

UNITED STATES INTERNATIONAL TRADE COMMISSION

BALL BEARINGS FROM CHINA Investigation No. 731-TA-989 (Preliminary)

DETERMINATION AND VIEWS OF THE COMMISSION (USITC Publication No. 3504, May 2002)

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from China of certain ball bearings and parts thereof, provided for in subheadings 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.50, 8431.20.00, 8431.39.00, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.25, 8482.99.35, 8482.99.65, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.60, 8708.93.30, 8708.93.60, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.40, 8708.99.49, 8708.99.58, 8708.99.80, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).²

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On February 13, 2002, a petition was filed with the Commission and Commerce by the American Bearing Manufacturers Association, Washington, DC, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of certain ball bearings and parts thereof from China. Accordingly, effective February 13, 2002, the Commission instituted

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

² Vice Chairman Deanna Tanner Okun and Commissioner Marcia E. Miller dissenting.

antidumping duty investigation No. 731-TA-989 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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* of February 21, 2002 (67 FR 8039). The conference was held in Washington, DC, on March 6, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

IEWS OF THE COMMISSION

Based on the record in this investigation, we find a reasonable indication that an industry in the United States is materially injured by reason of imports of ball bearings and parts thereof from China that are allegedly sold in the United States at less than fair value (LTFV).^{3 4}

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.⁵ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”⁶

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁷ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “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.”⁸ In turn, 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”⁹

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in

³ Commissioner Lynn M. Bragg finds a reasonable indication that a domestic industry is threatened with material injury. See Separate Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins in sections I-IV.A of these Views.

⁴ Vice Chairman Deanna Tanner Okun and Commissioner Marcia E. Miller dissenting. See Dissenting Views of Vice Chairman Deanna Tanner Okun and Commissioner Marcia E. Miller. Vice Chairman Okun and Commissioner Miller join in sections I-IV.A of these Views, except as noted.

⁵ 19 U.S.C. §§ 1671b(a), 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996). We note that no party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

⁶ American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

⁷ 19 U.S.C. § 1677(4)(A).

⁸ Id.

⁹ 19 U.S.C. § 1677(10).

characteristics and uses” on a case-by-case basis.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.¹² Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.¹³

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of this investigation as:

all antifriction bearings, regardless of size, precision grade or use, that employ balls as the rolling element (whether ground or unground) and parts thereof (inner ring, outer ring, cage, balls, seals, shields, etc.) that are produced in China. Imports of these products are classified under the following categories: Antifriction balls, ball bearings with integral shafts and parts thereof, ball bearings (including thrust, angular contact, and radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. The scope includes ball bearing type pillow blocks and parts thereof; and wheel hub units incorporating balls as the rolling element. With regard to finished parts, all such parts are included in the scope of the petition. With regard to unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the petition are those that will be subject to heat treatment after importation.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.93.30, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31,

¹⁰ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (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. See Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

¹¹ See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

¹² Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

¹³ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission’s determination of six domestic like products in investigations where Commerce found five classes or kinds).

8708.99.4000, 8708.99.4960, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Specifically excluded from the scope are unfinished parts that are subject to heat treatment after importation. Also excluded from the scope are cylindrical roller bearings, mounted or unmounted, and parts thereof (“CRB”) and spherical plain bearings, mounted and unmounted, and parts thereof (“SPB”). CRB products include all antifriction bearings that employ cylindrical rollers as the rolling element. SPB products include all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (“Customs”) purposes, the written description of the merchandise under investigation is dispositive.¹⁴

Ball bearings (BBs) permit free motion between moving and fixed parts by holding, separating, or guiding the moving parts to minimize friction and wear. Completed BBs typically consist of an inner ring, an outer ring, the balls, a cage, and lubrication. Ball bearings vary significantly in size and are typically made from a variety of high-quality carbon steels.¹⁵ Ball bearings are preferred over roller bearings when speed is more important than load-carrying capacity. Ball bearings are designed to carry radial or thrust loads or a combination of the two.¹⁶

The scope of this investigation includes unground bearings, which were not included in the scope of the Commission’s recent review investigations.¹⁷ The scope of this investigation excludes non-heat-treated parts which are intended to be heat-treated after importation (“green parts”); these green parts were not included in the scope of the Commission’s most recent review investigations.¹⁸ The scope includes unfinished parts for which heat treatment is not required.

C. Domestic Like Product

Parties’ Arguments. Petitioner argues that the Commission should find one domestic like product consisting of all BBs, coterminous with the scope of the investigation. Petitioner argues that unground bearings do not constitute a separate like product.¹⁹ Respondents argue that the domestic like product should be expanded to include all domestically produced green parts.²⁰

¹⁴ 67 Fed. Reg. 15,787, 15,788 (Apr. 3, 2002).

¹⁵ Staff Report, Confidential Version (CR) at I-4, Staff Report, Public Version (PR) at I-3; Petition, Vol. I at 9.

¹⁶ CR at I-4, PR at I-3.

¹⁷ Petition at 5 n.2.

¹⁸ Certain Bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, Inv. Nos. AA1921-143, 731-TA-341, 731-TA-343-345, 731-TA-391-397, and 731-TA-399 (Review), USITC Pub. 3309 (June 2000) at Vol. II, BB-I-22.

¹⁹ Petitioner notes that unground bearings share common physical characteristics with ground bearings, and that domestic producers use many of the same production processes, equipment, and skills to produce both types of BBs. Unground BBs serve the same functions in the same applications as ground bearings, are sold in the same channels of distribution as ground bearings, and compete for the same customers and the same applications. Conference Transcript (Tr.) at 24-25 (Ms. May); Petitioner’s Postconference Brief at 5-7.

²⁰ Respondents note that the excluded green parts are dedicated to the production of the downstream article and have no independent use or market. Respondents further claim that the physical characteristics of green parts are “almost identical” to those of heat-treated parts, the sole difference being the hardness of the part. Respondents
(continued...)

Analysis. We consider first whether unground BBs are properly included with ground BBs in a single domestic like product. The record contains evidence that unground and ground BBs share similar physical characteristics, are produced by the same domestic producers using the same production processes, equipment, and employees, and that both types of BBs compete in similar channels of distribution for similar applications with similar customers.²¹ We are mindful that this investigation covers a continuum of products in various sizes and configurations, and that in such cases our typical practice is to treat the continuum itself as the domestic like product.²² We do so here, and thus find that unground BBs are properly included with all other BBs in a single domestic like product, coterminous with the scope of the investigation.

We do not find an adequate basis in the record of this preliminary investigation to broaden the like product beyond the articles coterminous with the scope to include green parts that are intended for heat treatment. In particular, the limited record available in this preliminary phase contains little information regarding these parts. However, we intend to seek additional information regarding green parts in any final phase of this investigation and we may revisit our decision not to include them in the domestic like product. In this context, we may consider whether a traditional like product analysis or a semi-finished product analysis is most appropriate.

For the reasons stated above, we define the domestic like product as ball bearings and parts thereof (BBs), coextensive with the scope of investigation.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as “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.”²³ In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.²⁴

Based on our domestic like product finding, we determine that the domestic industry consists of all U.S. producers of ball bearings and parts thereof.

B. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that

²⁰ (...continued)

claim that most of the value of the part has been added before heat treatment. Postconference Brief of Ningbo MOS Group, Ningbo Cixin Bearing, Ningbo Huanchi Group, Wangxiang China, Ningbo General Bearing Co., Ltd., and Jiangsu General Ball and Roller Co. Ltd. (hereinafter “Ningbo Postconference Brief”) at 5-6.

²¹ Tr. at 24-25 (Ms. May); Petitioner’s Postconference Brief at 5-7.

²² USITC Pub. 3309 at 13; Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 701-TA-368-371 (Final), USITC Pub. 3075 (November 1997) at 7.

²³ 19 U.S.C. § 1677(4)(A).

²⁴ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F. 3d 1352 (Fed. Cir. 1996).

are related to an exporter or importer of subject merchandise or which are themselves importers.²⁵ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.²⁶

*** domestic producers imported subject bearings from China during the period of investigation.²⁷ The value of imports for each producer was equivalent to *** of the value of its domestically produced shipments in 2001.²⁸ For *** producers, the value of imports was equivalent to *** of the value of domestically produced shipments in 2001.²⁹ In light of the relatively small levels of subject imports relative to domestic production, we find that the primary interest of each of these producers lies in domestic production rather than in importation, and that these producers do not appear to have gained any advantage from alleged unfair trade practices. Thus, we do not find that appropriate circumstances exist to exclude any producer from the domestic industry as a related party.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS³⁰

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially

²⁵ 19 U.S.C. § 1677(4)(B).

²⁶ Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

²⁷ CR/PR at Table IV-5.

²⁸ Calculated from CR/PR at Table IV-5. In considering whether any domestic producers should be excluded from the domestic industry on related party grounds, we have relied on value to measure the volume of subject imports. We are mindful of the limitations presented by relying solely on a value, as opposed to a quantity, measure. *See* the discussion in note 38 and section IV.B *infra*. Nonetheless, for the purposes of this preliminary determination, we rely primarily on value measures, as we have done in previous BB investigations. *See, e.g.*, Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20 (Final) and 731-TA-391 through 399 (Final), USITC Pub. 2185 (May 1989) at 67; USITC Pub. 3309 at 26-27.

²⁹ Calculated from CR/PR at Table IV-5.

³⁰ Negligibility is not at issue in this investigation. During the 12-month period preceding the filing of the petition, subject imports from China were \$124.9 million, while total imports were \$865.4 million. Subject imports from China therefore accounted for 14.4 percent of total imports as measured by value. CR at IV-4, PR at IV-1.

injured or threatened with material injury by reason of the imports under investigation.³¹ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.³² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”³³ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.³⁴ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”³⁵

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing BBs is materially injured by reason of subject imports from China that are allegedly sold in the United States at LTFV.^{36 37}

A. Conditions of Competition

Ball bearings are used in a wide variety of applications, ranging from in-line skates and lawnmower wheels to automobiles, aerospace, and agriculture.³⁸ Demand for BBs in the U.S. thus depends on the demand for that variety of products, and, given the range of uses, demand for BBs tends to follow general economic conditions.³⁹ Apparent total domestic consumption of BBs rose from \$2.863 billion in 1999 to \$2.949 billion in 2000.⁴⁰ In 2001 apparent total domestic consumption of BBs was \$2.682 billion, down 9.0 percent from 2000 and down 6.3 percent from 1999.⁴¹

Domestic producers accounted for approximately two-thirds of total apparent domestic consumption during the period of investigation (POI). In 1999, shipments of domestically produced bearings accounted for 68.4 percent of consumption as measured by value. In 2001, that share was 67.0

³¹ 19 U.S.C. §§ 1671b(a), 1673b(a).

³² 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

³³ 19 U.S.C. § 1677(7)(A).

³⁴ 19 U.S.C. § 1677(7)(C)(iii).

³⁵ 19 U.S.C. § 1677(7)(C)(iii).

³⁶ Commissioner Lynn M. Bragg finds a reasonable indication that a domestic industry is threatened with material injury. See Separate Views of Commissioner Lynn M. Bragg.

³⁷ Vice Chairman Deanna Tanner Okun and Commissioner Marcia E. Miller dissenting. See their dissenting Views. Vice Chairman Okun and Commissioner Miller join in sections I-IV.A. of these Views, except as noted.

³⁸ CR at II-1, II-5, PR at II-1, II-3-II-4.

³⁹ CR at II-5, PR at II-4.

⁴⁰ CR/PR at Table C-1. As noted in our related-party discussion, we have opted to rely on value-based indicators to measure volume. The Commission has typically relied on value-based measures in its investigations of the BB market. See, e.g., USITC Pub. 2185 at 67; USITC Pub. 3309 at 26-27. In this investigation, we similarly rely on value-based indicators as the best measure for a continuum product that includes a vast grouping of items differing in size, complexity, and application. We are aware of the limitations of value-based indicators, such as the difficulty in determining whether changes in value totals are caused by differences in product mix. In any final phase of this investigation, we will attempt to collect precise quantity-based data and will again consider the use of value and quantity indicators as necessary.

⁴¹ CR/PR at Table C-1.

percent.⁴² The value of U.S. producers' domestic shipments declined in each year of the POI, falling

⁴² CR/PR at Table C-1.

from \$1.959 billion in 1999 to \$1.942 billion in 2000 to \$1.797 billion in 2001. The value of U.S. producers' domestic shipments thus fell by 8.3 percent between 1999 and 2001.⁴³

Imports accounted for the remaining one-third of the U.S. market. Subject imports from China accounted for 4.3 percent of total apparent consumption as measured by value in 1999. That share was 4.8 percent in 2001. Subject imports rose by 4.5 percent over the POI, rising from \$122.4 million in 1999 to \$128.0 million in 2001. Nonsubject imports as measured by value rose from 27.3 percent of total apparent domestic consumption in 1999 to 28.2 percent in 2001. The volume of nonsubject imports, measured by value, fell by 3.2 percent over the POI, falling from \$781.6 million in 1999 to \$756.8 million in 2001.⁴⁴

The domestic industry producing BBs consists of a large number of firms, with no single firm accounting for a dominant share of the market. In 2001, *** was the leading producer as measured by value of shipments, and *** share of the market was *** percent.⁴⁵

Domestic shipments account for the large majority of domestic production. Exports account for nearly 10 percent of all shipments of domestically produced BBs as measured by value, and that share remained relatively steady during the POI.⁴⁶ Captive consumption also accounts for a notable share of domestic production. Internal consumption accounted for *** percent of domestic shipments by value in 1999, *** percent in 2000, and *** percent in 2001.⁴⁷ Transfers to related firms accounted for *** percent of domestic shipments by value in 1999, *** percent in 2000, and *** percent in 2001.⁴⁸

BB production is capital-intensive.⁴⁹ Over the POI domestic production capacity rose by 1.1 percent, increasing from 6.651 billion units in 1999 to 6.723 billion units in 2001.⁵⁰ Capacity utilization rates rose from 57.4 percent in 1999 to 64.6 percent in 2000 before dropping sharply to 42.0 percent in 2001.⁵¹ The drop in production was so sharp that capacity utilization rates would have fallen even in the absence of any capacity increases.

As previously noted, BBs comprise a vast array of items and are used in a wide variety of applications, and BBs produced to different specifications tend not to be interchangeable, even at the design stage. BBs produced to the same specifications by different producers tend to be interchangeable, although a number of domestic producers indicated that subject imports from China are not typically of the same quality as domestically produced BBs.⁵²

Ground BBs are assigned ABEC ratings, with a higher ABEC rating indicating higher performance standards.⁵³ Some applications call for BBs meeting electric motor quality (EMQ) standards. These EMQ standards are not comparable to ABEC ratings and vary from producer to

⁴³ CR/PR at Table C-1.

⁴⁴ CR/PR at Table C-1.

⁴⁵ CR/PR at Table III-1.

⁴⁶ Calculated from CR/PR at Table C-1.

⁴⁷ CR at II-2, PR at II-2. No party addressed the applicability of the captive production provision and we did not obtain information addressing all of the statutory criteria. In any final phase of this investigation we intend to seek further information on internal consumption and related-party transfers and will consider whether the captive production provision is applicable.

⁴⁸ Calculated from CR/PR at Table III-3.

⁴⁹ Tr. at 29 (Mr. Wechsler).

⁵⁰ CR/PR at Table C-1.

⁵¹ CR/PR at Table C-1.

⁵² CR at II-6, PR at II-4.

⁵³ ABEC stands for Annular Bearing Engineering Committee. CR at I-5 n.11, PR at I-4 n.11. Unground bearings do not have ABEC ratings. Tr. at 67 (Ms. May).

producer.⁵⁴ Most original equipment manufacturer (OEM) purchasers have qualification processes for each application, completion of which can take six months or more.⁵⁵

The existence of ABEC and EMQ standards is not contested. The ability of subject imports from China to meet such qualifications is contested. Both petitioner and respondents agree that a large majority of subject imports from China consist of BBs with relatively low ABEC ratings.⁵⁶ Petitioner claims that subject imports from China are nonetheless of a sufficiently high quality to compete with domestically produced bearings “in many areas along the market continuum.”⁵⁷ Petitioner also has submitted data indicating that applications requiring low-rated BBs account for a significant share of the domestic market.⁵⁸ Respondents argue that both size and quality differences between subject imports and domestically produced BBs mean that the products serve different markets.⁵⁹ Respondents also argue that competition between subject imports and the domestic like product is limited by the reluctance of many OEM producers to purchase imports and governmental purchasing regulations that favor domestically produced goods.⁶⁰

More than half of responding domestic producers report that significant differences in product characteristics or sales conditions exist between subject imports and domestically produced BBs, as do 28 of 34 responding importers.⁶¹ Both producers and importers cite better quality, better technical support, and wider product range as favoring the domestic like product.⁶²

Domestically produced BBs are significantly more likely to be sold directly to end users than are subject imports from China. In 2001, 95.8 percent of domestically produced BBs were sold directly to end users, while 40.6 percent of subject imports were sold directly to end users.⁶³ The record also indicates that some purchasing segments, especially defense-related ones, may be dominated by the domestic industry because of “Buy American” and other legal requirements.⁶⁴

All of the foregoing suggest that some segmentation of the market exists, as well as some overlap, but we do not find that the record available to us in the preliminary phase of this investigation permits us to effectively determine what degree of segmentation exists and the implications of any segmentation for the conditions of competition confronting this industry. Most notably, the record contains no purchaser questionnaire data. We intend to seek additional data in any final phase of this investigation to determine what degree of segmentation exists in the domestic market.

B. Volume of the Subject Imports^{65 66}

⁵⁴ Tr. at 97-98 (Mr. Dutton).

⁵⁵ Tr. at 89 (Mr. Greenwald); Petitioner’s Postconference Brief at App. 2, p.6.

⁵⁶ Tr. at 60 (Mr. Gridley); Tr. at 82 (Mr. Dutton).

⁵⁷ Petitioner’s Postconference Brief at 14.

⁵⁸ Petitioner’s Postconference Brief at App. 2, p.12.

⁵⁹ Ningbo Postconference Brief at 7; Tr. at 82 (Mr. Dutton).

⁶⁰ Ningbo Postconference Brief at 11-13.

⁶¹ CR at II-6, PR at II-4.

⁶² CR at II-6, PR at II-4.

⁶³ CR at II-1, PR at II-1. The share of both domestically produced and subject import BBs sold directly to end users declined over the POI, although the share of subject imports sold directly to end users fell far more dramatically. Id.

⁶⁴ Tr. at 85 (Mr. Dutton); Petitioner’s Postconference Brief at App. 2, pp.8-9; Ningbo Postconference Brief at 12-13.

⁶⁵ Commissioner Bragg does not join in the remainder of these Views. See Separate Views of Commissioner
(continued...)

Section 771(C)(I) of the Act provides that 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.”⁶⁷

As noted above, the value of subject imports increased by 4.5 percent over the POI, rising from \$122.4 million in 1999 to \$128.0 million in 2001.⁶⁸ This increase occurred while overall apparent total domestic consumption declined between 1999 and 2001. The share of apparent total domestic consumption measured by value accounted for by subject imports from China increased somewhat, rising from 4.3 percent in 1999 to 4.8 percent in 2001.⁶⁹

The value-based figures indicate that subject imports from China constituted a small portion of the U.S. market and increased modestly over the POI. However, measuring import volume by quantity produces a different picture. Subject imports from China, as measured in bearings or bearing equivalents, increased by 19.4 percent between 1999 and 2001, while nonsubject imports decreased by 12.8 percent.⁷⁰ During that same time period, U.S. shipments of domestically produced BBs dropped by 26.1 percent when measured by quantity.⁷¹

We have tended to rely on value-based measures in our previous BB investigations.⁷² In general we find value-based measures to be preferable when the product includes such a continuum of items of varying size, quality, and application. But in this investigation we are confronted with a situation in which the value-based and quantity-based measures could lead to conflicting conclusions regarding the volume of subject imports during the POI. The value-based measure indicates a very modest increase, while the quantity-based measure indicates that subject imports from China increased notably at a time when both domestic shipments and nonsubject imports declined sharply.

In the absence of more information concerning the nature of competition between the subject imports and the domestic like product, we cannot determine whether the increase in the volume of subject imports occurred at the expense of the domestic industry. By either measure, domestic shipments declined in 2001, but we cannot determine whether that decline was driven by weakness in sectors dominated by the domestic industry, such as automobiles, or whether the domestic industry was in fact being displaced by subject imports.

The record in this preliminary phase of the investigation indicates that the volume of subject imports, at least as measured by quantity, increased over the POI, although the record does not contain sufficient information to permit us to evaluate the significance of that increase. In any final phase of this investigation we intend to seek additional data, including further information on market segmentation and

⁶⁵ (...continued)

Lynn M. Bragg.

⁶⁶ Vice Chairman Okun and Commissioner Miller do not join in the remainder of these Views. See Dissenting Views of Commissioners Marcia E. Miller and Deanna T. Okun.

⁶⁷ 19 U.S.C. § 1677(7)(C)(I).

⁶⁸ CR/PR at Table C-1.

⁶⁹ CR/PR at Table C-1.

⁷⁰ Calculated from CR/PR at Table IV-3. The quantity figures included in Table IV-3 do not include all HTS numbers covered by the scope and may include non-subject products (*i.e.*, green parts subject to heat treatment after importation). *Id.*

⁷¹ CR/PR at Table C-1. Differences in domestic production, reported in quantities, and domestic shipments, presented in value terms, indicate that domestic production numbers, as expressed in quantity terms, may not be consistently reported across the industry. Compare production and shipment shares as presented in CR/PR Table III-1.

⁷² USITC Pub. 2185 at 67; USITC Pub. 3309 at 26-27.

other potential quantity-based measures of volume.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁷³

Pricing data by product indicate that subject imports consistently undersold the domestic like product. Subject imports undersold the domestic like product in 71 of 72 quarterly comparisons. The margins were typically large and typically increased over the POI.⁷⁴

However, the significance of this underselling is unclear, including whether the order of magnitude of these underselling margins reflects sales in different market segments. In addition, while the six products surveyed account for 10.0 percent of subject imports, they account for only 1.2 percent of shipments of domestically produced BBs.

Furthermore, the product-specific pricing data show domestic prices flat or rising as underselling margins widened.⁷⁵ Average unit values (AUVs) for all U.S. shipments of domestically produced BBs remained flat from 1999 to 2000, then rose by 24.6 percent between 2000 and 2001, even as overall demand was declining and available unused domestic productive capacity increased.⁷⁶

Nevertheless, the record does not permit us to conclude that prices of subject imports had no significant effect on prices or sales of the domestic like product. For three of the six products on which the Commission collected pricing data, sales of domestically produced BBs as measured by quantity fell and subject import sales quantities rose.⁷⁷ Commission staff was able to confirm instances of lost sales and lost revenue, indicating some degree of direct price-based competition between domestically produced BBs and subject imports.⁷⁸

Because domestic prices were flat or rose even as shipments fell, the pricing data do not indicate that prices for the domestic like product were being depressed by subject imports. The absence of purchaser data and information regarding the segmentation of the market make it difficult to determine whether the pervasive underselling simply reflects product differences or whether underselling was a means by which subject imports displaced domestically produced BBs. We intend to examine closely these issues in any final phase of this investigation, as well as whether subject imports suppressed prices of the domestic like product to any significant degree. We will also seek product-specific pricing data on a greater range of BB items.

D. Impact of the Subject Imports

⁷³ 19 U.S.C. § 1677(7)(C)(ii).

⁷⁴ CR at V-15 and Tables V-1-V-6; PR at V-10 and Tables V-1-V-6.

⁷⁵ CR/PR at Tables V-1-V-6.

⁷⁶ CR/PR at Table C-1. We are mindful of the pitfalls of comparing AUVs in a product such as BBs, in which changes in AUVs may simply reflect changes in product mix.

⁷⁷ CR/PR at Tables V-1, V-2, and V-4.

⁷⁸ CR/PR at Tables V-7 and V-8. *** lost sales and lost revenue allegations could neither be confirmed nor denied in the time available in the preliminary phase of this investigation. CR at V-16, PR at V-10-V-11.

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.⁷⁹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{80 81}

The value of U.S. shipments by domestic producers declined by 8.3 percent between 1999 and 2001.⁸² As shipments dropped, inventories ballooned. Inventories doubled between 1999 and 2001, although all of the increase occurred between 1999 and 2000. In 2001 inventories were equivalent to 15.0 percent of total shipments, up from 5.4 percent in 1999.⁸³ Production capacity increased modestly between 1999 and 2001, but the decline in production led to a sharp reduction in capacity utilization. In 2001 the domestic industry used 42.0 percent of its production capacity, down from 64.6 percent in 2000.⁸⁴ As production and capacity utilization declined, productivity also dropped sharply, falling 28.7 percent between 2000 and 2001 alone and slipping 13.3 percent for the POI.⁸⁵ The number of production workers, hours worked, and wages paid all declined between 1999 and 2001, although hourly wages increased modestly.⁸⁶

The domestic industry remained profitable throughout the POI.⁸⁷ Operating income declined, and operating income as a percentage of net sales was lower in 2001 than in 1999, falling from 7.1 percent in 1999 to 3.2 percent in 2001.⁸⁸ The number of firms reporting operating losses doubled between 2000 and 2001, but more than two-thirds had positive operating income.⁸⁹ Capital expenditures were lower in 2001 than in 2000, but 2001 expenditures remained well above 1999 levels.⁹⁰ Research and development expenditures in 2001 were 10.2 percent lower than in 1999.⁹¹

⁷⁹ 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 (“In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” Id. at 885).

⁸⁰ 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

⁸¹ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce reported that petitioner has alleged estimated dumping margins ranging from 17 to 249 percent for BBs from China. 67 Fed. Reg. at 15,790 (Apr. 3, 2002).

⁸² CR/PR at Table C-1.

⁸³ CR/PR at Table C-1.

⁸⁴ CR/PR at Table C-1.

⁸⁵ CR/PR at Table C-1.

⁸⁶ CR/PR at Table C-1.

⁸⁷ CR/PR at Table VI-1.

⁸⁸ CR/PR at Table VI-1.

⁸⁹ CR/PR at Table VI-1.

⁹⁰ CR/PR at Table VI-3.

⁹¹ CR/PR at Table VI-3.

By many measures, therefore, the performance of the domestic industry declined over the POI, although the industry on the whole remained profitable and lost very little market share in value terms. As noted above, the record indicates that prices for the domestic like product generally were flat or rising during the POI, that some differences exist between subject imports and the domestic like product, and that the market for BBs may be somewhat segmented. Moreover, the declining fortunes of the domestic industry may be explained in large part by reduced consumption: total apparent domestic consumption fell 6.3 percent between 1999 and 2001.⁹² However, the record also contains evidence that the volume of subject imports increased while the domestic industry's performance weakened, and that sales volumes for some subject imports increased while underselling margins widened and sales of comparable domestic like products declined. Consequently, although much of the record in the preliminary phase of this investigation indicates that subject imports may not have caused material injury to the domestic industry, we cannot conclude that the record as a whole meets the applicable legal standard for issuing a negative determination in a preliminary investigation.⁹³ On balance, then, we issue an affirmative determination in this preliminary investigation.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing ball bearings and parts thereof is materially injured by reason of imports from China that are allegedly sold in the United States at less than fair value.^{94 95}

⁹² CR/PR at Table C-1.

⁹³ American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986)

⁹⁴ Commissioner Lynn M. Bragg finds a reasonable indication that a domestic industry is threatened with material injury. See Separate Views of Commissioner Lynn M. Bragg.

⁹⁵ Vice Chairman Okun and Commissioner Miller dissenting.

SEPARATE VIEWS OF COMMISSIONER LYNN M. BRAGG

As noted, I join sections I through IV.A of the Views of the Commission, which address the legal standard for preliminary determinations, the definitions of the domestic like product and domestic industry, and the conditions of competition for this industry. However, because I have made an affirmative determination of threat of material injury in this preliminary phase investigation, I provide my separate views below.

I. Present Material Injury

I note from the outset that the record developed in this preliminary investigation indicates a progressive deterioration in the financial performance of the domestic ball bearings industry, with average operating margins declining from 7.1 percent in 1999 to 3.2 percent in 2001.⁹⁶ Although I do not find that the record establishes a sufficient causal nexus between subject imports and the current weakened condition of the domestic industry (for purposes of analyzing present material injury), the weakened state of this industry is an important context within which I have evaluated the threat of material injury posed by subject imports (*see* section II below).

Volume. As measured by value, the volume of subject imports increased by 3.1 percent between 1999 and 2000, roughly matching the 3.0 percent increase in apparent U.S. consumption; in contrast, nonsubject imports, which already held 27.3 percent of the U.S. market in 1999, increased by 12.6 percent during this period.⁹⁷ In this context, the 12.4 percent increase in production by the domestic industry between 1999 and 2000 resulted in a doubling of end of period inventories. Between 2000 and 2001, the value of subject imports increased by 1.4 percent, even as apparent U.S. consumption declined by 9.0 percent and nonsubject imports declined by 14.0 percent; as a result, the share of the U.S. market captured by subject imports increased to 4.8 percent in 2001.⁹⁸ In this context, U.S. production by the domestic industry declined by 34.2 percent, and end of period inventories remained at roughly the same level. Finally, I note that exports by the domestic industry, which were equivalent to 10.6 percent of the domestic industry's U.S. shipments in 1999, declined by 2.9 percent in 2000 and again by 5.1 percent in 2001.⁹⁹ Notwithstanding the increase in subject imports between 1999 and 2001, I do not find the volume of subject imports to be significant in this preliminary investigation in light of the foregoing changes in demand and the pattern and timing of subject and nonsubject import volumes; however, I note that these factors contributed to a weakening of the domestic industry that bears strongly on an evaluation of the threat posed by subject imports.

Price. The Commission collected quarterly pricing data for six ball bearings products; these data account for 1.2 percent of the value of domestic producers' U.S. shipments and 10.0 percent of the value of subject imports during the period of investigation.¹⁰⁰ Price comparisons indicate underselling by subject imports in 71 out of 72 quarters, for a 98.6 percent incidence of underselling. In light of the price trends evidenced on the record, I do not find such underselling to be significant for purposes of assessing present material injury. If annual weighted-average price levels are compared, the record indicates that with regard to 5 out of the 6 products, prices for U.S. producers increased from 1999 to 2001, while prices for subject

⁹⁶ Confidential Report ("CR") and Public Report ("PR") at Table C-1.

⁹⁷ CR/PR at Table C-1.

⁹⁸ CR/PR at Table C-1.

⁹⁹ *See* CR/PR at Table C-1.

¹⁰⁰ CR at V-4, PR at V-3.

imports declined;¹⁰¹ with respect to the remaining product, annual weighted-average prices for U.S. producers declined roughly *** percent between 1999 and 2001, while prices for subject imports declined 21 percent.¹⁰² On balance, I do not find that the record indicates significant price suppression or depression by reason of subject imports; however, as I discuss in section II below, the pricing behavior of subject imports during the period of investigation provides an important indication of the threat posed by such imports given the current condition of the domestic industry.¹⁰³

Impact. A number of financial and performance indicia reflect the weakening condition of the domestic industry, particularly over the latter portion of the period of investigation.¹⁰⁴ In particular, I note that between 2000 and 2001, the record indicates the following: the domestic industry's U.S. shipments declined by 25.7 percent, even as apparent U.S. consumption declined by only 9.0 percent; domestic production capacity increased by only 1.2 percent, while production quantity declined by 34.2 percent and capacity utilization declined from 64.6 percent to 42.0 percent; the domestic industry's gross profit declined by 12.6 percent and operating margins declined from 5.5 percent to 3.2 percent; employment declined by 6.2 percent, and capital expenditures declined by 18.3 percent; in addition, I note that between 1999 and 2000, domestic producers' end of period inventories more than doubled, increasing by 103 percent, and that between 2000 and 2001, end of period inventories remained roughly level, declining by a mere 1.8 percent.¹⁰⁵ Due largely to the sharp decline in production from 2000 to 2001, the domestic industry's per unit cost of goods sold increased by 22.0 percent in 2001. Finally, I note that the number of U.S. producers reporting operating losses increased from 3 out of 21 in 1999 and 2000, to 6 out of 21 in 2001.¹⁰⁶ The foregoing data indicate that the domestic ball bearings industry is in a significantly weakened state. As noted, however, I do not find significant volume or price effects by reason of subject imports during the period of investigation; accordingly, I do not find that subject imports had a significant adverse impact on the domestic industry. Nonetheless, it is in this context of a significantly weakened domestic industry that I turn to an evaluation of the threat of material injury posed by subject imports.

¹⁰¹ Calculated from CR/PR at Tables V-1, V-2, V-3, V-4, and V-6.

¹⁰² Calculated from CR/PR at Table V-5.

¹⁰³ The uniformly declining price trends evidenced for subject imports indicate that a value based measure of import volumes is likely to understate the presence of subject imports in the U.S. market during the period of investigation; nevertheless, I rely primarily upon value based measures of volume in this preliminary phase investigation because the quantity based data on the record appear far less reliable given the range of products, including both complete bearings and parts thereof, encompassed by the data. I join my colleagues in seeking to collect more precise quantity based volume data in any final phase investigation. *See Views of the Commission* at nn. 26 & 38.

¹⁰⁴ I note that the statute instructs the Commission to consider "the magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce reported that the petitioner has alleged estimated dumping margins ranging from 17 percent to 249 percent for ball bearings from China. 67 Fed. Reg. 15,787, 15,790 (Apr. 3, 2002). I further note that I do not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China*, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

¹⁰⁵ CR/PR at Table C-1.

¹⁰⁶ CR/PR at Table VI-1.

II. Threat of Material Injury

In evaluating the threat of material injury posed by subject imports, the Commission analyzes whether further dumped or subsidized imports are imminent and whether material injury by reason of such imports would occur unless an order is issued.¹⁰⁷ In addition to the enumerated statutory threat criteria,¹⁰⁸ the Commission considers all relevant factors that bear on the probability that a threat of material injury exists.¹⁰⁹ I find that deteriorating financial and performance indicia for the domestic ball bearings industry over the period of investigation demonstrate that the domestic industry is in a significantly weakened condition and it is in this context that I assess the likely impact of further volumes of low priced subject imports.

Between 2000 and 2001, the 9.0 percent decline in apparent U.S. consumption was met with a 14.0 percent decline in nonsubject imports and a 7.5 percent decline in the domestic industry's U.S. shipments; in contrast, the volume of subject imports increased by 1.4 percent and the U.S. market share captured by subject imports increased from 4.3 percent in 2000 to 4.8 percent in 2001.¹¹⁰ Several factors indicate that this trend will continue and that both the volume of subject imports, and the likely increase in volume, will be significant in the imminent future. End of period inventories for Chinese producers increased by 14.3 percent between 2000 and 2001, to a level equivalent to 18.7 percent of Chinese production in 2001;¹¹¹ at the same time, capacity utilization for subject producers in China declined from 87.2 percent in 2000 to 82.9 percent in 2001.¹¹² Thus, unused production capacity in China in 2001 was equivalent to 93.3 percent of reported exports from China to the United States that year; in other words, according to the data submitted by subject producers, unused production capacity in China could almost double the volume of exports;¹¹³ as noted, subject imports already accounted for 4.8 percent of the U.S. market in 2001.

Even as capacity utilization declined and inventories were building, home market shipments by subject producers in China declined by 16.8 percent from 2000 to 2001. According to the data submitted by subject producers, the ball bearings industry in China responded to the foregoing home market conditions by increasing exports to the United States from 2000 to 2001, notwithstanding declining demand in the U.S. market during this period.¹¹⁴ At the same time, exports from China to all other markets

¹⁰⁷ 19 U.S.C. § 1677(7)(F)(ii).

¹⁰⁸ 19 U.S.C. § 1677(7)(F)(i). Statutory factors (I) and (VII) do not apply because this investigation does not involve allegations of a countervailable subsidy or imports of both a raw agricultural product and any product processed from such raw agricultural product. *See id.* With regard to factor (VI), most Chinese producers reported that they do not produce other products on the same machinery and equipment used to produce ball bearings, and thus the potential for product shifting appears limited. CR at II-5, PR at II-3. I note that U.S. producers similarly report that they cannot easily switch between production of ball bearings and other products. CR at II-3, PR at II-2.

¹⁰⁹ Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F.3d 978, 984 (Fed. Cir. 1994); *see also* NEC Corp. v. United States, 83 F. Supp.2d 1339, 1342-43 (Ct. Int'l Trade 1999).

¹¹⁰ CR/PR at Table C-1.

¹¹¹ Calculated from CR/PR at Table VII-2. As noted, I rely primarily upon value based measures of quantity in this preliminary phase investigation. *See supra* n.8. Here, however, I must rely upon the data as supplied to the Commission by the subject producers, which is primarily quantity based.

¹¹² CR/PR at Table VII-1 (utilizing the quantity based data reported by subject producers in China).

¹¹³ Calculated from CR/PR at Table VII-1 (utilizing the quantity based data reported by subject producers in China).

¹¹⁴ The data submitted by subject producers indicate that exports of the subject merchandise from China to the

(continued...)

declined, thus indicating that Chinese producers targeted the U.S. market during this period of declining home market demand.¹¹⁵ The record does not suggest any changes in the foregoing conditions, and thus I find that the trend will continue and an increase in subject import volume is imminent.

I further find an imminent threat of material injury to the domestic industry by reason of the continuing presence of low-priced subject imports, based upon the following. First, there already exists a substantial overhang of inventories of low-priced subject imports in the United States, with U.S. importers reporting a 17.1 percent increase in subject import inventories between 2000 and 2001, to a level equivalent to over 40 percent of U.S. producers' production in 2001.¹¹⁶ At the same time, end of period inventories in 2001 for the domestic industry remained roughly twice their level in 1999, and were equivalent to almost 20 percent of U.S. shipments by the domestic industry in 2001.¹¹⁷ In addition, capacity utilization for the domestic industry declined sharply, from 64.6 percent in 2000 to 42.0 percent in 2001.¹¹⁸ A capital intensive industry such as the ball bearings industry requires a high rate of capacity utilization in order to remain profitable; thus, the combination of already low capacity utilization plus high inventory levels, in the context of declining demand, renders the domestic industry particularly vulnerable to a further deterioration in profitability if the present level of subject imports is sustained or increases, as appears imminent.

The statute also directs the Commission to examine whether subject imports 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.¹¹⁹ Based upon the pricing behavior evident on the record, I find that subject imports are likely to continue to substantially undersell the domestic like product; indeed, annual weighted-average margins of underselling for the six pricing products ranged from *** percent to *** percent during the period of investigation.¹²⁰ The Petitioner argues that the domestic industry has benefited from low raw material costs in the form of low steel costs during the period of investigation, and that this phenomenon is unlikely to continue.¹²¹ Steel costs appear to be rising for the domestic industry,¹²² and the record indicates an increase in the ratio of COGS/sales from 83.5 percent in 2000 to 84.3 percent in

¹¹⁴ (...continued)

United States increased by 11.1 percent between 2000 and 2001. Calculated from CR/PR at Table VII-1.

¹¹⁵ The data submitted by subject producers indicate that exports of ball bearings from China to all markets other than the United States declined by 6.3 percent between 2000 and 2001. Calculated from CR/PR at Table VII-1.

¹¹⁶ Calculated from CR/PR at Table VII-2 and Table C-1 (utilizing quantity-based volume data). The record also indicates that U.S. importers' end of period inventories in 2001 were almost 12 times the volume of exports of the subject merchandise from China to the United States that year. *Cf.* CR/PR Table VII-1 *with* Table VII-2. The magnitude of the difference between these two quantity based measures provides some indication of the lack of precision in the quantity based data submitted to the Commission in this preliminary phase investigation. In any event, based upon the entirety of the record, I am satisfied that there is a significant overhang of subject import inventories in the U.S. market.

¹¹⁷ CR/PR at Table C-1.

¹¹⁸ CR/PR at Table C-1.

¹¹⁹ 19 U.S.C. § 1677(7)(F)(i)(IV).

¹²⁰ Calculated from CR/PR at Tables V-1, V-2, V-3, V-4, V-5, and V-6.

¹²¹ Petitioner's Postconference Brief at 36.

¹²² Conf. Tr. at 38-39 (Testimony of Mr. Wechsler).

2001.¹²³ Faced with a trend of increasing costs,¹²⁴ it is likely that domestic producers will prove unable to recover such costs with additional increases in price given the substantial margins of underselling that are likely to prevail. As a result, I find that at a minimum, subject imports are likely to enter the U.S. market at prices that are likely to have a significant suppressing effect on

¹²³ CR/PR at Table C-1.

¹²⁴ *See* 19 U.S.C. § 1677(7)(F)(i)(IX).

domestic prices in the imminent future; this, in turn, will likely place the domestic industry in a cost-price squeeze.¹²⁵

Finally, I note that the statute directs the Commission to examine the actual and potential negative effects of subject imports on the existing development and production efforts of the domestic industry.¹²⁶ Over the period of investigation, aggregate depreciation/amortization expenses for the domestic industry exceeded total capital expenditures by roughly 15 percent.¹²⁷ The fact that a capital intensive industry such as the domestic ball bearings industry has failed to maintain its capital stock to this extent is further evidence of the weakened condition of this industry.¹²⁸ As I have described, subject imports are likely to enter the U.S. market in volumes and at prices that are likely to have a significant adverse impact on the profitability of the domestic industry in the imminent future. I find that as a result, the continuing presence of subject imports in the U.S. market is likely to exacerbate the inability of the domestic industry to maintain its capital stock, and thus would have a significant negative effect on the production efforts of the domestic industry.

III. Conclusion

Based upon all the foregoing, I find that there is a reasonable indication that subject imports from China pose an imminent threat of material injury to the domestic ball bearings industry.

¹²⁵ As noted, the domestic industry's per unit cost of goods sold already increased by 22.0 percent between 2000 and 2001, due largely to the 34.2 percent decline in production. CR/PR at Table C-1. Subject imports threaten to capture additional market share from the domestic industry, the impact of which would be magnified since there is already a substantial inventory overhang for the domestic industry; coupled with rising costs for U.S. producers and the likely price suppressive effect of subject imports, the ability of the domestic industry to remain profitable in the near term appears unlikely.

¹²⁶ 19 U.S.C. § 1677(7)(F)(i)(VIII).

¹²⁷ Calculated from CR/PR at Tables VI-1 and VI-3.

¹²⁸ I note that capital expenditures by the domestic industry declined by 18.3 percent from 2000 to 2001. CR/PR at Table C-1.

DISSENTING VIEWS OF VICE CHAIRMAN DEANNA TANNER OKUN AND COMMISSIONER MARCIA E. MILLER

Based on the record developed in this preliminary investigation, we find that there is no reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of imports of ball bearings and parts thereof from China that are allegedly sold in the United States at less than fair value (“LTFV”). We join the majority’s views on domestic like product, domestic industry, and conditions of competition, except as noted. Our dissenting views on material injury and threat of material injury follow.

IV. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.¹²⁹ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”¹³⁰

The standard calls for “a reasonable indication of injury, not a reasonable indication of need for further inquiry,”¹³¹ and requires more than a finding that there is a “possibility” of material injury.¹³² In considering the likelihood that contrary evidence will arise in a final investigation, “[t]he Commission must analyze the ‘best information available’ contained in the record at the time of its determination and judge the likelihood that evidence contrary to that already gathered will arise in a final determination that would support an affirmative determination.”¹³³ Moreover, the Court of International Trade recently has reaffirmed that in applying the reasonable indication “standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence.”¹³⁴

As we discuss below, we find that the record of this preliminary investigation contains clear and convincing evidence that the domestic industry producing ball bearings and parts thereof is neither materially injured nor threatened with material injury by reason of the subject imports. Although we recognize that we might obtain additional evidence in a final investigation relating to the domestic industry’s condition, the nature of competition between the subject merchandise and domestically produced product, and purchasers’ perceptions about the nature of that competition, we see no likelihood, based on this preliminary record, that evidence will arise in a final investigation that would be contrary to

¹²⁹ 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

¹³⁰ American Lamb, 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

¹³¹ Texas Crushed Stone, 35 F.3d at 1543.

¹³² American Lamb, 785 F.2d at 1004.

¹³³ Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (Ct. Int’l Trade 1992).

¹³⁴ Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368 (Ct. Int’l Trade 1999).

our finding that the domestic industry producing ball bearings and parts thereof has been impacted in a minimal manner, at most, by the subject imports during the period.

II. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM CHINA

In the preliminary phase of an antidumping duty investigation, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.¹³⁵ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹³⁶ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹³⁷ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹³⁸ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹³⁹

A. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that 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.”¹⁴⁰

The volume of subject imports is not significant and there has been no significant increase in the volume during the period of investigation. We measure volume by value of subject imports and value of U.S. shipments.¹⁴¹ In Bearings investigations, the Commission has found that value is an inherently more reliable measure of volume than quantity because of the multitude of bearings and bearings parts included within the scope.¹⁴² Measured by value, the volume of subject imports increased by 4.5 percent over the

¹³⁵ 19 U.S.C. § 1673b(a).

¹³⁶ 19 U.S.C. § 1677(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor ...[a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 R.3d 1478 (Fed. Cir. 1998).

¹³⁷ 19 U.S.C. § 1677(7)(A).

¹³⁸ 19 U.S.C. § 1677(7)(C)(iii).

¹³⁹ 19 U.S.C. § 1677(7)(C)(iii).

¹⁴⁰ 19 U.S.C. § 1677(7)(C)(i).

¹⁴¹ Staff Report, Confidential Version (CR) at I-2, n.6, Staff Report, Public Version (PR) at I-2, n.6; CR at VI-1, n.3, PR at VI-1, n.3.

¹⁴² For example, in the recent Bearings sunset review, which included ball bearings, the Commission based its analyses of likely volume effects on value, rather than quantity. See, e.g., Certain Bearings From China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, Inv. Nos. AA-1921-143, 731-TA-341, 731-TA-343-345, 731-TA-391-397, and 731-TA-399 (Review), USITC Pub. 3309, Vol. I at 37, 93 (June 2000). The Commission’s report in that review noted that:

Value data are emphasized over quantity data in these tables and throughout this report because of the serious inherent risks in using quantity data. Literally thousands of types of bearings are

(continued...)

period, from \$122.4 million in 1999 to \$128.0 million in 2001.¹⁴³ Subject imports as a share of total imports declined from 1999 to 2000 and increased from 2000 to 2001. The overall increase over the period was one percentage point, from 13.5 percent to 14.5 percent.¹⁴⁴ The subject imports' U.S. market share, measured by value, increased by less than one percentage point, from 4.3 percent in 1999 to 4.8 percent in 2001.¹⁴⁵

We acknowledge that the market share of subject imports based on value may be lower than a market share based on quantity, given the low prices of the subject imports relative to U.S. prices shown in the pricing data collected.¹⁴⁶ It is, however, the best indicator of market share available to us. Furthermore, the volume of subject imports, whether stated in value or quantity terms, is likely to be overstated because of the way the scope is defined. The scope of subject merchandise includes unfinished parts that have been heat-treated, or for which heat treatment is not required, but does not include "green" parts that will be subject to heat treatment once imported.¹⁴⁷ The subject import data, based on official Department of Commerce ("Commerce") import statistics, include the excluded products.

Domestic producers' U.S. market share, measured by value, decreased overall from 1999 to 2001, from 68.4 percent to 67.0 percent, but it had increased from 65.9 percent in 2000 to 67 percent in 2001.¹⁴⁸ The volume of nonsubject imports, measured by value, increased from \$781.6 million in 1999 to \$880.4 million in 2000, and then decreased to \$756.8 million in 2001. Their U.S. market shares followed similar trends, increasing overall from 27.3 percent to 28.2 percent, but peaking in 2000 at 29.9 percent.¹⁴⁹

We find that during the period of investigation subject import volume was not significant and did not increase significantly. Moreover, the record does not show that subject imports captured significant market share from the domestic industry. At most, the domestic industry's market share decreased 1.4 percentage points from 1999 to 2001, while subject import market share increased by 0.5 percentage point and nonsubject import market share increased by 0.9 percentage point.

¹⁴² (...continued)

subsumed in the four categories of bearings covered by these reviews. Unit values vary from a few cents to thousands of dollars, reflecting differences in size (which can vary from less than one-quarter inch to several feet in diameter), manufacturing tolerances, and other variables. Further there is no meaningful way to uniformly quantify the various parts of bearings that are also subject to these reviews.

USITC Pub. 3309, Vol. II at Overview-7.

¹⁴³ CR/PR at Table C-1.

¹⁴⁴ CR/PR at Table IV-2.

¹⁴⁵ CR/PR at Table C-1.

¹⁴⁶ CR/PR at Tables V-1 - V-6.

¹⁴⁷ CR at I-1, n.1, PR at I-1, n.1.

¹⁴⁸ CR/PR at Table C-1. The volume of domestic producers' U.S. shipments, measured by value, decreased over the period from \$1.959 billion in 1999 to \$1.942 billion in 2000, and then to \$1.797 billion in 2001.

¹⁴⁹ Id.

B. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States; and
- (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹⁵⁰

The subject imports undersold the domestic like product in 71 of 72 quarters for which pricing comparisons were available, at margins ranging from 8.0 percent to 85.7 percent.¹⁵¹ Despite the frequency and magnitude of the underselling, however, the record does not show any significant adverse price effects from the subject imports. U.S. prices in all product categories for which data were collected generally rose during the period as Chinese prices generally decreased.¹⁵² Although we recognize the product mix issues presented by the use of unit values with respect to bearings, unit values of domestic producers' U.S. shipments and net sales also rose over the period, consistent with the trends in domestic producers' prices.¹⁵³ Thus, there is no evidence of U.S. price suppression or depression by reason of the subject imports. Moreover, the record does not indicate that domestic producers lost significant market share despite the frequency of underselling at high margins.

What the pricing data do indicate is a lack of competition between the subject imports and the domestic product in the U.S. market, given the lack of any downward pressure on U.S. prices, the failure of imports to capture significant market share from the domestic producers despite the underselling, the consistently higher U.S. prices, and the divergent trends in U.S. and Chinese prices. The product categories for which pricing data were collected were all for products with ABEC 1-3 tolerances, which are the lowest tolerance classes for ground ball bearings. These categories were suggested by the petitioner.¹⁵⁴ Higher tolerance classes are ABEC 5, 7, and 9. The lower tolerance classes are for non-precision bearings used in such applications as in-line skates, skateboards, lawnmower wheels, wheelchairs, and pulleys. The higher tolerance classes are for precision and superprecision uses, including critical parts in motor vehicles, aerospace applications, and earth moving equipment.¹⁵⁵ While petitioner acknowledges that it is unaware of competition from subject imports in the U.S. aerospace ball bearing market,¹⁵⁶ petitioner claims that Chinese producers are capable of, are currently producing, and are "attempting to export" ball bearings with higher ABEC ratings and ball bearings that meet Electric Motor Quality specifications.¹⁵⁷ Respondents argue that U.S. and Chinese manufacturers supply different

¹⁵⁰ 19 U.S.C. § 1677(7)(C)(ii).

¹⁵¹ CR/PR at Tables V-1 - V-6.

¹⁵² From the first quarter of 1999 to the fourth quarter of 2001, prices for U.S. product 1 increased from \$*** to \$***; for U.S. product 2, from \$*** to \$***; for U.S. product 3, from \$*** to \$***; for U.S. product 4, from \$*** to \$***; for U.S. product 5, from \$*** to \$***; and for U.S. product 6, from \$*** to \$***. Id.

¹⁵³ CR/PR at Table C-1.

¹⁵⁴ Petition at 36, n.92, Ex. I-7.

¹⁵⁵ CR at I-5, n.11, PR at I-4, n.11; CR at II-1, PR at II-1.

¹⁵⁶ Petitioner's Postconference Brief at App. 2, p. 8.

¹⁵⁷ Id. at App. 2, pp. 4-5.

segments of the U.S. market, citing to an American Bearing Manufacturers Association/Department of Commerce Statistical Handbook.¹⁵⁸

Resolving the question of whether there is market segmentation between the U.S. and Chinese product is not critical to our determination. Regardless of whether imports from China are competing in the same market segments as the U.S. product, the record of this investigation indicates no adverse price effects.¹⁵⁹ The record does contain evidence of confirmed sales and revenues lost to subject imports from 1999 to 2001 in the amount of approximately ***.¹⁶⁰ These lost sales and revenues, however, represent less than one percent of domestic producers' U.S. shipments or net sales in each of the three years, and we do not find them to be significant.

Based on the foregoing, we find that the subject imports have had no significant adverse price effects on the domestic industry.

C. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."¹⁶¹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."¹⁶²

Although several financial and performance indicators of the U.S. industry declined over the period, the industry remained profitable. Moreover, its declines are consistent with the general economic downturn and a drop in demand toward the end of the period, and are not primarily attributable to the subject imports, given our finding of no significant volume or price effects. The demand for ball bearings, which depends on the demand for end-use products, tends to follow general economic conditions. Most domestic producers and importers reported that U.S. demand for ball bearings was flat during 1999 and 2000, then fell during 2001 and the first quarter of 2002.¹⁶³ Apparent U.S. consumption declined by 6.3 percent from 1999 to 2001. Indeed, it fell by 9.0 percent from 2000 to 2001.¹⁶⁴ The U.S. industry's production quantity, U.S. shipments, and net sales declined during the period, as did the number of

¹⁵⁸ ABMA/DOC Statistical Handbook at Section B, p. 29 ("Countries with advanced economies are not competitive in small bearings, except for special varieties. . . Exports from China are mostly lower quality bearings sold in large volumes.")

¹⁵⁹ We acknowledge petitioner's claim that ***. CR at V-5, n. 3, PR at V-3, n.3. Even if this were true, it does not rise to the level of material injury based on the small increase in subject volume. Moreover, the record indicates that differences in quality exist between subject imports and the domestic like product. Both producers and importers cite better quality, better technical support and wider product range as favoring the domestic like product. CR at II-6, PR at II-4. These differences help explain the consistently higher U.S. prices.

¹⁶⁰ CR/PR at Tables V-7 - V-8.

¹⁶¹ 19 U.S.C. § 1677(7)(C)(iii).

¹⁶² The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce estimated dumping margins ranging from 17 to 249 percent for ball bearings from China. 67 Fed. Reg. 15,790 (Apr. 3, 2002).

¹⁶³ CR at II-5, PR at II-4.

¹⁶⁴ CR/PR at Table C-1.

production and related workers.¹⁶⁵ Its capacity utilization dropped from 57.4 percent in 1999 to 42.0 percent in 2001. The industry's profitability declined, as its operating margin decreased from 7.1 percent in 1999 to 3.2 percent in 2001, but the industry reported operating income and net income for all periods.¹⁶⁶ The industry's ratio of costs of goods sold to net sales value increased slightly from 1999 through 2001.¹⁶⁷ Domestic producers' capital expenditures increased substantially from 1999 to 2000 and decreased from 2000 to 2001. Six producers, ***, incurred substantial amounts of capital expenditures during each year of the period examined. Research and development expenses decreased slightly over the period.¹⁶⁸

We do not attribute the industry's declines and losses in any significant part to the subject imports.¹⁶⁹ The record shows that, from 2000 to 2001, as apparent U.S. consumption declined, domestic producers' U.S. market share increased more than that of the subject imports, and the U.S. market share of the nonsubject imports decreased.¹⁷⁰ Moreover, the increase in the volume of subject imports from 1999 to 2001¹⁷¹ represents only 3.4 percent of the decrease in the value of domestic producers' U.S. shipments during the same period.¹⁷² We, therefore, cannot attribute to subject imports the domestic industry's declines in financial and performance indicators.

Given our findings that the volume and the increase in volume of subject imports over the period were not significant, that the domestic producers did not lose significant market share, that U.S. prices did not decline, despite underselling by the subject imports, and that there was no other evidence of adverse price effects by reason of the subject imports, we find no reasonable indication that subject imports have had a significant adverse impact on the domestic industry.

III. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM CHINA

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports

¹⁶⁵ Domestic producers' production quantity declined from 3.8 billion units in 1999 to 2.8 billion units in 2001. Domestic producers' U.S. shipments, by quantity, declined from 2.9 billion units in 1999 to 2.2 billion units in 2001; by value, from \$2.0 billion in 1999 to \$1.8 billion in 2001. Domestic producers' net sales, by quantity, declined from 1.1 billion units in 1999 to 775.9 million units in 2001; by value, from \$2.2 billion in 1999 to \$2.0 billion in 2001. The number of production and related workers decreased from 11,035 in 1999 to 9,919 in 2001. Id.

¹⁶⁶ Operating income was \$156.3 million in 1999, \$121.9 million in 2000, and \$65.6 million in 2001; net income was \$122.7 million in 1999, \$82.1 million in 2000, and \$26.3 million in 2001. CR/PR at Table VI-1.

¹⁶⁷ CR/PR at Table C-1.

¹⁶⁸ CR at VI-6, PR at VI-3.

¹⁶⁹ We note that ***. See CR/PR at Tables VI-1, VI-2; CR at D-3, PR at D-3.

¹⁷⁰ From 2000 to 2001, domestic producers' U.S. market share, by value, increased by 1.1 percentage points; subject imports' U.S. market share, by value, increased by 0.5 percentage point; and nonsubject imports' U.S. market share decreased by 1.7 percentage points. CR/PR at Table C-1.

¹⁷¹ From \$122,400,000 to \$127,957,000, or \$5,557,000. Id.

¹⁷² From \$1,959,189,000 in 1999 to \$1,797,227,000 in 2001, or \$161,962,000. Id.

would occur unless an order is issued or a suspension agreement is accepted.”¹⁷³ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole.”¹⁷⁴ In making our determination, we have considered all factors that are relevant to this investigation.¹⁷⁵

As an initial matter, we find that the domestic industry is not vulnerable to a threat of material injury by reason of the subject imports from China. As noted above, the industry remains profitable. In addition, the domestic industry’s production, shipment and sales levels all remained essentially stable during the period from 1999 to 2000, despite an increase in subject import volume.¹⁷⁶ Although the industry’s production, shipment and sales levels declined in 2001, these declines were directly related to declines in demand that occurred in 2001.

There is no evidence on the record of an imminent, substantial increase in production or capacity by Chinese ball bearings producers, nor evidence of a likelihood of a substantial increase in the volume of subject imports. As noted earlier, we did not find that the volume or increase in the volume of subject imports over the period examined was significant, and the data collected on the Chinese industry¹⁷⁷ do not indicate that the trend is likely to be different in the imminent future.

The capacity and production levels of the Chinese industry have remained fairly steady over the period and are not projected to increase substantially. The Chinese producers’ capacity increased from 657.4 million units in 1999 to 750.5 million units in 2000, but then decreased to 706.9 million units in 2001, and is projected to decline further to 667.5 million units for 2002 and 667.0 million units for 2003. Production followed a similar trend, increasing from 533.0 million units in 1999 to 674.0 million units in 2000, and decreasing to 616.9 million units in 2001. Chinese production is projected at 588.0 million units in 2002 and 607.1 million units in 2003. Capacity utilization has been relatively high over the period, particularly in the more recent period, ranging from 79.2 percent in 1999 to 87.2 percent in 2000, and is projected at 86.5 percent in 2003. As the Chinese capacity and production has remained fairly constant over the period, we see no likelihood of a substantial increase in the volume of subject imports.¹⁷⁸

Further, while the ratios of Chinese producers’ home inventories to production and shipments did increase somewhat during the period, they are projected to decline in the future.¹⁷⁹ U.S. importers’ inventories of imports from China did not increase significantly over the period, and, as a ratio to

¹⁷³ 19 U.S.C. §§ 1677d(b) and 1677(7)(F)(ii).

¹⁷⁴ 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon “positive evidence tending to show an intention to increase the levels of importation.” Metallwerken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int’l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int’l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int’l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

¹⁷⁵ 19 U.S.C. § 1677(7)(F)(i). Factor I regarding countervailable subsidies is inapplicable to this antidumping investigation, as is Factor VII regarding raw and processed agricultural products.

¹⁷⁶ CR/PR at Table C-1.

¹⁷⁷ The Chinese producers responding to the Commission’s questionnaires accounted for approximately 40 percent of U.S. imports from China in 2001. CR at VII-1, PR at VII-1.

¹⁷⁸ Moreover, subject producers’ share of production destined for exports and for the home market also has remained fairly steady over the period, at approximately 50 percent each. CR/PR at Table VII-1.

¹⁷⁹ Id. (from 14.9 percent in 1999 to 18.7 percent in 2001 and from 14.1 percent in 1999 to 17.7 percent in 2001, respectively). However, they are projected to decline to 12.0 percent and 11.9 percent in 2003, respectively).

imports, decreased from 18.6 percent in 1999 to 7.8 percent in 2001.¹⁸⁰ Accordingly, we find that inventory levels do not indicate a likelihood of increased imports in the imminent future.

We did not find any adverse price effects from the subject imports during the period of investigation, and, as a significant increase in subject imports does not appear to be imminent, subject imports are not likely to have significant depressing or suppressing effects on domestic prices in the near future.

We also find that subject imports are not likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts. Domestic producers' capital expenditures increased substantially from 1999 to 2000 and decreased from 2000 to 2001, but over the period increased by 20.1 percent. Six producers, ***, incurred substantial amounts of capital expenditures during each year of the period examined. Research and development expenses decreased slightly over the period.¹⁸¹

The record indicates that Chinese producers, like domestic producers, are not able to shift easily between production of ball bearings and other products, and thereby are constrained in their ability to increase supply.¹⁸² Furthermore, there is no evidence on the record that ball bearings from China are subject to import relief investigations in any other countries.¹⁸³

Based on the evidence gathered in this investigation, we find no reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports.

IV. CONCLUSION

For the foregoing reasons, we determine that there is no reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of imports of ball bearings and parts thereof from China that are allegedly sold in the United States at less than fair value.

¹⁸⁰ CR/PR at Table VII-2.

¹⁸¹ CR at VI-6, PR at VI-3.

¹⁸² CR at II-4, PR at II-2 - II-3.

¹⁸³ CR at VII-4, PR at VII-4.