its operating income margin was \*\*\* in interim 2000 compared to \*\*\* in interim 1999.<sup>125</sup> This \*\*\* has occurred in part because of a \*\*\* due to DuPont's \*\*\*.<sup>126</sup>

The domestic industry's share of apparent U.S. consumption has \*\*\* since 1993 and over the review period. In terms of quantity, the domestic industry's market share was \*\*\* in 1993, \*\*\* in 1997, \*\*\*

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<sup>117</sup> CR at V-4-V-6; PR at V-3-4.

<sup>118</sup> Tr. at 85 (Testimony of Gert Frederiks, Twaron). DuPont Posthearing Brief at 7. Twaron Posthearing Brief at 3 & n.9. Twaron Posthearing Brief, Exhibit 3 (\*\*\*).

Purchasers confirm that prices are increasing. Purchaser \*\*\* said that DuPont raised its prices by \*\*\* in \*\*\* and Twaron followed suit. Purchaser \*\*\* cited \*\*\* in 2000. CR at V-4; PR at V-3. Purchaser \*\*\*. Staff Telephone Notes, January 10-11, 2001.

<sup>119</sup> USITC Pub. 2783 at I-15.

<sup>120</sup> Table I-1, CR at I-4, PR at I-2; and Table III-1, CR at III-2, PR at III-1.

<sup>121</sup> DuPont produced \*\*\* pounds of PPD-T aramid fiber in 1997, \*\*\* in 1998, and \*\*\* in 1999. It produced \*\*\* pounds of PPD-T aramid fiber in interim 2000, as compared to \*\*\* million pounds in interim 1999. DuPont's capacity utilization \*\*\* from \*\*\* in 1997, to \*\*\* in 1998, and further to \*\*\* in 1999. DuPont's capacity utilization was \*\*\* in interim 1999, as compared to \*\*\* in interim 2000. Table III-1, CR at III-2, PR at III-1.

<sup>122</sup> Table III-1, CR at III-2, PR at III-1.

<sup>123</sup> Table III-4, CR at III-6, PR at III-2.

<sup>124</sup> Table I-1, CR at I-4, PR at I-2.

<sup>125</sup> Table III-10, CR at III-14, PR at III-6.

<sup>126</sup> CR at III-13; PR at III-5. The extent to which \*\*\*. Table III-15, CR at III-19, PR at III-7.

in 1998 and \*\*\* in 1999. In terms of value, it was \*\*\* in 1993, \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999.<sup>127</sup> The number of production workers and wages paid have increased \*\*\* since the original investigation, and over the review period, although the number of hours worked has not changed \*\*\* since the original investigation.<sup>128</sup>

Combining the robust condition of this industry with a current shortage of aramid fiber, we do not find the domestic industry to be vulnerable to material injury if the order is revoked.

While the antidumping duty order may have played a role, the improvement in the domestic industry's condition since the original investigation is primarily due to higher demand for most if not all PPD-T aramid fiber market segments, \*\*\*. Although the antidumping duty order may have helped DuPont initially, it is evident that DuPont's current condition is attributable to extremely propitious market conditions and fixed assets that are \*\*\*.

Given the global shortage of PPD-T aramid fiber, demand is likely to remain strong, and the industry's condition is likely to remain strong. We find that revocation of the antidumping duty order would not be likely to have a significant adverse impact on the domestic industry's production, market share, profits, sales, revenues, capacity utilization, employment, ability to raise capital, future capital investment, or product development.

Accordingly, based on the record in these reviews, we conclude that, if the antidumping duty order is revoked, the subject imports would not be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on PPD-T aramid fiber from the Netherlands would not be likely to lead to continuation or recurrence of material injury to the domestic industry producing PPD-T aramid fiber within a reasonably foreseeable time.

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<sup>127</sup> Table I-1, CR at I-3, PR at I-2. The domestic industry's market share by quantity was \*\*\* in interim 2000 as compared to \*\*\* in interim 1999, and by value it was \*\*\* in interim 2000 as compared to \*\*\* in interim 1999. Table I-4, CR at I-19, PR at I-10.

<sup>128</sup> Table I-1, CR at I-4, PR at I-2; Table III-5, CR at III-7, PR at III-3.