

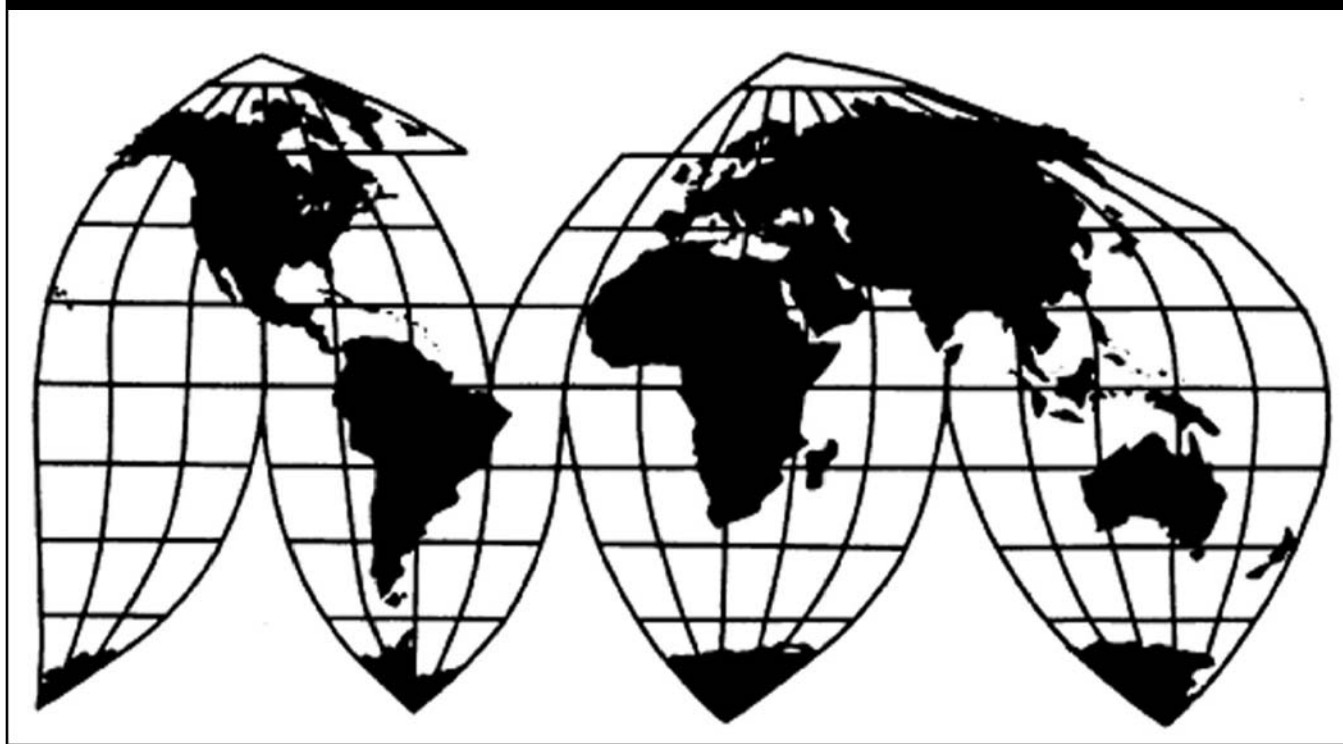
Woven Electric Blankets from China

Investigation No. 731-TA-1163 (Preliminary)

Publication 4097

August 2009

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1163 (Preliminary)

WOVEN ELECTRIC BLANKETS FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (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 by reason of imports from China of woven electric blankets, provided for in subheading 6301.10.00 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 (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 June 30, 2009, a petition was filed with the Commission and Commerce by Sunbeam Products, Inc. doing business as Jarden Consumer Solutions, Boca Raton, FL, alleging that an industry in the United States is materially injured by reason of LTFV imports of woven electric blankets from China. Accordingly, effective June 30, 2009, the Commission instituted antidumping duty investigation No. 731-TA-1163 (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 July 7, 2009 (74 FR 32192). The conference was held in Washington, DC, on July 21, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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 Daniel R. Pearson determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of woven electric blankets.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of this investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of woven electric blankets (“WEBs”) from the People’s Republic of China that are allegedly sold in the United States at less than fair value.¹

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 or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.² 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.”³

II. BACKGROUND

The antidumping duty petition in this investigation was filed on June 30, 2009 by Sunbeam Products, Inc. (“Sunbeam”), doing business as Jarden Consumer Solutions (“Jarden”), the sole domestic producer of woven electric blankets (“WEBs”).⁴ Milliken & Company (“Milliken”), *** domestic producer of the fabric shells used by Jarden in the production of WEBs, filed post-conference comments in support of the petition but did not attend the staff conference.⁵ Respondents that participated in the staff conference and filed post-conference briefs in the preliminary phase of this investigation were Chinese producer Hung Kuo Electronic (Shenzhen) Company Limited (“Hung Kuo”) and importer Biddeford Blankets, LLC (“Biddeford”), and the Ad Hoc Coalition of Blanket Importers (the “Coalition”), which includes importer and purchaser J.C. Penney Purchasing Corporation (“JCPenney”).⁶ Perfect Fit Industries (“Perfect Fit”), an importer of nonsubject electric blankets, participated in the staff conference but did not submit a post-conference brief.

¹ Vice Chairman Pearson determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of WEBs from the People’s Republic of China that are allegedly sold in the United States at less than fair value. See Separate Views of Vice Chairman Daniel R. Pearson. He joins the majority opinion through Section V(A), Conditions of Competition, except as noted herein.

² 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

⁴ Confidential Staff Report (“CR”) at I-1, 3; Public Staff Report (“PR”) at I-1-2.

⁵ CR at I-6 n.14; PR at I-5 n.14.

⁶ See CR at B-4; PR at B-4 (Leslie Hearn, Senior Buyer, JCPenney, appeared on behalf of the Coalition at the conference). Hung Kuo and Biddeford filed a joint post-conference brief.

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether 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 Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁸ In turn, the Tariff 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 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 U.S. Department of Commerce (“Commerce”) as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴ The Commission must base its domestic like product determination on the record in this

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

⁹ 19 U.S.C. § 1677(10).

¹⁰ See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); 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 the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. 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, 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 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 See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations where
(continued...)

investigation. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent domestic like product issues.¹⁵

B. Product Description

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

The scope of this investigation covers finished, semi-finished, and unassembled woven electric blankets, including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both. Semi-finished woven electric blankets and throws consist of shells of woven fabric containing wire. Unassembled woven electric blankets and throws consist of a shell of woven fabric and one or more of the following components when packaged together or in a kit: (1) Wire; (2) controller(s). The shell of woven fabric consists of two sheets of fabric joined together forming a “shell.” The shell of woven fabric is manufactured to accommodate either the electric blanket’s wiring or a subassembly containing the electric blanket’s wiring (e.g., wiring mounted on a substrate). A shell of woven fabric that is not packaged together, or in a kit, with either wire, controller(s), or both, is not covered by this investigation even though the shell of woven fabric may be dedicated solely for use as a material in the production of woven electric blankets. The finished, semi-finished and unassembled woven electric blankets and throws subject to this investigation are currently classifiable under subheading 6301.10.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading is provided for convenience and customs purposes, only the written description of the scope is dispositive.¹⁶

WEBs consist of a woven fabric shell, made of manmade fibers, natural fibers, or a blend of the two, containing a heat-producing wire whose temperature is controlled by means of one or more thermostats or controllers.¹⁷ They are produced in standard bedding sizes, including twin, full, queen, and king, and also as throws in smaller sizes.¹⁸ WEBs are generally used to keep resting or sleeping individuals warm.¹⁹ The scope includes “semi-finished” WEBs, comprised of a fabric shell containing wire, and “unassembled” WEBs, comprised of a fabric shell packaged with either wire or controllers, or both wire and controllers, but not fabric shells alone.

¹⁴ (...continued)

Commerce found five classes or kinds).

¹⁵ See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

¹⁶ Certain Woven Electric Blankets from the People’s Republic of China: Initiation of Antidumping Duty Investigations, Case No. A-570-951, 74 Fed. Reg. 37,001, 37,005 (July 27, 2009).

¹⁷ CR at I-3, 5-6; PR at I-2, 4-5.

¹⁸ CR at I-6; PR at I-5.

¹⁹ CR at I-3, 6, 9; PR at I-2, 5-6.

C. Like Product Analysis

In the preliminary phase of this investigation, Jarden argues that the Commission should define a single domestic like product that is coextensive with the scope of the investigation, which includes WEBs as well as semi-finished and unassembled WEBs. Jarden also maintains that the definition should not be expanded to include fabric shells.²⁰ Respondents counter that the Commission should expand the domestic like product definition to encompass products -- electric mattress pads and knit electric blankets -- that are not included in the scope of the investigation.

We define a single domestic like product that is coextensive with the scope for purposes of the preliminary phase of this investigation, as further explained below.

1. Whether the Commission Should Define a Single Domestic Like Product Encompassing Products Outside the Scope of the Investigation

a. Arguments of the Parties

i. Petitioner's Arguments

Jarden argues that the Commission should define the domestic like product as coextensive with the scope of the investigation, which excludes non-woven and knit electric blankets.²¹ It contends that the Commission cannot expand the domestic like product to encompass non-woven and knit electric blankets as a legal matter because there is no domestic production of such products and the domestic like product cannot be defined to include products not made domestically.²² As a factual matter, Jarden argues that non-woven and knit electric blankets do not compete with WEBs because they look and feel differently than WEBs and are generally more expensive.²³ Although conceding that electric mattress pads are produced domestically by WestPoint Stevens, Jarden argues that the record does not support their inclusion within the domestic like product definition under the Commission's six domestic like product factors given the "extreme" differences between electric mattress pads and WEBs.²⁴ Milliken argues that the Commission should not expand the definition of the domestic like product to include knit electric blankets given the substantial differences in the processes used to manufacture woven and knit fabric shells.²⁵

²⁰ Conference Transcript ("Conference Tr.") at 58 (Jarden requested to address whether fabric shells should be included in the domestic like product pursuant to the Commission's semi-finished products analysis), (Altschuler) (agreeing to do so); Jarden's Post-Conference Brief ("Jarden's PCB"), Exhibit 1 at 1-4.

²¹ See Conference Tr. at 16 (Altschuler).

²² Jarden's PCB at 3-4.

²³ See Jarden's PCB at 4.

²⁴ Jarden's PCB at 4-5. Specifically, Jarden argues that the different physical characteristics and uses of WEBs and electric mattress pads limit their interchangeability, that the two products are produced in separate facilities using different production processes and employees, that the two products are perceived differently by customers and producers, and that electric mattress pads are generally more expensive than WEBs. See *id.* at 4-8. In Jarden's view, the two products share only similar channels of distribution. *Id.* at 6.

²⁵ Milliken's Post-Conference Brief ("Milliken's PCB") at 2-3 (arguing that the labor intensity of knit fabric shell production precludes the domestic production of either knit fabric shells or knit electric blankets, making the collection of data on such products a pointless exercise).

ii. Respondents' Arguments

Biddeford and the Coalition argue that the domestic like product definition should be expanded beyond the scope of the investigation to include electric mattress pads as well as knit electric blankets and other heated bedding products to the extent that they are produced in the United States.²⁶ They argue that all heated bedding products have an identical use, have similar features, are made of the same “basic materials,” are interchangeable, are distributed through the same channels of distribution, are perceived as similar by customers and producers, and are priced “very similarly.”²⁷

b. Analysis

The Commission may, where appropriate, include domestic articles in the domestic like product that are in addition to those described in the scope of investigation.²⁸

As an initial matter, we do not expand the domestic like product definition to include knit electric blankets and other heated bedding products that are not produced in the United States.^{29 30} We have, however, considered whether to expand the domestic like product beyond the scope of the investigation to include electric mattress pads under the six domestic like product factors analysis.³¹ Because we find a clear dividing line separating WEBs and electric mattress pads, as discussed below, we define a single domestic like product that is coextensive with the scope of the investigation and does not include electric mattress pads.

Physical characteristics and uses

WEBs and electric mattress pads share some physical characteristics and uses at a broad level. Both are used to keep resting or sleeping individuals warm, and both consist of fabric shells, heating wire,

²⁶ Biddeford's Post-Conference Brief (“Biddeford's PCB”) at 2-3; Coalition's Post-Conference Brief (“Coalition's PCB”) at 2.

²⁷ See Biddeford's PCB at 4-8; Coalition's PCB at 4.

²⁸ See, e.g., Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 (Nov. 2001) at 8, n. 34; Torrington Co. v. United States, 747 F.Supp. 744, 748-9 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) (holding that the Commission is not legally required to limit its like product to the like product advocated by the petitioner, co-extensive with the scope).

²⁹ CR at I-8-9; PR at I-5-6.

³⁰ See, Certain Lined Paper School Supplies, Inv. Nos. 701-TA-442-443 (Preliminary) and 731-TA-1095-1097 (Preliminary), USITC Pub. 3811 (October 2005) at 15 n.50; Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, -971-72, -979, and -981 (Final), USITC Pub. 3536 (September 2002) at 10 n.30; Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 (August 2002) at 5; Ferrovandium from China and South Africa, Inv. Nos. 731-TA-986-987 (Preliminary), USITC Pub. 3484 (January 2002) at 5 n.17, 6 & n.26 (“Highveld argued that the domestic like product should be broadened beyond the merchandise described in the scope to include nitrated vanadium, a product not produced in the United States . . . Because nitrated vanadium was not produced in the United States during the period of investigation, we do not include it in the domestic like product.”); Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Preliminary), USITC Pub. 3427 (May 2001) at 4-5 & n.15.

³¹ CR at I-8 & n.19; PR at I-6 & n.19.

a controller of some kind, and a power cord.³² Both are produced in the same standard sizes (*i.e.*, twin, full, queen, and king).³³

On closer inspection, however, the physical characteristics and uses of WEBs and electric mattress pads differ in many respects. Consumers may use WEBs, which include woven electric throws, at any location near a power outlet, as on a couch, whereas electric mattress pads are designed to snugly fit over mattresses.³⁴ Conversely, WEBs may not be used on mattresses because placing objects on top of WEBs would pose a safety hazard, as indicated in the instructions accompanying WEBs.³⁵

In terms of physical characteristics, WEBs are designed to be pleasing to the eye, being produced in a wide variety of fashionable colors and designs, and soft to the touch, given that they touch the skin.³⁶ Mattress pads, by contrast, are generally made of smooth, white, quilted fabric, because they are used beneath bed linens and are thus not visible or touched by consumers.³⁷

Interchangeability

WEBs and electric mattress pads are interchangeable insofar as consumers can use either product to stay warm in bed.³⁸ Yet, electric mattress pads are not interchangeable with WEBs for use in locations other than a bed. Moreover, consumers would not use a WEB instead of an electric mattress pad to cover a mattress for reasons of safety, and consumers would not use an electric mattress pad instead of a WEB to cover themselves for reasons of aesthetics and comfort.

Common manufacturing facilities, production processes, and production employees

Jarden and WestPoint Stevens produce WEBs and electric mattress pads, respectively, in separate facilities with different employees.³⁹ Both producers report that the production processes for the two products also differ.⁴⁰ For example, the fabric shells used to produce WEBs are napped and chemically treated to impart a soft hand (*i.e.*, feel), whereas the fabric used to produce electric mattress pads is not.⁴¹ Jarden ***.⁴² WestPoint Stevens reportedly glues or sews the wire to a substrate before inserting it between two layers of fabric and quilting the two pieces together on quilting machines.⁴³

³² CR at I-9-10; PR at I-6.

³³ CR at I-10; PR at I-7.

³⁴ CR at I-6, 11; PR at I-5, 7.

³⁵ CR at I-11; PR at I-7; Jarden's PCB at 6.

³⁶ See CR at I-9-10; PR at I-6-7.

³⁷ See CR at I-9-10; PR at I-6-7.

³⁸ Importers reported that electric mattress pads are a good substitute for WEBs. CR at II-7; PR at II-5.

³⁹ CR at I-8 n.19, III-1; PR at I-6 n.19, III-1 (WestPoint Stevens produces electric mattress pads in ***, while Jarden produces WEBs in Waynesboro, MS).

⁴⁰ CR at I-10-11; PR at I-7. Respondents have adduced no evidence to support their claim that the same equipment and employees "can," with minor adjustments, be used to produce WEBs and electric mattress pads. We note that ***. Trip Notes, Field Visit to Sunbeam Plant, July 9, 2009 ("Trip Notes"), at 1.

⁴¹ CR at I-10; PR at I-7.

⁴² CR at I-7, 10; PR at I-5, 7.

⁴³ CR at I-10; PR at I-7; Jarden's PCB at 7 (noting that electric mattress pads are quilted on large quilting machines).

Channels of distribution

WEBs and electric mattress pads are sold through similar channels of distribution, being sold by producers to retail distributors.⁴⁴

Customer and producer perceptions

Although there is limited information on the record, customer and producer perceptions of WEBs and electric mattress pads would be expected to reflect their differences and similarities in terms of physical characteristics and uses, addressed above. Although customers and producers might perceive both products as “heated bedding items,” they would clearly understand that WEBs are meant to be seen and felt on top of the user whereas electric mattress pads are meant to be affixed to a mattress under bed linens.⁴⁵ Evidence that electric mattress pads are generally purchased by a younger demographic than WEBs also suggests that customer perceptions of WEBs and electric mattress differ.⁴⁶

Price

The record contains limited and conflicting evidence on the relative prices of WEBs and electric mattress pads. Although Jarden claims that electric mattress pads are generally more expensive than WEBs, *****.⁴⁷ Biddeford contends that all heated bedding products, including WEBs and electric mattress pads, are priced very similarly.⁴⁸

Conclusion

There are more differences than similarities between WEBs and electric mattress pads in terms of the Commission’s six domestic like product factors. Apart from a few broad similarities, the physical characteristics and uses of WEBs differ from those of electric mattress pads in key respects, limiting their interchangeability in the same end uses. These differences would also be reflected in customer and producer perceptions of the products. WEBs and electric mattress pads are produced in different facilities with different production processes and employees. The only similarity that WEBs and electric mattress pads share completely is in their channels of distribution. There is insufficient evidence on the record of the preliminary phase of this investigation to draw any conclusions with respect to price.

In sum, the differences between WEBs and electric mattress pads are such that a clear dividing line can be drawn separating WEBs from electric mattress pads. Accordingly, we do not expand the domestic like product definition beyond the scope of the investigation to encompass electric mattress pads.⁴⁹

⁴⁴ CR at I-12; PR at I-8.

⁴⁵ See CR at I-12; PR at I-8.

⁴⁶ CR at I-12; PR at I-8 (citing Conference Tr. at 78 (Pacheco)).

⁴⁷ CR at I-13-14; PR at I-9.

⁴⁸ Biddeford’s PCB at 8.

⁴⁹ As a practical matter, we also lack the data necessary to perform our analysis with respect to a domestic industry that includes producers of electric mattress pads because the questionnaires sent to producers focused on woven electric blankets rather than electric mattress pads. We urge any party that wants to argue for a different domestic like product definition in the final phase of this investigation to request the collection of data on that product in their comments on the Commission’s draft questionnaires.

2. Whether the Commission Should Define the Domestic Like Product to Include Fabric Shells Pursuant to a Semi-Finished Products Analysis

a. Petitioner's Argument

Jarden argues that an examination of the Commission's semi-finished product factors does not support expansion of the domestic like product to include fabric shells.⁵⁰ First, it argues that while fabric shells are currently dedicated to the production of WEBS, they could also be used as regular blankets.⁵¹ Second, it claims that there are separate markets for fabric shells and WEBS, with shells sold to WEB producers and WEBS sold to retailers.⁵² Third, it claims that there are "vast" differences between fabric shells and WEBS in terms of their physical characteristics and functions.⁵³ Fourth, Jarden reports that fabric shells represent only *** percent of the total cost of producing WEBS and *** percent of their market value.⁵⁴ Finally, it claims that fabric shells undergo a significant transformation into WEBS through a five-step production process that includes napping, chemical treatment, wire insertion, assembly and finishing, and packaging.⁵⁵

No other party has commented on the issue of whether the domestic like product should include semi-finished fabric shells.

b. Analysis

In a semi-finished product analysis, the Commission examines the following factors: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) significance and extent of the processes used to transform the upstream articles into the downstream articles.

At the outset, we note that Jarden has included semi-finished and unassembled WEBS within the scope of the investigation without arguing that either product should be included within the domestic like product pursuant to the Commission's semi-finished products analysis. As a practical matter, the sole domestic producer of WEBS is also the sole domestic producer of semi-finished and unassembled WEBS and there are no known uses for the semi-finished and unassembled product other than the production of finished WEBS.⁵⁶ Because a determination of whether to include semi-finished and unassembled WEBS in the domestic like product would have no impact on the definition of the domestic industry in this investigation, we decline to discuss the issue further. By contrast, the inclusion of fabric shells in the domestic like product would result in the inclusion of Milliken in the domestic industry definition *** domestic producer of fabric shells. For purposes of the preliminary phase of this investigation, we do not

⁵⁰ Jarden's PCB at 8, Exhibit 1 at 1-2.

⁵¹ Jarden's PCB, Exhibit 1 at 2.

⁵² Jarden's PCB, Exhibit 1 at 2.

⁵³ Jarden's PCB, Exhibit 1 at 2.

⁵⁴ Jarden's PCB, Exhibit 1 at 3.

⁵⁵ Jarden's PCB, Exhibit 1 at 3.

⁵⁶ Specifically, Jarden is the only domestic producer that manufactures wire and inserts it into fabric shells to produce semi-finished WEBS and the only domestic producer that processes the three elements of unassembled WEBS, namely fabric shells, controllers, and wire. CR at I-3, 7-8, III-1; PR at I-2, 5, III-1. We note that ***. Trip Notes at 3.

include fabric shells within the domestic like product based on the following analysis of our semi-finished product factors.

Dedicated production

Fabric shells are an intermediate product dedicated to the production of WEBs, with no other current uses.⁵⁷

Separate markets

There is no known separate market for fabric shells. All shells produced by Milliken are sold to Jarden for use in the production of WEBs.⁵⁸

Differences in characteristics and functions

There are more differences than similarities in the characteristics and functions of fabric shells and WEBs. Fabric shells are a semi-finished product consisting of two layers of woven fabric with integral channels for the insertion of heating wire, wound into large rolls for delivery to WEB producers.⁵⁹ WEBs are a consumer electronic product consisting of a blanket made from a fabric shell that has been napped and chemically treated; assembled with a wire, a module board encased in a plastic housing, and a power cord; and packaged with an electronic control device for shipment to retailers and ultimate sale to consumers.⁶⁰ Nevertheless, the function of a fabric shell is integral to the function of a WEB in contributing to the WEB's ability to keep a user warm.

Differences in costs or value

Jarden reports that fabric shells represent *** percent of the cost of producing WEBs and *** percent of their retail value.⁶¹

Significance of transformation

The transformation of fabric shells into WEBs entails five production steps. First, the fabric shell is napped by being drawn through rollers bristling with brush-like wires that comb the fibers and impart a soft hand to the fabric.⁶² Second, the napped fabric shell is chemically treated to set the fibers and improve the blanket's appearance.⁶³ Third, a heating wire is automatically inserted into the blanket using

⁵⁷ Jarden's PCB, Exhibit 1 at 2; Milliken's PCB at 1. That woven shells could theoretically be used as regular blankets is immaterial because Jarden concedes, and Milliken confirms, that all woven shells are used in the production of WEBs. Id.

⁵⁸ Milliken's PCB at 1; see also Jarden's PCB, Exhibit 1 at 2 (stating that "shells of woven fabric are normally dedicated to the production of the woven electric blankets.").

⁵⁹ CR at I-6-7; PR at I-5; Conference Tr. at 21 (Sullivan).

⁶⁰ CR at I-7-8; PR at I-5.

⁶¹ Jarden's PCB, Exhibit 1 at 3.

⁶² CR at I-7; PR at I-5.

⁶³ CR at I-7; PR at I-5; Conference Tr. at 21 (Sullivan).

proprietary technology.⁶⁴ Jarden produces its own heating wire using a proprietary process.⁶⁵ Fourth, the WEB is assembled with a regulatory label, module board, and trim, and then tested.⁶⁶ Finally, the WEB is packaged with an electronic control device and placed in inventory.⁶⁷

Conclusion

The evidence on whether to include fabric shells within the definition of the domestic like product is mixed. On the one hand, all fabric shells are used in the production of WEBs, there is no separate market for fabric shells, and fabric shells represent a significant proportion of the cost and value of WEBs. On the other hand, there are significant differences in the characteristics and functions of woven shells and WEBs, and woven shells undergo a significant transformation to become WEBs. On balance, we find that the evidence in the preliminary phase of this investigation does not support the inclusion of fabric shells within the domestic like product definition.⁶⁸ We intend to revisit this issue in any final phase investigation.

In sum, we define a single domestic like product that is coextensive with the scope of the investigation defined by Commerce, comprised of WEBs as well as semi-finished and unassembled WEBs.⁶⁹

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁷⁰ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Based on our definition of the domestic like product, we define the domestic industry as the only known domestic producer, Jarden.⁷¹

A. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.⁷² Exclusion

⁶⁴ CR at I-7; PR at I-5.

⁶⁵ CR at I-7-8; PR at I-5; Conference Tr. at 23 (Sullivan).

⁶⁶ CR at I-8; PR at I-5.

⁶⁷ CR at I-8; PR at I-5.

⁶⁸ As with heated mattress pads, we lack the data necessary to perform our analysis with respect to a domestic industry that includes producers of fabric shells.

⁶⁹ We note that further references to “WEBs” include semi-finished and unassembled WEBs within the scope, although there were no reported U.S. shipments of semi-finished or unassembled WEBs.

⁷⁰ 19 U.S.C. § 1677(4)(A).

⁷¹ CR at I-3, III-1; PR at I-2, III-1.

⁷² 19 U.S.C. § 1677(4)(B).

of such a producer is within the Commission's discretion based upon the facts presented in each investigation.

Jarden qualifies as a related party because it was an importer of subject merchandise from China during the period examined.⁷³ We find that circumstances do not warrant the exclusion of Jarden from the domestic industry because Jarden's interests primarily lie in domestic production rather than importation; its ratio of subject imports to domestic production was low, ranging from *** to *** percent during the period examined;⁷⁴ and it is the petitioner. In addition, the Commission's practice has been not to exclude a related party where that producer is the sole U.S. producer.⁷⁵ Accordingly, we define the domestic industry as Jarden, the only domestic producer of the domestic like product.

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF IMPORTS OF SUBJECT MERCHANDISE FROM CHINA⁷⁶

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 injured or threatened with material injury by reason of the imports under investigation.⁷⁷ 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.⁷⁸ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁷⁹ 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.⁸⁰ 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."⁸¹

⁷³ See CR/PR at Table III-4; 19 U.S.C. § 1677(4)(B).

⁷⁴ CR/PR at Table III-4. *** imports of WEBs from China were *** units in 2006, equivalent to *** percent of its domestic production, *** units in 2007, equivalent to *** percent of its domestic production, *** units in 2008, equivalent to *** percent of its domestic production, and *** in both interim periods. CR/PR at Table III-4. ***. *Id.* at Table III-4 n.1.

⁷⁵ See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India, Inv. Nos. 731-TA-1146-1147 (Final), USITC Pub. 4072 (April 2009) at 6; Tetrahydrofurfuryl Alcohol from China, Inv. No. 731-TA-1046 (Preliminary), USITC Pub. 3620 (August 2003) at n. 20; Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia, Inv. Nos. 731-TA-96 and 439-445 (Review), USITC Pub. 3342 (August 2000) at 8; Drafting Machines from Japan, Inv. No. 731-TA-432 (Review), USITC Pub. 3252 (November 1999) at 5.

⁷⁶ Based on questionnaire responses, subject imports from China accounted for 100 percent of all known imports of WEBs during the most recent 12-month period preceding the filing of the petition for which data are available. CR at IV-4-5; PR at IV-3. Because subject imports were well above the statutory negligibility threshold, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

⁷⁷ 19 U.S.C. §§ 1671b(a), 1673b(a).

⁷⁸ 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).

⁷⁹ 19 U.S.C. § 1677(7)(A).

⁸⁰ 19 U.S.C. § 1677(7)(C)(iii).

⁸¹ 19 U.S.C. § 1677(7)(C)(iii).

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,⁸² it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.⁸³ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.⁸⁴

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.⁸⁵ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁸⁶ Nor does the

⁸² 19 U.S.C. §§ 1671b(a), 1673b(a).

⁸³ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’g 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

⁸⁴ The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

⁸⁵ Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

⁸⁶ SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928

(continued...)

“by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.⁸⁷ It is clear that the existence of injury caused by other factors does not compel a negative determination.⁸⁸

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”⁸⁹ ⁹⁰ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁹¹

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.⁹² The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific

⁸⁶ (...continued)

(Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “[i]f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

⁸⁷ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁸⁸ See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

⁸⁹ Mittal Steel, 542 F.3d at 877-78; see also *id.* at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

⁹⁰ Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances, to undertake a particular kind of analysis of nonsubject imports. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

⁹¹ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

⁹² Mittal Steel, 542 F.3d at 875-79.

additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.⁹³ Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.^{94 95}

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.^{96 97}

For the reasons stated below, we find that there is a reasonable indication that the domestic industry producing WEBs is materially injured by reason of subject imports from China that are allegedly sold at less than fair value in the United States.⁹⁸

A. Conditions of Competition

The following conditions of competition inform our analysis in the preliminary phase of this investigation.

⁹³ Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

⁹⁴ Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

⁹⁵ To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

⁹⁶ Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.”).

⁹⁷ We provide in the discussion of impact in section V.D. below an analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁹⁸ Vice Chairman Pearson does not join this paragraph, having instead determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of WEBs from China that are allegedly sold in the United States at less than fair value.

1. Demand Conditions

All parties agree that WEB demand is highly seasonal, with WEB sales concentrated in the fall and winter months and peaking during the holiday season.⁹⁹ WEB production, however, takes place year round, with producers building inventories during the first half of the year according to projections of demand in the second half of the year.¹⁰⁰ Shipments to customers begin in the late summer and continue through the fall.¹⁰¹

Jarden determines its WEB production in the first half of every year based upon line reviews conducted with its customers at the end of the preceding year.¹⁰² Pursuant to this process, Jarden meets with each customer in November, approximately one year prior to the season at issue, and establishes that customer's anticipated needs for the upcoming season in terms of quantities, assortments, and prices.¹⁰³ Based on these non-binding demand forecasts, Jarden plans its WEB production for the coming year and builds inventories as necessary to satisfy projected demand.¹⁰⁴ Throughout the year, but primarily in the second half of each year, Jarden receives purchase orders from customers that are legally binding.¹⁰⁵ Biddeford reportedly undertakes a similar sales process with its customers.¹⁰⁶

Apparent U.S. consumption of WEBs declined by *** percent during the period of investigation, from *** units in 2006 to *** units in 2007 and *** units in 2008.¹⁰⁷ Apparent U.S. consumption was *** units in January-March 2008 and *** units in January-March 2009. When asked how demand for WEBs in the U.S. market has changed since 2006, Jarden and 2 of 17 importers reported that it had declined, five importers reported that it had increased, five importers reported that it was unchanged, and five importers reported that it had fluctuated.¹⁰⁸ Reasons given by Jarden and responding importers for declining or fluctuating WEB demand since 2006 included changes in the weather, competition from substitute products, retail distributors closing or consolidating outlets, and the maturity of the WEB market.¹⁰⁹

The U.S. market for WEBs is characterized by a small number of large customers.¹¹⁰ Due to the one-year lag between negotiations with a customer and deliveries to that customer, Jarden claims that it can be two years before lost business is regained.¹¹¹

There is some evidence that the increasing popularity of knit electric blankets may partly account for the decline in apparent U.S. consumption of WEBs during the period examined. Responding

⁹⁹ CR at II-5; PR at II-3-4; Jarden's PCB at 12; Conference Tr. at 26 (Pacheco), 164, 168 (Porter) (testifying that the WEB market is "highly seasonal"); Coalition's PCB at 6-7.

¹⁰⁰ CR at III-4; PR at III-2; Conference Tr. at 35, 37 (S. Kaplan).

¹⁰¹ Jarden's PCB at 12.

¹⁰² CR at V-2; PR at V-1; Conference Tr. at 26 (Sullivan).

¹⁰³ CR at V-2; PR at V-1; Conference Tr. at 26 (Sullivan).

¹⁰⁴ CR at V-2; PR at V-1; Conference Tr. at 26-27 (Sullivan).

¹⁰⁵ CR at II-1, V-2; PR at II-1, V-1; Conference Tr. at 27 (Sullivan).

¹⁰⁶ CR at V-2; PR at V-1; Conference Tr. at 168 (Porter) ("As it was earlier defined, we operate in the same manner Sunbeam does. It's really purchase orders. There's no contracts. We don't have any contracts long term. It's a seasonal business reviewed every year and then reviewed the next year for the next year.").

¹⁰⁷ CR/PR at Table IV-3.

¹⁰⁸ CR at II-5; PR at II-4.

¹⁰⁹ CR at II-5; PR at II-4.

¹¹⁰ CR at II-1; PR at II-1.

¹¹¹ Jarden's PCB at 11; Conference Tr. at 35 (S. Kaplan).

importers reported that knit electric blankets are substitutable for WEBs,¹¹² and Biddeford and the Coalition argued that knit electric blanket sales have increased at the expense of WEB sales since 2006.¹¹³ On the other hand, Jarden testified at the conference that its sales of knit electric blankets have not cannibalized sales of WEBs.¹¹⁴

In any final phase of this investigation, we intend to explore further the impact of knit electric blankets and the recession on WEB demand in the U.S. market.

2. Supply Conditions

Jarden was the only domestic producer of WEBs during the period examined, and its capacity increased by *** percent between 2006 and 2008 as Jarden's replacement of worn-out equipment increased production efficiency and reduced bottlenecks.¹¹⁵ As noted above, Jarden produces WEBs year-round but sells WEBs primarily in the second half of the year. Variable costs, including the cost of raw materials, make up *** of the domestic industry's cost of goods sold.¹¹⁶

The only other known source of WEBs in the U.S. market is China, as there were no imports or U.S. shipments of WEBs from nonsubject countries during the period examined.¹¹⁷ *** subject imports over the period examined appear to have been sourced from Hung Kuo, a Chinese producer affiliated with Biddeford.¹¹⁸

3. Substitutability

The record indicates that there is at least a moderate degree of substitutability between domestic and subject imported WEBs and that price is an important consideration, though not necessarily the most important consideration, in purchasing decisions.¹¹⁹ Most responding producers and importers reported that subject imports are "always" used interchangeably with the domestic like product.¹²⁰ When asked whether differences other than price are significant in their sales of PRCBs, Jarden replied *** 4 of 13 responding importers replied "always" and another four replied "frequently."¹²¹ Non-price factors cited by responding importers included branding (i.e., the option to sell Biddeford blankets under the Biddeford

¹¹² CR at I-14, II-7; PR at I-9, II-4.

¹¹³ Biddeford's PCB at 10; Conference Tr. at 171 (Porter) ("We have also seen, in our company, the knitted-fleece blankets and throws trending dramatically up in recent years, as far as volume goes, and it's at the expense of woven electric blankets and throws, and it's consumer preference and retailer preference."); Coalition's PCB at 9. Biddeford also submitted evidence that Jarden's overall sales of electric blankets, including knit electric blankets, increased even as its sales of WEBs declined. See Biddeford's PCB at 16, Exhibit 7 (Home Textiles Today reported that Jarden's "automatic blanket" revenues were flat from 2006 to 2007 and up 11 percent from 2007 to 2008); CR/PR at Table VI-1 (Jarden's net WEB sales declined from \$*** in 2006 to \$*** in 2008).

¹¹⁴ Conference Tr. at 53 (Pacheco).

¹¹⁵ CR/PR at Table III-1; CR at III-2; PR at III-1; Conference Tr. at 41 (S. Kaplan).

¹¹⁶ CR at VI-8; PR at VI-3.

¹¹⁷ CR at IV-3; PR at IV-2; CR/PR at Tables IV-2, 3.

¹¹⁸ CR at IV-1; PR at IV-1; Conference Tr. at 194 (Layton); Biddeford's PCB at 18.

¹¹⁹ See CR at II-7-9; PR at II-5-6; CR/PR at Tables II-2-3; see also Jarden's PCB at Exhibits 1-C, 1-H, and 2 (e-mail correspondence indicating that ***).

¹²⁰ CR/PR at Table II-3.

¹²¹ CR/PR at Table II-2.

brand, a private label, or the Sealy brand), lower delivery costs in the case of direct importers, more fabric shell design options, electronics, packaging, delivery times, and warranties.¹²²

As detailed in section V.D. below, respondents argue that subject imports are qualitatively superior to the domestic like product and that purchasers switched from the domestic like product to subject imports for primarily non-price reasons.¹²³ Jarden and Milliken counter that the quality of domestically produced WEBs is comparable or superior to that of subject imported WEBs, and Jarden argues that price, including incentive programs, has become increasingly important to purchasers in the U.S. market.¹²⁴ We intend to further examine the importance of price in the WEB market, and any non-price factors, including branding, that distinguish subject imports from the domestic like product, in any final phase of this investigation.

B. Volume of Subject Imports¹²⁵

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

¹²² CR at II-8-9; PR at II-6; Conference Tr. at 134-36 (Porter), 141 (Hearn).

¹²³ See Biddeford’s PCB at 19-21, Exhibit 10; Coalition’s PCB at 7-8.

¹²⁴ Jarden’s PCB at 9-10; Milliken’s PCB at 3-5 (noting that the fabric shells used by Jarden are heavier than the fabric shells used by Biddeford); Conference Tr. at 50 (Pacheco) (“With regards to quality, we feel that our quality is the best, given our proprietary technologies and processes in our facility, with our wiring and our heat technology really being at the forefront.”), 50 (Sullivan) (“Our product, compared to the competition, heats up faster and stays hotter longer, and this is based on some thermograms that we have taken . . .”), 51 (Sullivan), 120-21 (Sullivan and Pacheco) (testifying that Jarden’s WEBs feature localized shutoff in response to possible fire hazards).

¹²⁵ We base our analysis of subject import volume on importers’ questionnaire responses, which were received from all firms believed to be large importers of WEBs. CR at IV-3; PR at IV-1. We do not rely on the volume of imports reported under HTSUS 6301.10.00 because those data are known to include a substantial proportion of knit and non-woven electric blankets, which are outside the scope of this investigation. CR at IV-3; PR at IV-1-2.

Biddeford and the Coalition argue that the Commission should analyze subject import volume by reducing the total volume of imports from China under HTSUS 6301.10, including subject and nonsubject electric blankets, by an estimate of the quantity of nonsubject electric blankets imported from China based on importer questionnaire responses, the Customs Net Import File (“CNIF”), re-exports by ***, and imports by ***, which Biddeford believes to consist entirely of knit electric blankets. Biddeford’s PCB at 10-12; Coalition’s PCB at 10-11. We reject this approach for two reasons.

First, respondents’ approach yields an estimate of subject import volume that is inconsistent with both the trend and the quantity of Hung Kuo’s reported WEB exports to the United States, which should account for *** WEB imports from China by Biddeford’s own admission. Compare Biddeford’s PCB at 11 with CR/PR at Table VII-1 (Biddeford’s estimate of subject import volume is nearly *** percent higher than the volume of WEB exports to the United States reported by Hung Kuo); see also Biddeford’s PCB at 18 (claiming that Hung Kuo and Biddeford accounted for *** percent of subject imports over the period examined); Conference Tr. at 194 (Layton) (testifying that Biddeford believes itself to account for all subject imports over the period examined). By contrast, the volume of subject imports reported by responding importers is within *** percent of the volume of WEB exports to the United States reported by Hung Kuo. CR at IV-1; PR at IV-1.

Second, Biddeford’s estimate of subject import volume is predicated on pure speculation that *** imports under HTSUS 6301.10 consisted entirely of non-woven electric blankets and would assume, without evidence, that all imports under HTSUS 6301.10 by importers that did not complete questionnaire responses consisted entirely of WEBs. Because responding importers reported only imports of WEBs, we find that importers’ questionnaire responses provide a more accurate accounting of actual subject import volume over the period examined than the methodology proposed by respondents.

production or consumption in the United States, is significant.”¹²⁶ Since few WEB sales are made in the first half of the year, due to the seasonality of the WEB market, we find that interim data from January-March 2008 and 2009 are of limited probative value and attach little weight to such data.¹²⁷

During the period of investigation, the volume of subject imports remained relatively stable at *** units in 2006, *** units in 2007, and *** units in 2008.¹²⁸ The volume of subject import shipments, however, increased by *** percent, from *** units in 2006 to *** units in 2007 and *** units in 2008, as subject imports increased their share of apparent U.S. consumption from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹²⁹ Because there were no nonsubject imports in the U.S. market, the significant increase in subject import market share came entirely at the expense of the domestic industry. As subject imports increasingly displaced domestic shipments from the U.S. market, the ratio of subject imports to domestic production increased from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹³⁰

For purposes of the preliminary phase of this investigation, we find that subject import volume is significant in absolute terms and relative to consumption and production in the United States. We also find the increase in subject import shipments and market share over the period examined to be significant.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.¹³¹

As addressed in section VI.A.2.c. above, the record indicates that there is at least a moderate degree of substitutability between subject imports and the domestic like product and that price is an important consideration, though not necessarily the most important consideration, in purchasing decisions.¹³²

Jarden and two importer/distributors provided usable quarterly net U.S. f.o.b. selling price data, and eight importer/retailers provided usable quarterly purchase price data for three products, although not

¹²⁶ 19 U.S.C. § 1677(7)(C)(i).

¹²⁷ See CR at VI-1-2; PR at VI-1.

¹²⁸ CR/PR at Table IV-2. The volume of subject imports was *** units in January-March 2008 and *** units in January-March 2009. Id.

¹²⁹ CR/PR at Tables IV-3-4. The volume of subject import shipments was *** units in January-March 2008, or *** percent of apparent U.S. consumption, and *** units in January-March 2009, or *** percent of apparent U.S. consumption. Id. It is not entirely clear how the volume of subject import shipments increased *** over the period examined when the volume of subject imports did not increase. We intend to explore this issue further in any final phase of this investigation.

¹³⁰ CR/PR at Table IV-5. The ratio of subject imports to U.S. production was *** percent in January-March 2008 and *** percent in January-March 2009. Id.

¹³¹ 19 U.S.C. § 1677(7)(C)(ii).

¹³² See CR at II-7-10; PR at II-5-7; CR/PR at Tables II-2-3.

all firms reported pricing for all products for all quarters.¹³³ Pricing data reported by these firms accounted for *** percent of the domestic industry's U.S. shipments and *** percent of subject import shipments in 2008.¹³⁴ The purchase price data (direct imports accounted for *** percent of the volume of subject imports), however, are at a different level of trade than the selling price data collected on the domestic like product and hence were not utilized in our underselling analysis.¹³⁵

The f.o.b. selling price data available in the preliminary phase of this investigation show a mixed pattern of subject import underselling and overselling during the period examined. Subject imports undersold the domestic like product in 15 of 26 quarterly comparisons, or 57.7 percent of the time, at margins ranging from 0.2 to 28.8 percent, but underselling was confined to 2006 and 2007.¹³⁶ Although subject imports oversold the domestic like product in 2008, the purchase prices reported by importer/retailers were lower than the selling prices reported by importer/distributors for that year, suggesting that subject imports generally remained price-competitive with the domestic like product.¹³⁷

The record further suggests that subject import underselling and the competitive purchase prices reported by importer/retailers depressed and suppressed prices for the domestic like product. Between the third quarter of 2006 and the fourth quarter of 2008,¹³⁸ domestic prices for product 1 declined by *** percent, from \$*** per unit to \$*** per unit, and domestic prices for product 2 declined by *** percent, from \$*** per unit to \$*** per unit.¹³⁹ The decline in domestic prices between 2006 and 2007 was accompanied by pervasive subject import underselling, according to the available data.^{140 141}

¹³³ CR at V-4; PR at V-2-3. There were no reported subject import shipments of product 3. CR/PR at Table V-3.

¹³⁴ CR at V-4; PR at V-3.

¹³⁵ See CR at V-3, 11 n.11; PR at V-2, 4 n.11; CR/PR at Tables V-1-3. Jarden argues that, in this investigation, the Commission should compare U.S. producer sales prices to retailers with retailers' direct import purchase prices. CR at V-11 n.11; PR at V-4 n.11. We invite the parties to comment on how the Commission should collect and analyze pricing data, including purchase price data, in their comments on the Commission's draft questionnaires in any final phase of this investigation.

¹³⁶ See CR/PR at Table V-5.

¹³⁷ See CR/PR at Tables V-1-3. The parties agree that incentive programs, including mark-down dollars, return allowances, volume rebates, cooperative advertising funds, and safety stocks, have long been a fixture of the WEB market. CR at V-2-3; PR at 2; Conference Tr. at 27 (Sullivan); Biddeford's PCB, Exhibit 16 at 1-2; Coalition's PCB at 14. Jarden argues that importers of subject merchandise have offered increasingly generous incentive programs to capture market share, forcing Jarden to ***. Jarden's PCB, Exhibit 1 at 5, Exhibit 1-B; Conference Tr. at 27-29 (Sullivan); CR/PR at Table VI-1. Jarden also urges the Commission to ensure that incentive programs have been deducted from the selling and purchase prices reported by importers, so as to permit an accurate comparison between subject import prices and domestic prices. Jarden's PCB at 10; Conference Tr. at 30 (Sullivan). Biddeford claims that the selling prices that it reported to the Commission are net of all incentive programs and that the value of such programs was low during the period examined. Biddeford's PCB, Exhibit 16 at 1-2, Exhibit 16-A. We intend to further examine the role and extent of incentive programs in the WEB market in any final phase of this investigation.

¹³⁸ Because WEB sales were concentrated in the third and fourth quarters of every year, we analyze the trend in domestic prices over the period examined by comparing prices in the third quarter of 2006 with prices in the fourth quarter of 2008. Jarden and the Coalition agree that pricing data from the third and fourth quarters of each year are most probative for the Commission's pricing analysis. Jarden's PCB at 16; Coalition's PCB at 13.

¹³⁹ CR/PR at Tables V-1-2.

¹⁴⁰ CR/PR at Table V-3. We find further evidence that subject import underselling depressed domestic prices to a significant degree in the fact that domestic prices for product 3 increased by *** percent between the third quarter of 2006 and the fourth quarter of 2008, from \$*** per unit to \$*** per unit, in the absence of any subject import shipments of the product. CR/PR at Table V-3. We also note that subject import underselling during the fourth quarters of 2006 and 2007, when Jarden undertook the line review process with its customers, may have had some

(continued...)

We also find evidence that Jarden was unable to recoup its increasing costs through higher prices during the period, with the average unit value of Jarden's net sales declining by *** percent even as its unit cost of goods sold ("COGS") increased by *** percent.¹⁴² As a result, the ratio of Jarden's COGS to net sales increased from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹⁴³ Thus, it appears that Jarden was increasingly caught in a cost-price squeeze. However, we recognize that the decline in the average unit value of Jarden's net sales, and the corresponding increase in its COGS to net sales ratio, may partly reflect a change in Jarden's product mix and will examine the issue further in any final investigation.¹⁴⁴

Of *** lost sales allegations totaling \$*** and *** lost revenue allegations totaling \$***, *** lost sales allegation, totaling \$***, was confirmed in part.¹⁴⁵ ***,¹⁴⁶ a JCPenney buyer testified at the conference that price was a consideration in JCPenney's decision to switch to subject imports, although not the most important consideration.¹⁴⁷ ***.¹⁴⁸ We intend to further investigate Jarden's lost sales and revenue allegations in any final phase of this investigation.

D. Impact of the Subject Imports¹⁴⁹

Section 771(7)(C)(iii) of the Act 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."¹⁵⁰ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. 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."¹⁵¹

¹⁴⁰ (...continued)

influence on the prices that Jarden received during the 2007 and 2008 seasons, respectively.

¹⁴¹ Chairman Shara L. Aranoff does not join the following paragraph or find that subject imports suppressed prices for the domestic like product. Given the change in the domestic industry's product mix from 2006 to 2008, she finds the record unclear on these questions and will re-examine them in any final investigation. See CR at VI-6-7; PR at VI-2.

¹⁴² CR/PR at Tables VI-1-2; see also Jarden's PCB at Exhibit 1-A (providing a breakdown of Jarden's increased production costs by factor of production); Conference Tr. at 31 (Pacheco).

¹⁴³ CR/PR at Tables VI-1-2.

¹⁴⁴ CR at VI-2 n.8; PR at VI-2 n.8; Jarden's PCB at Exhibit 1-I.

¹⁴⁵ CR/PR at Tables V-6-7; CR at V-15; PR at V-5. ***. CR at V-15; PR at V-5.

¹⁴⁶ See ***.

¹⁴⁷ CR at V-12 n.12; PR at V-4 n.12.

¹⁴⁸ CR at V-15; PR at V-5.

¹⁴⁹ Commerce initiated this antidumping duty investigation based on estimated dumping margins ranging from 128.32 percent to 394.55 percent. 74 Fed. Reg. at 37,004.

¹⁵⁰ 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.")

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

Based on the record of the preliminary phase of this investigation, we find that the domestic industry's performance declined over the period of investigation according to most measures. Due to the seasonality of the WEB market, addressed in section V.A.1. above, we attach little weight to data from the interim periods.

Domestic industry production declined by *** percent, from *** units in 2006 to *** units in 2007 and *** units in 2008.¹⁵² Domestic industry capacity, however, increased by *** percent, from *** units in 2006 to *** units in 2007 and *** units in 2008, due to efficiency gains and debottlenecking.¹⁵³ The domestic industry's declining production, *** its increasing capacity, drove down its rate of capacity utilization from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹⁵⁴

The domestic industry's declining production took a significant toll on employment, hours worked, and wages. Between 2006 and 2008, domestic industry employment declined by *** percent, from *** production related workers ("PRWs") in 2006 to *** PRWs in 2007 and *** PRWs in 2008, while hours worked declined by *** percent and wages paid declined by *** percent.¹⁵⁵

The domestic industry's net sales volume declined by *** percent, from *** units in 2006 to *** units in 2007 and *** units in 2008, while its U.S. shipment volume declined by *** percent, from *** units in 2006 to *** units in 2007 and *** units in 2008.¹⁵⁶ The domestic industry's share of apparent U.S. consumption by quantity declined from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹⁵⁷

Due to a *** decline in the average unit value of Jarden's shipments, the *** percent decline in the domestic industry's net sales volume was exceeded by the *** percent decline in the domestic industry's net sales value, from \$*** in 2006 to \$*** in 2007 and \$*** in 2008.¹⁵⁸ The domestic industry's operating income declined *** percent, from \$*** in 2006 to \$*** in 2007 and \$*** in 2008, while its operating profit margin declined from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹⁵⁹ Its return on investment declined ***, from *** percent in 2006 to *** percent in 2007 and *** percent in 2008.¹⁶⁰ Capital expenditures and research and development expenditures,

¹⁵² CR/PR at Tables VI-1, C-1. Domestic industry production was *** percent lower in interim 2009, at *** units, than in interim 2008, at *** units. Id.

¹⁵³ CR/PR at Tables III-1, C-1; Conference Tr. at 41 (S. Kaplan). Domestic industry capacity was *** units in both interim 2008 and interim 2009. CR/PR at Table III-1.

¹⁵⁴ CR/PR at Tables III-1, C-1. The domestic industry's rate of capacity utilization was lower in interim 2009, at *** percent, than in interim 2008, at *** percent. Id.

¹⁵⁵ CR/PR at Tables III-5, C-1. Domestic industry employment was *** percent lower in interim 2009, at *** PRWs, than in interim 2008, at *** PRWs, while hours worked were *** percent lower and wages paid were *** percent lower. Id.

¹⁵⁶ CR/PR at Tables IV-3, VI-1, C-1. The domestic industry's net sales volume was *** units in interim 2008 and *** units in interim 2009. Id. Its U.S. shipments by volume were also *** units in interim 2008 and *** units in interim 2009. Id.

¹⁵⁷ CR/PR at Table IV-4. The domestic industry's share of apparent U.S. consumption by quantity was *** percent in interim 2008 and *** percent in interim 2009. Id.

¹⁵⁸ CR/PR at Tables VI-1, C-1. The domestic industry's net sales value was *** in interim 2008 and *** in interim 2009. Id.

¹⁵⁹ CR/PR at Tables VI-1, C-1. The domestic industry's operating income was *** in interim 2008 and *** in interim 2009. Id. We note that the seasonality of WEB sales makes operating profit margin data for interim 2008 and 2009 meaningless. Id. at Tables VI-1 n.2, C-1 n.3.

¹⁶⁰ CR/PR at Table VI-4. We note that, due to the seasonality of WEB sales, return on investment data for interim 2008 and 2009 are not useful for our analysis. Id. at Table VI-4 n.2.

however, fluctuated between 2006 and 2008, with the former up by *** percent and the latter down by *** percent.¹⁶¹

For purposes of the preliminary phase of this investigation, we find a sufficient causal nexus between subject imports and the deteriorating condition of the domestic industry to warrant an affirmative determination. Subject imports increased their market share by *** percentage points between 2006 and 2008 at the direct expense of the domestic industry, since there were no nonsubject imports in the U.S. market during the period.¹⁶² We have also found some evidence of subject import underselling and that subject import underselling and the competitive purchase prices reported by importer/retailers depressed and suppressed domestic prices.

We have considered whether there are other factors that have had an impact on the domestic industry. We recognize that the *** percent decline in apparent U.S. consumption between 2006 and 2008 may have contributed to the domestic industry's deteriorating performance during the period of investigation.¹⁶³ Respondents argue that WEB demand declined in part as increased sales of knit electric blankets cannibalized WEB sales, though Jarden disputes this claim.¹⁶⁴ We intend to further examine the impact of the recession and knit electric blankets on WEB demand in any final phase of this investigation to ensure that we do not attribute to subject imports the effects of any adverse demand conditions.

Respondents have identified several additional factors that in their view account for Jarden's declining performance over the period examined. A buyer for JCPenney testified at the conference that her decision to switch from the domestic like product to subject imports was motivated primarily by non-price factors, such as the superior quality of Biddeford's blankets and Biddeford's offer to make JCPenney the exclusive retailer of Sealy brand WEBs, among other things.¹⁶⁵ Similarly, Biddeford argues that retailers have switched to subject imports not because they are lower priced but because they are qualitatively superior to the domestic like product in numerous respects.¹⁶⁶ Jarden disputes these

¹⁶¹ CR/PR at Table VI-4. Domestic industry capital expenditures were *** in interim 2008 and interim 2009, while its research and development expenditures were \$*** in interim 2008 and \$*** in interim 2009. Id.

¹⁶² CR/PR at Table IV-4.

¹⁶³ See, e.g., Conference Tr. at 54 (S. Kaplan) (testifying that the increase in WEB demand from consumers seeking to reduce energy costs has been "swamped" by the reduction in WEB demand resulting from the recession), 60 (Pacheco) (testifying that WEB demand declined "somewhat" due to the recession, but "it hasn't fallen as greatly as you would have expected, given the retail price points of these products . . .").

¹⁶⁴ See Biddeford's PCB at 9; Coalition's PCB at 9; Conference Tr. at 171 (Porter); but see Conference Tr. at 53 (Pacheco).

¹⁶⁵ Conference Tr. at 138-142 (Hearn). The JCPenney buyer also testified that the customer return rate for Biddeford blankets is lower than that for Jarden's blankets, that Biddeford offers greater purchasing flexibility, and that Biddeford's corporate affiliation with Chinese WEB producer Hung Kuo allows for production efficiency and quality control. See id.; see also Coalition's PCB at 8 n.33 (noting that the return rate for Jarden's WEBs was *** percent higher than the return rate for Biddeford's WEBs). We note that JCPenney did not follow through on its promise, in response to a specific request from Commission staff, to report the premium it paid for qualitatively superior Biddeford WEBs imported from China relative to the domestically produced WEBs they replaced. See Tr. at 155 (Mr. von Schiltz: "I'm wondering, when you decided to make the switch from Sunbeam to Biddeford blankets, how much more did you pay for the Biddeford blankets over the Sunbeam blankets that were replaced?" Ms. Hearn: "I would rather not talk about that in here." Mr. von Schiltz: "Could you respond in your post-conference brief, please?" Ms. Hearn: "Yes."). The Coalition, of which JCPenney is a member, did not respond to this request in its post-conference brief.

¹⁶⁶ Biddeford's PCB at 17-21, Exhibit 10. Specifically, Biddeford contends that the WEBs it imports from China are superior to Jarden's WEBs in offering superior fabric quality, with 32 picks per inch versus Jarden's 28 picks per inch; one inch in additional length and two inches in additional width; a five-inch binding versus Jarden's three-inch

(continued...)

arguments and claims that the quality of its domestically produced WEBs is comparable or superior to that of subject imports, emphasizing its allegedly superior heating technology.¹⁶⁷ Milliken claims that the fabric shells it produces for Jarden are comparable or superior in quality to those used in the WEBs that Biddeford imports from China.¹⁶⁸

Biddeford also argues that Jarden's focus on Wal-Mart and its insistence that all retailers carry the same range of Sunbeam-branded WEBs has undermined Jarden's ability to sell WEBs to other retailers, which have no desire to compete head-to-head with Wal-Mart on price.¹⁶⁹ Biddeford claims that its greater branding flexibility enables retailers to distinguish their WEBs from those sold by Wal-Mart.¹⁷⁰ Jarden counters that *** and that it is willing to provide retailers with WEBs produced under their own private labels.¹⁷¹ In any final phase of this investigation, we intend to explore further any non-price factors that allegedly distinguish subject imports from the domestic like product.

In sum, the record in the preliminary phase of this investigation indicates an apparent causal nexus between subject imports and the adverse condition of the domestic industry, thus demonstrating a reasonable indication of material injury by reason of subject imports.

CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of this investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of WEBs from China that are allegedly sold in the United States at less than fair value.

¹⁶⁶ (...continued)

binding; surging on three sides versus Jarden's surging on one side; a thinner, more flexible wire; a five-year warranty versus Jarden's two-year warranty; a 10-setting controller versus Jarden's three-setting controller; and a longer cord. Biddeford's PCB at 19-21, Exhibit 10.

¹⁶⁷ See Jarden's PCB at 9-10; Conference Tr. at 50-51 (Pacheco), 50-51 (Sullivan). Specifically, Jarden claims that its WEBs heat up faster and stay hotter longer than subject imports. Id. It also claims that its WEBs utilize a proprietary technology that shuts off only those portions of the blanket that are in danger of overheating, whereas competing blankets utilize a "global control" that shuts off the entire blanket if any part of the blanket is in danger of overheating. Id. At the conference, a witness for Biddeford confirmed that Biddeford's WEBs utilize a global control. Conference Tr. at 162 (Porter). Jarden also submitted evidence that ***. Jarden's PCB at 10, Exhibit 2.

¹⁶⁸ Milliken's PCB at 3-5.

¹⁶⁹ Biddeford's PCB at 22; Conference Tr. at 134-35 (Porter).

¹⁷⁰ Biddeford's PCB at 21; Conference Tr. at 134-35 (Porter).

¹⁷¹ Jarden's PCB at 11 (citing Exhibit 2). Jarden reports that it has produced WEBs under the Lands' End and Therapedic brand names at the request of retailers. Id. In addition, there is evidence on the record that ***. Jarden's PCB, Exhibit 1-F, at 2. A witness for Biddeford testified at the conference that his attempts to sell subject imported WEBs to Wal-Mart have failed in part because of Wal-Mart's preference for the Sunbeam brand. Conference Tr. at 158 (Porter).

SEPARATE VIEWS OF VICE CHAIRMAN DANIEL R. PEARSON

I concur with the majority's discussion of the domestic like product in Section III, the discussion of the domestic industry in Section IV, the discussion of legal standards in Section V (except where noted), and the discussion of conditions of competition in Section V(A). I find, however, that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports of WEBS from China that are allegedly sold in the United States at less than fair value.

I. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF IMPORTS OF SUBJECT MERCHANDISE

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry 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 would occur unless an order is issued or a suspension agreement is accepted."¹ The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.² In making our determination, we consider all statutory threat factors that are relevant to these investigations.³

¹ 19 U.S.C. § 1677(7)(F)(ii).

² 19 U.S.C. § 1677(7)(F)(ii).

³ These factors are as follows:

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) 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,

* * *

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

19 U.S.C. § 1677(7)(F)(I). To organize my analysis, I discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to a material injury analysis. Statutory threat factors (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the price

(continued...)

A. Likely Volume of the Subject Imports

I concur with the majority's position that data collected in interim 2009 are of limited probative value and I also attach little, if any, weight to this period.⁴ I also concur with the majority's decision to base its analysis of subject import volume on importers' questionnaire responses and share its doubts regarding the respondents' suggested approach to calculating volume.⁵

My analysis of the likely future volume of subject imports begins with trends observed over the period examined. In quantity terms, apparent U.S. consumption declined irregularly over the period examined. From *** units in 2006, U.S. consumption fell to *** units in 2007, before rising *** to *** units in 2008, for an overall decline of *** percent.⁶ Despite the falling demand, shipments of subject imports increased steadily over the period, from *** units in 2006 to *** units in 2008, an overall increase of *** percent.⁷ The market share of subject import shipments in apparent U.S. consumption increased steadily from *** percent in 2006 to *** percent in 2008.⁸ Because there are no known nonsubject imports, all of the market share gained by the subject import shipments, *** percentage points, was necessarily lost by the domestic industry.⁹

The increasing volume of subject import shipments was accompanied by fluctuating, but relatively high, levels of inventories held by importers. The ratio of inventories held by U.S. importers to U.S. shipments of subject imports increased from *** percent in 2006 to *** percent in 2007, before falling to *** percent in 2008.¹⁰ The large stock of inventories held by U.S. importers likely reflects a business strategy described by respondents as "safety stock."¹¹

In addition to examining the trends of subject imports over the period examined, I have also analyzed the likely future volume of subject imports in the context of expected demand for woven electric blankets (WEBs) over the next year. I note that expected demand for WEBs depends on diverse factors such as energy prices, the severity of winter weather, trends in consumer preferences for substitute products, and the pace of recovery from the current recession.¹² Given that the U.S. market for WEBs is

³ (...continued)

effects analysis, and statutory threat factors (VIII) and (IX) are discussed in the impact analysis. Statutory threat factor (I) is inapplicable, as no countervailable subsidies were alleged. Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved in this investigation.

⁴ Majority Views (business proprietary version) at 25-26.

⁵ Majority Views (business proprietary version) at 25 n.125.

⁶ CR/PR at Table C-1.

⁷ CR/PR at Table C-1. Subject imports, on the other hand, declined irregularly over the period examined, declining initially from *** units in 2006, to *** units in 2007, before increasing to *** units in 2008, for a decline of *** percent over the period examined. CR/PR at Table IV-2. Because I expect that—in a highly seasonal sector such as this one—subject import shipments will be more relevant to the domestic industry than subject imports, I will focus on trends in subject import shipments. I concur with the majority's intent to revisit this question in any final phase investigation. Majority Views (business proprietary version) at 26 n.129.

⁸ CR/PR at Table C-1. The market share of subject imports in apparent U.S. consumption increased irregularly, rising initially from *** percent in 2006 to *** percent in 2007, before declining *** to *** percent in 2008, an overall increase of *** percentage points. CR/PR at Tables IV-2 & IV-3.

⁹ CR/PR at Table C-1. The ratio of subject imports to domestic production, by quantity, increased steadily over the period, from *** percent in 2006 to *** percent in 2008. CR/PR at Table IV-5.

¹⁰ CR/PR at Table VII-2.

¹¹ Conference Tr. at 164 (Porter); see Petitioner's Post-Conference Brief at 25.

¹² CR at II-5 to II-6; PR at II-3 to II-4.

described as “mature,”¹³ combined with current recessionary pressures, I expect demand for WEBs to be flat or slightly declining.

In considering the likely volume of subject imports in the U.S. market, I observe that although reported capacity utilization in China has increased from *** percent in 2006 to *** percent in 2008, this still leaves *** units of unused capacity, a quantity that would constitute *** percent of apparent U.S. consumption in 2008.¹⁴ This excess capacity has added importance because the record contains evidence that the Chinese industry is *** export-oriented and that *** of its exports of WEBs are sent to the United States.¹⁵

I further observe that while *** accounts for the *** of reported U.S. imports,¹⁶ and that ***¹⁷ it is also the case that the Commission received questionnaire responses from only 3 of the 31 Chinese firms contacted. Among those not responding to the Commission’s questionnaires were *** Chinese firms that are known exporters to the United States (***).¹⁸ Given the response rate of the Chinese producers to the Commission’s questionnaire, it is possible that the picture the Commission currently has of the Chinese WEBs industry is incomplete.¹⁹ Additionally, according to the Global Trade Atlas, China was, on a value basis, “by far the largest exporter [of electric blankets], with approximately 61 percent of total exports during [2008]”²⁰ Although this Global Trade Atlas category contains nonsubject merchandise, this is an indication that the capacity of subject producers in China may be larger than is shown by the Commission’s data. The Global Trade Atlas’s Chinese export data, to the extent that exports of nonsubject electric blankets are included,²¹ provides a basis to conclude that there is at least the potential for Chinese product-shifting from nonsubject electric blankets into subject WEBs.²²

Thus, for the purposes of the preliminary phase of this investigation, I find a reasonable indication that the subject import volume is likely to be significant within an imminent time frame, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject imports’ market share will be substantial.

B. Likely Price Effects of the Subject Imports

In assessing the likely price effects of the subject imports, I consider pricing developments during the period examined and likely developments in the imminent future in light of key conditions of competition in the U.S. market. The record indicates that subject imports from China and domestic WEBs are at least moderately substitutable and that most sales of both the domestic like product and subject imports are made to retailers.²³

The Commission collected quarterly pricing data for three WEB products. Usable pricing data

¹³ CR at II-5; PR at II-3.

¹⁴ CR/PR at Tables VII-1 & C-1.

¹⁵ CR/PR at Table VII-1.

¹⁶ CR/PR at VII-1. It appears that *** may account for *** reported subject Chinese imports. *Id.*

¹⁷ CR/PR at Table VII-1.

¹⁸ CR/PR at VII-1 n.1.

¹⁹ *See* Petitioner’s Post-Conference Brief at 21-23.

²⁰ CR at VII-5; PR at VII-2. No imports entered the United States from the next two largest exporters of electric blankets, the Czech Republic and Indonesia, which together held 26 percent of world exports. *Id.*

²¹ It was estimated that subject WEBs constitute about 60 percent of imports within the basket HTS category. CR/PR at IV-1.

²² *See* Petitioner’s Post-Conference Brief at 24-25.

²³ CR/PR at II-1 & Table II-1.

for sales were provided by Jarden and two importer/distributors, and eight importer/retailers provided usable purchase price data, together accounting for *** percent of the U.S. producer's shipments of WEBs and *** percent of subject import shipments from China in 2008.²⁴ Product 1 was a twin-size WEB with a shell made from 100-percent synthetic fabric. Product 2 was a queen-size WEB with a shell made from 100-percent synthetic fabric. Product 3 was a twin-size WEB with a shell made from a blend of synthetic and natural fibers.²⁵ No subject imports were recorded in product 3 and so no price comparisons were available for this product.

The evidence of underselling and overselling by subject imports was mixed for products 1 and 2. Subject imports undersold the domestic like product in 15 of 26 quarterly pricing comparisons by margins ranging from 0.2 to 28.8 percent.²⁶ I note that all but one of the quarterly comparisons showing underselling by subject imports occurred in the first two years of the period (2006 and 2007). For the quarterly comparisons in 2008 and 2009, fully 9 of the 10 showed overselling by subject imports.²⁷

There is mixed evidence on the record indicating price depression. While prices of domestic products product 1 and product 2 generally showed decreasing trends over the period, this was not the case for product 3, which was flat or increasing after one initially high quarter. I will examine, in any final phase investigation, the role of subject imports in any price suppression.²⁸ There is some evidence of price suppression on the record of this preliminary phase investigation. The ratio of the domestic industry's cost of goods sold ("COGS") to net sales increased steadily over the period examined. The COGS/net sales ratio was *** percent in 2006, *** percent in 2007, and *** percent in 2008, indicating that the domestic industry was unable to raise prices sufficiently to offset rising raw material and other costs.²⁹ I intend to examine, in any final phase investigation, the role of subject imports in any price suppression.

Of the *** lost sales allegations totaling \$***, the Commission was able to confirm allegations totaling \$***.³⁰ Of lost revenue allegations totaling \$***, the Commission was ***.³¹

As subject imports are likely to enter the U.S. market in significant volumes and hold significant market share in the reasonably foreseeable future, this is likely to lead to adverse price effects that were only nascent in the period examined. I intend to examine more closely the price effects of the subject imports in any final phase investigation.

C. Likely Impact of the Subject Imports on the Domestic Industry

Between 2006 and 2008, the domestic WEB industry saw some declines in its performance indicators. Production, capacity utilization, shipments, and employment all declined steadily throughout

²⁴ CR at V-4; PR at V-3.

²⁵ CR at V-3 to V-4; PR at V-2.

²⁶ CR at V-11; PR at V-4.

²⁷ CR/PR at Tables V-1 & V-2. When comparing U.S. sales prices with Chinese purchase prices, a similar pattern is observed. For Product 1, 7 of 12 comparisons show the U.S. sales price to be higher than the Chinese purchase price, with 6 of those 7 occasions being in either 2006 or 2007. For Product 2, 9 of 12 comparisons show the U.S. sales price to be higher than the Chinese purchase price, with 6 of those 9 occasions being in the first two years of the period (2006 and 2007). *Id.*; CR at V-11 n.11; PR at V-4 n.11.

²⁸ I also intend to examine any role that *** may have played, as *** in influencing the price trends. *See* Respondent Biddeford/Hung Kuo/Ongain's Post-Conference Brief at 25-27.

²⁹ CR/PR at Table C-1. *But see* CR at VI-9; PR at VI-3 (stating that "changes in product mix during the period" make the increase in this ratio less reliable).

³⁰ CR/PR at Table V-6; CR at V-12; PR at V-4.

³¹ CR/PR at Table V-7; CR at V-12; PR at V-4.

this period.³² The domestic industry's financial results also weakened, although it recorded *** operating margins throughout the 2006-08 period, including in 2008, at a time when many business concerns were hobbled by the recessionary environment.³³ As mentioned above, because of the absence of nonsubject imports, the domestic industry's market share declined at the same rate as the market share of subject imports increased.³⁴ There also were some negative trends in existing development and production efforts of the domestic industry.³⁵ Production capacity and productivity, however, saw steady increases over the period.³⁶ I view the data for the 2006-08 period in the context of the general decline in demand for WEBs over this period. As noted above, apparent U.S. consumption of WEBs declined by *** percent over the 2006-08 period.³⁷ I intend to examine in any final phase investigation the extent to which this decline in demand, and the general recessionary environment in the United States, were responsible for the domestic industry's difficulties.

I find that, based on these data, and in light of the current economic conditions, the domestic industry is unlikely to perform as well in the near term as it did during the period examined. Nonetheless, given the industry's performance, albeit with declines, throughout the period, I do not find that the domestic industry is currently in a vulnerable state.

For purposes of this preliminary phase investigation, I find that there likely will be a causal nexus between the subject imports and an imminent adverse impact on the domestic industry. This conclusion is based on the declines in the industry's trade and employment data discussed above and my finding that the volume of subject imports is likely to increase substantially from its 2008 level in an imminent time frame, thereby reducing the industry's levels of production, employment, and profitability.

I have considered whether there are other factors that will likely have an imminent impact on the domestic industry. First, various arguments were made by parties on the role that increased demand for substitute products, such as knitted fleece electric blankets and heated mattress pads, had on declining demand for WEBs.³⁸ Second, arguments were also presented by respondents that there were differences in customer return rates between the subject imports and the domestically produced product.³⁹ Finally, arguments were made by both parties regarding the influence of product branding on the purchasing decisions of major retail customers.⁴⁰ In any final phase investigation, I will explore all of these issues further.

³² Production was *** units in 2006, *** units in 2007, and *** units in 2008. Capacity utilization was *** percent in 2006, *** percent in 2007, and *** percent in 2008. Domestic shipments were *** units in 2006, *** units in 2007, and *** units in 2008. Production-related workers totaled *** in 2006, *** in 2007, and *** in 2008. Hours worked totaled *** in 2006, *** in 2007, and *** in 2008. CR/PR at Table C-1.

³³ Operating profit was \$*** in 2006, \$*** in 2007, and \$*** in 2008. The domestic industry's ratio of operating income to net sales was *** percent in 2006, *** percent in 2007, and *** in 2008. CR/PR at Table C-1.

³⁴ U.S. industry's share of apparent U.S. consumption was *** percent in 2006, *** percent in 2007, and *** percent in 2008. CR/PR at Table C-1.

³⁵ CR at VI-10 to VI-11; PR at VI-4; see Petitioner's Post-Conference Brief at 25-26. Commission data shows an irregularly declining trend for total R&D expenditures by the domestic industry. R&D expenses initially rose from \$*** in 2006 to \$*** in 2007, before declining to \$*** in 2008, for an overall decrease of *** percent. CR/PR at Table VI-4.

³⁶ Production capacity was *** units in 2006, *** units in 2007, and *** units in 2008. Productivity (units/1,000 hours) was *** in 2006, *** in 2007, and *** in 2008. CR/PR at Table C-1.

³⁷ CR/PR at Table C-1.

³⁸ E.g., CR at I-11 to I-12, I-14, & II-6 to II-7; PR at I-7, I-9, & II-4.

³⁹ CR at II-8 & V-12 n.12; PR at II-5 & V-4 n.12.

⁴⁰ CR at II-7 to II-8; PR at II-5 to II-6.

Consequently, I conclude for the purposes of the preliminary phase of this investigation that there is a likely causal nexus between the subject imports and an imminent adverse impact on the domestic industry, which demonstrates a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports.

CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of this investigation, I find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports of WEBS from China that are allegedly sold in the United States at less than fair value.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Sunbeam Products, Inc. doing business as Jarden Consumer Solutions (“Jarden”), Boca Raton, FL, on June 30, 2009, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of woven electric blankets (“WEBs”)¹ from China. Information relating to the background of the investigation is provided below.²

Effective date	Action
June 30, 2009	Petition filed with Commerce and the Commission; institution of Commission investigation (74 FR 32192, July 7, 2009)
July 21, 2009	Commission’s conference ¹
July 27, 2009	Commerce’s notice of initiation (74 FR 37001)
August 13, 2009	Date of the Commission’s vote
August 14, 2009	Commission’s determination transmitted to Commerce
August 21, 2009	Commission’s views transmitted to Commerce

¹ A list of witnesses that appeared at the conference is presented in app. B.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any

¹ See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to this investigation.

² *Federal Register* notices cited in the tabulation are presented in app. A.

increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

...
In evaluating the effect of imports of such merchandise on prices, 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.

...
In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

...
(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of the Report

Part I of this report presents information on the subject merchandise, alleged dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Part IV* presents information on the volume of imports of the subject merchandise. *Part V* presents information on the pricing of U.S.-produced and imported subject merchandise. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

U.S. MARKET SUMMARY

WEBs consist of a shell of woven fabric made of synthetic or natural fiber, or a blend of synthetic and natural fiber, which contains heat-producing wire whose temperature is controlled by one or more thermostats or controllers. Such blankets are used mostly as bedding articles to keep sleeping or resting individuals warm.³ The sole known U.S. producer of WEBs is Jarden, while a leading producer of WEBs outside the United States is Hung Kuo Electronic (Shenzhen) Company Limited ("Hung Kuo") of China.

³ Petition, p. 4.

The leading U.S. importers of WEBs from China are ***. There are no known importers of WEBs into the United States from countries other than China. The single-largest purchaser of WEBs is Wal-Mart.⁴

Apparent U.S. consumption of WEBs totaled approximately *** units with a value of \$*** in 2008. Jarden's U.S. shipments of WEBs totaled approximately *** units (\$***) in 2008, accounting for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports totaled *** units (\$***) in 2008, accounting for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of Jarden, which accounted for all known U.S. production of WEBs during the period for which data were collected (calendar years 2006-08 and the first quarters of 2008 and 2009). U.S. imports are based on importer questionnaire responses.⁵

PREVIOUS AND RELATED INVESTIGATIONS

WEBs have not been the subject of prior countervailing or antidumping duty investigations in the United States.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On July 27, 2009, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigation on WEBs from China.⁶ Commerce has initiated its antidumping duty investigation based on estimated dumping margins of 128.32-394.55 percent.

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of this investigation as follows:

The scope of this investigation covers finished, semi-finished, and unassembled woven electric blankets, including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both. Semi-finished woven electric blankets and throws consist of shells of woven fabric containing wire. Unassembled woven electric blankets and throws consist of a shell of woven fabric and one or more of the following components when packaged together or in a kit: (1) Wire; (2) controller(s). The shell of woven fabric consists of two sheets of fabric joined together forming a "shell". The shell of woven fabric is manufactured to accommodate either the electric blanket's wiring or a subassembly containing the electric blanket's wiring (e.g., wiring mounted on a substrate). A shell of woven fabric that is not

⁴ Conference transcript, p. 134 (Porter).

⁵ The HTS subheading under which WEBs are classified, 6301.10.00, is a "basket" category and contains certain products, such as knit and any other non-woven electric blankets, that are not within the scope of this investigation. As such, official import statistics based upon this subheading would overstate imports of the subject merchandise.

⁶ *Certain Woven Electric Blankets From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 37001, July 27, 2009.

packaged together, or in a kit, with either wire, controller(s), or both, is not covered by this investigation even though the shell of woven fabric may be dedicated solely for use as a material in the production of woven electric blankets.⁷

Tariff Treatment

WEBs are classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheading 6301.10.00 and reported for statistical purposes under statistical reporting number 6301.10.0000. Table I-1 presents current *ad valorem* tariff rates for WEBs. Imports of WEBs from China are dutiable at the general rate of 11.4 percent *ad valorem*.

Table I-1
WEBs: Tariff rates, 2009

HTS provision	Article description	General ¹	Special	Column 2 ²
		Rates (<i>ad valorem</i>)		
6301 6301.10.0000	Blankets and traveling rugs: Electric blankets	11.4%	Free (BH, CA, CL, E*, IL, JO, MX, P, PE, SG), 2.3% (MA), 8% (AU), 9.1% (OM) (³)	77.5%
¹ Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to China. ² Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. ³ General note 3(c)(i) defines the special duty program symbols enumerated for this provision.				
Source: Harmonized Tariff Schedule of the United States (2009, supplement 1).				

THE PRODUCT

Description and Applications

A WEB⁸ is a heat-generating blanket designed to be used as a bedding article. WEBs are made-up textile articles constructed of electrically powered, heat-producing wire inserted into a fabric shell.⁹ Each WEB is paired with an external, electronic control device, through which users control the WEB’s temperature; controller types available include standard dial, dual-control, digital, and wireless models. The subject product is an electric blanket constructed with woven fabric (as opposed to knit or nonwoven fabric).¹⁰ The woven fabric used to produce WEBs may be constructed from a variety of fibers, including

⁷ Ibid.

⁸ “Woven automatic blankets,” “woven warming blankets,” and “woven heated blankets” may be used as synonyms for woven electric blankets. Petition, p. 3.

⁹ Made-up textile articles are articles made of textile materials in the finished state, ready for use without sewing or other working.

¹⁰ Electric blankets may also be knitted; however, knitted blankets are not subject to this investigation.

manmade fibers or varying blends of manmade and natural fibers.¹¹ Commonly used fibers include polyester, acrylic, polyester/acrylic blends, and polyester/cotton blends; price points and to a lesser extent consumer preferences influence the choice of fiber. WEBs are produced and sold in various sizes, including standard bedding sizes such as twin, full, queen, and king, as well as smaller throws.¹²

Users control WEB temperature through the use of an external, electronic temperature control device. WEBs may also be used in other situations to keep resting or sitting individuals warm, as in the case of a throw, as long as the article is meant to be pulled over, as opposed to under, the individual.¹³

Manufacturing Process

The manufacturing process for WEBs can be divided into four distinct stages. The first stage of production involves weaving the blanket shell.¹⁴ The next stage involves napping and chemical treatment of the blanket shell prior to insertion of the electric wire. The third stage involves insertion of the wire into the blanket shell. The final stage consists of final blanket assembly and trim.

To construct the blanket shell, manmade fibers such as polyester or acrylic are first dyed and spun into yarn. The yarn is then woven on a loom specifically designed to produce WEB shells. The yarn is woven in a circular manner to form a plain weave, double cloth fabric, into which channels have been created for the insertion of the wire. The sides of the fabric are woven on the loom, eliminating the need for stitching at a later production stage. Additionally, the loom weaves in a cut line at the top and bottom of the piece, which aids the WEB manufacturer in the cutting and wire insertion process. In contrast to other broad woven fabric, which is sold by the yard, WEB fabric shells are sold in units (i.e., in units of throw, twin, full, queen, and king-sized shells). WEB fabric shells are shipped in large continuous rolls, ready for napping and chemical treatment.

¹⁵¹⁶***

***¹⁷

¹⁸

After the wire is inserted into the WEB, the product goes through a process of final assembly and finishing. The wire is split, stripped, and attached to a module board control panel. A plastic housing is placed around the module board, and trim is then sewn on the top and bottom of the blanket. Each WEB is tested for wattage and performance. The WEB is then packaged in bags and vacuum-packed for inventory. ***

DOMESTIC LIKE PRODUCT ISSUES

The Commission's decision regarding the appropriate domestic product(s) that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.

¹¹ Electric blankets are not produced with fabric wholly formed from natural fibers out of concerns about flammability. The petitioner stated that ***. ***.

¹² Petition, p. 3.

¹³ Staff telephone interview with ***.

¹⁴ ***.

¹⁵ ***.

¹⁶ ***.

¹⁷ *** interview by Commission staff, July 9, 2009.

¹⁸ ***.

The petitioner contends that the Commission should find that WEBs constitute a single domestic like product as identified by the petition, while respondents assert that electric mattress pads and other types of heated bedding products, including knit electric blankets and other related heated bedding products, should be included within the domestic like product definition, to the extent that the Commission determines that there is U.S. production of such products. Respondents identified one U.S. producer, WestPoint Home, of electric mattress pads.¹⁹ Commission staff, the petitioner, and respondents have not identified domestic production of knit electric blankets, throws, or other heated bedding products. Respondents have emphasized the similarities between WEBs and knit electric blankets, despite the fact that there is no known domestic production of such products. As such, this section will focus on a comparison of WEBs with electric mattress pads, utilizing the six aforementioned factors, followed by a discussion of knit electric blankets.

WEBs and Electric Mattress Pads

Physical Characteristics and Uses

The petitioner asserts that electric mattress pads radiate heat upward and are used strictly in connection with a bed, as they are designed with elastic attachments that affix the product to the mattress.²⁰ Electric mattress pad shells are made of a smooth woven fabric and, as such, napping is not required in order to impart a softer hand to the fabric.²¹ In addition, electric mattress pads require additional padding to be inserted to ensure that the user does not feel the wire through the fabric.²² By contrast, electric blankets and throws are used on top of the individual and not strictly confined to use on a bed. WEBs come directly into contact with the user's skin and are napped to create a softer texture. Unlike electric mattress pads, WEBs do not require the insertion of additional padding.²³ Also, ***.²⁴

Respondent Biddeford asserts that WEBs, electric mattress pads, knit electric blankets, and related heated bedding products share almost identical physical characteristics and uses.²⁵ According to respondents, all heated bedding products, including WEBs, are used solely to keep resting or sleeping individuals warm. WEBs and electric mattress pads are made of polyester or a blend of polyester and cotton, while WEBs may also be made of acrylic or a blend of acrylic and either cotton or polyester. WEBs and electric mattress pads share the same features, including auto-shutoff, silent controls, pre-warming, overheat protection, and dual controls for queen or king sizes.

Electric mattress pads and WEBs share some of the same physical characteristics and uses. ***. Similar to WEBs, electric mattress pads can be made of manmade or a blend of natural and manmade fibers. While the fibers used in electric mattress pads and WEBs are similar (generally polyester, acrylic, or cotton), the blanket shell construction differs. WEB shells are made of yarn which is woven into fabric, while electric mattress pad shell construction consists of two outer layers of quilted woven fabric filled with a non-woven polyester wadding. Whereas WEBs are offered in a variety of colors, electric

¹⁹ WestPoint Home (WestPoint), produces electric mattress pads and the fabric used in the mattress pads in its production facilities in ***. *** email message to Commission staff, July 29, 2009.

²⁰ Petitioner's postconference brief, p. 6.

²¹ Ibid.

²² Petitioner's postconference brief, p. 7.

²³ Petitioner's postconference brief, p. 6.

²⁴ *** email message to Commission staff, July 29, 2009.

²⁵ Respondent Biddeford's postconference brief, p. 3.

mattress pads generally are limited to white.²⁶ Electric mattress pads are mattress pads that have a heat-producing wire inserted inside. With the exception of throws, electric mattress pads are produced in the same sizes as WEBs, such as twin, queen, and king. Electric mattress pads are affixed to the top of a mattress and are meant to keep resting or sleeping individuals warm.

Common Manufacturing Facilities and Production Employees

Petitioners state that the production processes for WEBs and electric mattress pads are different and require the use of different equipment.²⁷ For example, napping machines, which are used to nap WEB fabric, are not used on electric mattress pad fabric.²⁸ In addition, the wire insertion process for WEBs and electric mattress pads differs and requires the use of different equipment. *** electric mattress pad wires have first been sewn or glued to another piece of fabric, either manually or on a specially-designed piece of equipment, to form a substrate prior to insertion between the two outer pieces of fabric.²⁹ According to ***, electric mattress pads and WEBs are not produced with the same equipment.³⁰

Respondents contend that common manufacturing facilities can be and are used to produce electric mattress pads and other heated bedding products and that the same employees can be used to produce these products. While minor adjustments in production equipment may be necessary, the “similarities in production processes outweigh” the differences.³¹ In the past, for example, both WEBs and electric mattress pads were produced ***.³²

Interchangeability

Petitioners assert that WEBs and electric mattress pads are not interchangeable due to the differences in physical characteristics and uses.³³ WEBs are only intended for use over an individual, while electric mattress pads are intended for use under an individual. If one were to use a WEB in place of an electric mattress pad, that is, under a bed sheet and under an individual, it would pose a safety hazard. Similarly, *** contends that WEBs and electric mattress pads are not interchangeable, as a WEB is placed on top of a bed and an electric mattress pad is affixed to a mattress.³⁴

Respondents state that WEBs are interchangeable with electric mattress pads, knit electric blankets, and other heated bedding items.³⁵ Further, respondents state that WEB manufacturers and distributors market WEBs and other heated bedding items similarly. Several importers of WEBs indicated in their questionnaire responses that other heated bedding products, such as knit electric blankets and electric mattress pads, are substitutes for WEBs. Other importers, such as, for example, ***, indicated that electric mattress pads are substitutable for WEBs.³⁶

²⁶ Conference transcript, p. 64 (Pacheco), ***.

²⁷ Petitioner’s postconference brief, p. 7.

²⁸ ***.

²⁹ ***.

³⁰ ***.

³¹ Respondent Biddeford’s postconference brief, p. 7.

³² *** interview by Commission staff, July 9, 2009.

³³ Petitioner’s postconference brief, p. 6.

³⁴ ***.

³⁵ Respondent Biddeford’s postconference brief, p. 5.

³⁶ *** importer questionnaire, July 20, 2009, p. 14.

Customer and Producer Perceptions

Petitioners contend that producers and customers do not perceive WEBs and electric mattress pads as substitutes, and that customers do not perceive WEBs and electric mattress pads as interchangeable due to their different physical characteristics and uses.³⁷ Electric mattress pads are generally purchased by a younger demographic than those that purchase WEBs.³⁸ *** indicated that customers perceive WEBs and electric mattress pads differently, as each product performs a different function.³⁹

Respondents assert that producers and customers perceive WEBs and other heated bedding products as being “essentially the same,” claiming that WEBs and electric mattress pads are a “like” product distinguishable from the retail perspective only in terms of personal preference.⁴⁰ Both products are heated bedding items and reportedly customers may select one product or another based upon a personal preference for a particular fabric, color, or various other product options.⁴¹

Channels of Distribution

Both WEBs and electric mattress pads are sold to retail distributors, which then sell the products to final consumers. Additional details regarding the channels of distribution of domestically produced and imported WEBs are presented in Part II of this report, *Conditions of Competition in the U.S. Market*. According to ***, WEBs and electric mattress pads share the same channels of distribution.⁴² WEBs, electric mattress pads, and other heated bedding products are generally sold at the retail level in the same area of the store and displayed with other heated bedding products such as knit electric blankets and throws.

The petitioner contends that the channels of distribution for WEBs and electric mattress pads differ, and that they often deal with different buyers for WEBs and electric mattress pads.⁴³ ***.⁴⁴

Respondents assert that all heated bedding products, including WEBs, are sold through the same distribution channels, which is by manufacturers and importers to retailers for in-store, catalogue, and internet sale to consumers.⁴⁵ Respondents maintain that producers advertise and distribute WEBs, electric mattress pads, and other heated bedding products in the same manner, and retailers display and market these products similarly in stores, catalogues, and websites.⁴⁶ ***.⁴⁷

Price

The petitioner stated that WEBs cover a much wider range of price points than electric mattress pads and that consequently there is “limited overlap” between prices of WEBs and electric mattress

³⁷ Petitioner’s postconference brief, p. 7.

³⁸ Conference transcript, p. 78 (Pacheco).

³⁹ ***.

⁴⁰ Respondent Biddeford’s postconference brief, p. 7.

⁴¹ Respondent Biddeford’s postconference brief, p. 7.

⁴² ***.

⁴³ Conference transcript, p. 77 (Pacheco).

⁴⁴ Petitioner’s postconference brief, p. 7.

⁴⁵ Respondent Biddeford’s postconference brief, p. 6.

⁴⁶ Respondent Biddeford’s postconference brief, p. 6.

⁴⁷ ***.

pads.⁴⁸ The petitioner stated that electric mattress pads are usually higher-priced than WEBs and, as such, the two products are differentiable on the basis of price.⁴⁹

Respondents contend that heated bedding products, including WEBs and electric mattress pads, are priced the same by producers and importers as well as by retailers.⁵⁰ *** stated in its questionnaire response that when knit electric blankets first entered the U.S. market, around 2004-05, retailers capitalized on the novelty of the product and charged premium prices for knit electric blankets. Since then, more suppliers have entered the U.S. market, which has led to increased competition and downward pressure on prices of knit electric blankets. This, as well as the increasing popularity of electric mattress pads, has reportedly resulted in downward pressure on prices of WEBs.⁵¹ ***.⁵² Raw materials such as polyester and acrylic were more expensive during the early stages of the period for which data were collected.

Knit Electric Blankets

Respondents and several large importers, including ***, stated in questionnaire responses that knit electric blankets are substitutable for WEBs. Respondents assert that knit electric blankets compete directly with WEBs and satisfy the six criteria the Commission uses to determine domestic like product; however, they are unaware of production of knit electric blankets, or parts thereof, in the United States.⁵³ They also claim that the trend in the consumer market is moving toward knit electric blankets, and estimated that the volume of knit electric blanket imports increased by ***-percent during 2006-08.⁵⁴

Milliken and Co. (“Milliken”), a textile manufacturer that produces the WEB fabric shell for Jarden in its facilities in South Carolina, supports the petition and contends that the production process for knit fabric for use in electric blankets is more labor-intensive than that for WEBs.⁵⁵ The double cloth woven fabric used in WEBs is woven on a loom specifically designed to weave the channels into the fabric, leaving the fabric woven on the sides and open on the top and bottom. When the fabric is removed from the loom, it is ready to be napped, chemically treated, and the wire inserted. By contrast, there are several additional steps required in the production of knit fabric for use in electric blankets. The fabric is flat knit in two separate pieces, which is then piece-dyed. The two separate pieces of fabric are then sewn together on two sides, and the wire channels are sewn into the fabric. A layer of nonwoven fabric is then inserted into the channels in order to ease the wire insertion, and a batting is added to bulk the fabric and conceal the wire.

In addition, the yarn used to knit fabric for use in electric blankets is different than the yarn used to weave fabric for use in electric blankets.⁵⁶ *** indicated that the yarn used for woven electric blankets is thicker, larger spun yarn made from fibers that have already been dyed, while the yarn used for knit electric blankets is thinner, undyed filament yarn.⁵⁷

⁴⁸ Petitioner’s postconference brief, p. 8.

⁴⁹ Petitioner’s postconference brief, p. 8.

⁵⁰ Conference transcript, p. 135 (Porter).

⁵¹ ***.

⁵² ***.

⁵³ Respondent Biddeford’s postconference brief, p. 1.

⁵⁴ Respondent Biddeford’s postconference brief, p. 1.

⁵⁵ Milliken, written submission to the USITC, July 27, 2009, p. 3. ***.

⁵⁶ Milliken, written submission to the USITC, July 27, 2009, p. 2.

⁵⁷ Filament yarn is spun using filament fibers. Filament fibers are fibers of an indefinite length, such as silk.

Woven Shells

In addition to the information collected by Commission staff on electric mattress pads and knit electric blankets, during the conference staff also requested that counsel to Jarden comment on fabric shells with respect to their inclusion in the definition of the domestic like product. In reply, counsel stated that Jarden was not requesting that fabric shells be included in this definition.⁵⁸

In its postconference brief, Jarden elaborated on its position. First, with respect to uses, Jarden asserted that the shell can be used for purposes other than producing WEBs, including regular blankets. Second, with respect to markets, Jarden stated that fabric shells are only sold to blanket manufacturers, while WEBs are sold to retailers and ultimately consumers. Third, with respect to characteristics and functions, Jarden asserted that fabric shells lack many of the physical characteristics of WEBs, including value-added components such as heat-producing wire and controllers, as well as lacking the same feel and chemical treatment of WEBs. Jarden also claimed that the heat-generating function of WEBs differentiates them from fabric shells, which do not perform this function. Fourth, with respect to value, Jarden maintained that fabric shells constitute only about *** percent of the total cost of WEBs and about *** percent of the average price of WEBs. Finally, Jarden described the transformation that is performed on the fabric shells in order to turn them into WEBs (discussed previously in Part I of this report) as “substantial.”⁵⁹

⁵⁸ Conference transcript, p. 58 (von Schriltz) and (Altschuler).

⁵⁹ Petitioner’s postconference brief, exh. 1, pp. 1-4.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET CHARACTERISTICS

WEBs are consumer products that are differentiated by type and weave of fabric, size (e.g., throw, twin, full, queen, or king), color, type of wiring, type of control, and other factors.¹ U.S. demand for WEBs is highly seasonal, with almost all purchases occurring during the second half of the year.² The U.S. market for WEBs is characterized by a relatively small number of large retail customers.³ Inventory levels vary substantially over the year as WEBs are manufactured year-round for sale in the fall and winter.

CHANNELS OF DISTRIBUTION

Jarden reported that it ***. U.S. importers of Chinese WEBs either sell the imported Chinese WEBs to retailers or are retailers that import Chinese WEBs directly (table II-1). During 2006-08, direct imports by retailers accounted for *** of U.S. importers' U.S. shipments of Chinese WEBs (quantity basis).

Table II-1

WEBs: U.S. importers' U.S. shipments of WEBs from China, by channels of distribution, 2006-08

* * * * *

SUPPLY AND DEMAND CONSIDERATIONS

Supply

U.S. Supply

Based on available information, Jarden (the sole U.S. producer of WEBs) has the ability to respond to changes in demand with *** in the quantity of shipments of U.S.-produced WEBs to the U.S. market. The main contributing factors to the *** of supply responsiveness are ***.

Industry capacity

Jarden's capacity increased by *** percent from *** units in 2006 to *** units in 2008 and was ***. Capacity utilization fell from *** percent in 2006 to *** percent in 2008, and was *** percent in the first quarter of 2009 compared to *** percent in the first quarter of 2008. Jarden's *** units in 2008 indicates that Jarden *** in response to changes in U.S. demand.

¹ Conference transcript, pp. 50-51 (Pacheco, S. Kaplan, and Sullivan), 106-107 (Pacheco), and pp. 128-131 (Porter).

² Conference transcript, p. 28 (Pacheco) and p. 61 (S. Kaplan).

³ Conference transcript, pp. 31 and 64 (Pacheco) and pp. 34-35 (S. Kaplan). Biddeford's postconference brief, p. 22.

Alternative markets

Jarden's exports of WEBs increased from *** percent of its total shipments in 2006 to *** percent in 2008; ***. At these levels, the Jarden ***. Jarden exports WEBs to ***.

Inventory levels

Inventory levels vary dramatically over the year as WEBs are manufactured year-round for sale in the fall and winter. Jarden's end-of-period inventories, as a share of its total shipments, increased from *** percent in 2006 to *** percent in 2007, before falling to *** percent in 2008. These levels of inventories suggest that Jarden *** in response to changes in demand.

Production alternatives

Jarden reported that ***.

Subject Imports from China

Based on available information, Chinese producers have the ability to respond to changes in demand with *** changes in the quantity of shipments of WEBs to the U.S. market. The main contributing factor to the *** degree of responsiveness of supply is ***.

Industry capacity

Two Chinese producers (Hung Kuo and Pace), representing an estimated *** percent of Chinese WEB production and *** percent of Chinese WEB exports to the United States in 2008, provided useable data in their foreign producer questionnaire responses.⁴ Reported Chinese capacity was *** units in each year during 2006-08. Chinese capacity utilization increased from *** percent in 2006 to *** percent in 2008, as Chinese production increased by *** percent over the period. Chinese *** suggests that Chinese producers have the ability to moderately increase their exports of WEBs to the United States in response to changes in demand.

Alternative markets

The responding Chinese producers' WEB exports to the United States increased by *** percent during 2006-08, ***. ***, as Chinese exports to the United States accounted for ***.

Inventory levels

Reported year-end Chinese WEB inventory levels *** during the period. Year-end Chinese inventories accounted for *** percent of Chinese total shipments during 2006-08. The ratios of inventories to total shipments were *** as of March 31 of 2008 and 2009.

⁴ One Chinese firm certified that it had not produced or exported WEBs since January 1, 2006. The Commission did not receive information from the only other known Chinese suppliers of WEBs to the United States, *** and ***. For more information concerning the WEB industry in China, see Part VII of this report.

Production alternatives

Chinese producer Hung Kuo reports that ***. Hung Kuo reported that ***. Pace reported that ***.

Nonsubject Imports

There is no publicly available information regarding international production or exports of WEBs during the period for which data were collected. There is some limited information available, however, on electric blankets (woven, knit, and other non-woven blankets combined). According to Global Trade Atlas statistics, the largest exporters of electric blankets in the world in 2008 were China, the Czech Republic, and Indonesia. For more information concerning nonsubject-country production and exports of WEBs, see Part VII of this report.

Demand

Based on available information, the overall demand for WEBs is likely to change moderately in response to changes in price. The primary factor influencing the elasticity of demand for WEBs is the availability of substitute products, particularly knitted and any other non-woven electric blankets and electric mattress pads.

Demand Characteristics

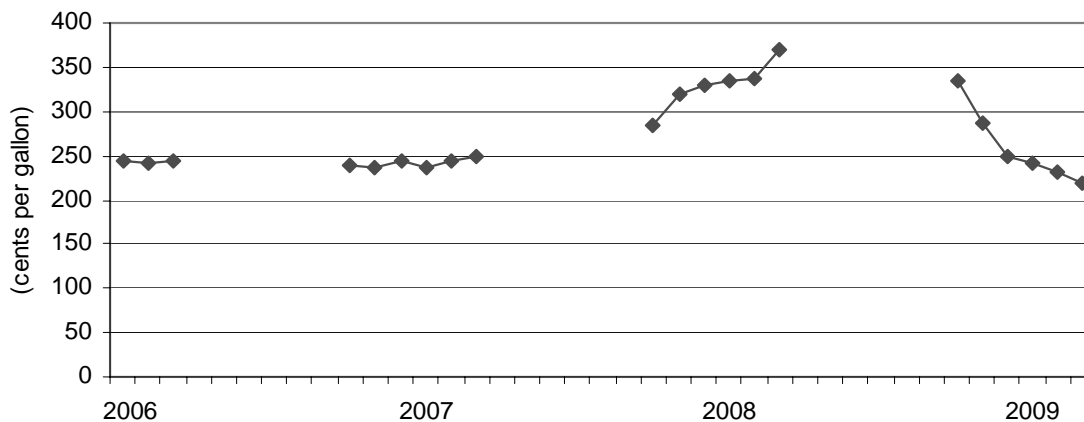
WEBs are used either to warm a bed or, in the case of throws, to warm people who are sitting or lounging. Demand is therefore influenced by the weather and by the price of home heating oil (figure II-1).⁵ As a result, demand for WEBs is highly seasonal. Most WEBs are sold and used during the colder months of the year, with sales occurring almost exclusively during the fall and winter months, particularly during the winter holidays.⁶ The U.S. producer and two of the 17 responding importers reported that demand for WEBs had fallen since 2006, five importers reported that demand had increased, five importers reported that demand was unchanged, and five importers reported that demand had fluctuated. Most firms reporting that demand had increased cited consumers buying WEBs to save money on heating costs. Firms reporting fluctuating or declining demand cited changes in the weather, competition from substitute products, retail distributors consolidating or closing store outlets, and the fact that the market for WEBs was a mature market.⁷ Available data indicate that apparent U.S. consumption of WEBs fell by *** percent from \$*** in 2006 to \$*** in 2008.

⁵ Conference transcript, pp. 54-55 (S. Kaplan and Pacheco) and 90-91 (Pacheco).

⁶ Conference transcript, pp. 26 and 91-92 (Pacheco).

⁷ ***. Petitioner's postconference brief, exhibit 1-F.

Figure II-1
U.S. No. 2 heating oil residential prices, by month, January 2006-March 2009



Note: The U.S. Department of Energy, Energy Information Administration, collects and publishes data concerning heating oil prices during the winter heating season, which extends from October through March of each year. Data for residential prices for heating oil are only collected during the winter heating season.

Source: U.S. Department of Energy, Energy Information Administration.

Business Cycles

Jarden maintains that the income effect of the recession (declining income) has overcome the substitution effect of consumers trying to reduce their energy costs by using more electric blankets, which has led to an overall decline in U.S. demand.⁸ Respondents report that the recent economic downturn has reduced demand both because it reduced consumers' demand and because retailers are maintaining lower inventories, which has also led to some loss of sales.⁹

Substitute Products

Jarden and 8 of the 17 responding importers reported substitutes for WEBs. These include other heated bedding products such as knit electric blankets and electric mattress pads; non-heated bedding products such as conventional non-electric blankets, thermal weave blankets, down comforters, other comforters, flannel sheets, fleece sheets, and bedspreads, as well as non-heated throws and clothing. *** importers reported that knitted electric blankets and electric mattress pads, in particular, are good substitutes.

One of the seven responding importers reported that the price of substitutes affects the price of WEBs. Respondents reported that more expensive, knit electric blankets have become increasingly popular and increasingly compete with WEBs. Respondents also maintain that the price of knit electric blankets has fallen, which in turn has reduced demand for and increased the price pressure on WEBs.¹⁰

⁸ Conference transcript, pp. 54-55 (S. Kaplan and Pacheco).

⁹ Conference transcript, p. 176 (Layton).

¹⁰ Conference transcript, pp. 171, 175-176 (Porter). Biddeford's postconference brief, p. 14.

Cost Share

WEBs are final consumer products that are not used in the production of other products.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported WEBs depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, return rates, etc.), and conditions of sale (e.g., price discounts/rebates, co-op advertising, buyback agreements, agreements on markdown dollars, lead times between order and delivery dates, payment terms, product services, etc.). Based on available information, staff believes that there is a moderate to high degree of substitution between domestic and imported Chinese WEBs.

Factors Affecting Purchasing Decisions

Jarden maintains that price is the key factor driving WEB purchasing decisions. Jarden acknowledges that price is not the sole factor considered by purchasers, but maintains that price is now the most important factor in WEB purchasing decisions.¹¹ Respondents maintain that a number of important factors, besides price, drive WEB purchasing decisions. Respondents argue that Jarden has been very effective in selling WEBs to Wal-Mart, but only offers a limited number of brands to its customers. As a result, other retailers such as J.C. Penney and Target would have to compete with Wal-Mart almost exclusively on the basis of price if they wanted to carry Jarden's WEBs.¹² Respondents maintain that imported Chinese WEBs allow retailers to differentiate their WEB products from Wal-Mart's WEB products by offering different brand names and higher quality products. Biddeford offers its retail customers three brand options: the Sealy brand, the Biddeford brands, and private labels.¹³ J.C. Penney maintains that Biddeford offers higher quality WEBs than Jarden, with higher thread counts, different fiber contents offering a better feel, larger blankets, and lower return rates.¹⁴ Other differences reported by respondents include longer warranties, greater number of settings on the controller, longer electric cords, larger binding, sewing around three edges, thinner wires, and the availability of jacquard weaving.^{15 16}

Producers and importers were asked to provide information regarding the significance of differences other than price for domestic, subject, and nonsubject WEBs (table II-2). *** differences other than price for all country pairs. Most responding importers reported that there were always or frequently differences other than price for U.S. and Chinese products.¹⁷ Differences reported include branding (e.g., Biddeford offers exclusive branded product (Sealy) and *** chose to go with Jarden

¹¹ Conference transcript, p. 34, (S. Kaplan).

¹² Conference transcript, pp. 134-135 and 159-160 (Porter).

¹³ Conference transcript, p. 135 (Porter).

¹⁴ Conference transcript, pp. 137-141 (Hearn).

¹⁵ Conference transcript, pp. 130-131 (Porter).

¹⁶ Biddeford reported that it offers a full range of different fabric blends and weaves. Biddeford offers several fabric blends including 100 percent acrylic, 75/25 acrylic-polyester, 50/50 acrylic-polyester, and 100 percent polyester. Biddeford's weaves range from knitted fleece electric blankets to a woven jacquard electric blanket. Conference transcript, p. 145 (Porter). Jarden reported that it offers two fabric blends—100 percent synthetic (polyester) fiber and a synthetic-cotton blend. Conference transcript, pp. 49 (Sullivan) and 69-70 (Pacheco).

¹⁷ Only two importers responded for other country pairs. One importer reported that there were never differences other than price while the other reported that there were frequently differences other than price.

Table II-2

WEBs: Perceived frequency of differences other than price between WEBs produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	4	4	1	4
U.S. vs. other	***	***	***	***	0	1	0	1
China vs. other	***	***	***	***	1	0	0	1

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

because its customers recognize the Sunbeam brand name); lower delivery costs if the importer imports directly; design options for the blanket shell such as higher ppi (picks per inch), blend specifications, weight of finished product, design of textile, weave of textile, and size of product (width and length); electronics such as wiring, control settings, control display, and enhanced safety features; packaging and inserts; delivery times;¹⁸ and warranties. Specific differences between U.S. and imported Chinese WEBs reported by importers include ***; Chinese producers have distinct advantages in product range and features; Chinese producers are better able to respond quickly to trends in product design; and the U.S. manufacturer base is very small ***.¹⁹

Comparison of the U.S.-Produced and Imported WEBs

Producers and importers were requested to provide information regarding the interchangeability of domestic, Chinese, and nonsubject-country WEBs and to discuss why any products may not be interchangeable (table II-3). *** most importers responded that WEBs from each of the different country sources were always interchangeable. Differences reported by importers included *** blankets have enhanced safety features and appropriate higher prices that limit interchangeability with the domestic product; China provides a broader range of products, with frequently updated features at a lower cost; and China is more flexible and quickly responds to customer needs.

¹⁸ Biddeford reported that its turnaround time for replenishment of an order from inventory in its warehouse in Mundelein, IL was 24 hours. Conference transcript, pp. 182-183 (Porter). Jarden reported that it normally has inventory readily available for shipment within *** days. If the items are not in inventory and/or the retailer has a special request, Jarden can produce and ship the product within *** days of receiving the order. Petitioner’s postconference brief, exh. 1, p. 15.

¹⁹ J.C. Penney reported that it has missed sales when business was better than expected because of problems replenishing stock from Sunbeam (Jarden). Conference transcript, p. 166 (Hearn).

Table II-3

WEBS: Perceived interchangeability between WEBS produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	8	3	2	0
U.S. vs. other	***	***	***	***	4	2	0	0
China vs. other	***	***	***	***	4	2	0	0

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

*** WEBS had been subject to a recall notice or other safety issue since January 1, 2006.²⁰ However, Chinese WEBS imported by Bilt-Safe Technologies were subject to a recall notice on December 29, 2008.²¹ In addition, Classic Beautyrest electric throws imported by International Home Fashions and Bilt-Safe and produced by the Chinese manufacturer Veken were subject to a recall notice on August 15, 2007.²²

²⁰ On October 5, 2001, the U.S. Consumer Products Safety Commission (CPSC) announced that Biddeford had voluntarily recalled about 394,000 WEBS. CPSC, “CPSC, Biddeford Textile Corp. Announce Recall of Electric Blankets,” October 5, 2001.

²¹ Bilt-Safe Technologies is no longer in business. CPSC, “CPSC, Bilt-Safe Technologies Announce Recall of Electric Blankets,” December 29, 2008.

²² CPSC, “International Home Fashions and Bilt-Safe Technologies Recall “Classic Beautyrest” Electric Throws Due to Fire Hazard,” August 15, 2007.

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise, and pricing of U.S.-produced WEBs, is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of one firm, Jarden, that accounted for all known U.S. production of WEBs during the period for which data were collected.

U.S. PRODUCER

The Commission sent producer questionnaires to five U.S. companies identified in the petition and through independent research.¹ Out of these companies, Jarden provided useable data and the remaining four certified that they had not produced WEBs since January 1, 2006.

The petitioner and only known U.S. producer, Jarden, has corporate origins dating back to the production of the first warming electric blanket by ***, which eventually became a part of the Jarden Corporation. Jarden's plant in Waynesboro, MS, the ***, was established in 1959 and is ***.²

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Production of WEBs decreased throughout the period for which data were collected, while capacity increased during this period. The decrease in production during the first quarter of this year relative to the same period in 2008 can be attributed to Jarden's facility ***. ***.³ The capacity increases during this period can be attributed to continuous production efficiency improvements and debottlenecking.⁴ Jarden's reported capacity was *** the level of apparent U.S. consumption of WEBs in ***.⁵ Jarden's capacity, production, and capacity utilization data for WEBs are presented in table III-1.

Table III-1

WEBs: Jarden's capacity, production, and capacity utilization, 2006-08, January-March 2008, and January-March 2009

* * * * *

U.S. PRODUCER'S SHIPMENTS

Data on Jarden's shipments of WEBs are presented in table III-2. From 2006 to 2008, U.S. and export shipments generally decreased on both a quantity and value basis, while average unit values

¹ The five U.S. companies to whom producer questionnaires were sent were ***.

² Presentation from Jarden plant visit, July 9, 2009.

³ Jarden's questionnaire response, section II-2.

⁴ Conference transcript, p. 41 (S. Kaplan), and Jarden's postconference brief, p. 18, fn. 6.

⁵ Apparent U.S. consumption during the first quarter of 2008 and 2009 was *** Jarden's reported capacity during these same periods, but this is mostly attributable to the seasonal nature of WEB demand.

increased in 2007 before declining in 2008. ***. Jarden reported *** shipment values for the *** as a result of ***.^{6 7}

Table III-2

WEBS: Jarden's shipments, by types, 2006-08, January-March 2008, and January-March 2009

* * * * *

U.S. PRODUCER'S INVENTORIES

Data on end-of-period inventories of WEBS during the period for which data were collected are presented in table III-3. *** inventory levels in the interim periods reflect the practice of building up WEB stocks early in the year to be able to accommodate seasonal demand occurring later in the year.⁸ The *** increase in returns in the first quarter of 2009 relative to the same period of 2008 reflects Jarden's customer ***.⁹

Table III-3

WEBS: Jarden's end-of-period inventories, 2006-08, January-March 2008, and January-March 2009

* * * * *

U.S. PRODUCER'S IMPORTS

Jarden's imports of WEBS are presented in table III-4.

Table III-4

WEBS: Jarden's imports, 2006-2008, January-March 2008, and January-March 2009

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The number of production and related workers (PRWs), total hours worked, and hours worked per PRW all decreased during the period for which data were collected. In the first quarter of 2009, the number of PRWs and hours worked per PRW were approximately *** percent lower than in the same period in 2008. This most recent decrease can be attributed to Jarden's decision to operate on a half-time basis in early 2009.¹⁰ Jarden's employment data for WEBS are presented in table III-5.

Table III-5

WEBS: Jarden's employment-related data, 2006-2008, January-March 2008, and January-March 2009

* * * * *

⁶ E-mail from ***, August 3, 2009.

⁷ See table VI-1 of this report for additional information on Jarden's gross and net sales calculations.

⁸ Conference transcript, pp. 35-36 (S. Kaplan) and petitioner's postconference brief, p. 12.

⁹ Petitioner's postconference brief, exh. 1, p. 5.

¹⁰ Conference transcript, p. 32 (Pacheco).

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Importer questionnaires were sent to 80 firms believed to be importers of subject WEBs, as well as to all potential U.S. producers of WEBs.¹ Usable questionnaire responses were received from 16 companies, representing approximately *** percent of total subject and nonsubject electric blanket imports from China between January 2006 and March 2009 under HTS subheading 6301.10.00, a “basket” category.² There is no information available regarding exactly what share of this basket category consists of WEBs, but witness testimony at the staff conference presented an estimate that 60 percent of the category consists of WEBs and the remainder consists of knit or other non-woven electric blankets.³ Additionally, Chinese producer Hung Kuo, which believes itself to be responsible for *** Chinese exports of WEBs to the United States in 2008,⁴ exported quantities within *** percent of total reported WEB imports during the period for which data were collected.⁵

Table IV-1 lists all responding U.S. importers of WEBs from all sources, their locations, and their shares of U.S. imports in 2008. Of the 16 companies reporting WEB imports, the 6 largest importers accounted for over 90 percent of the reported quantity imported.

Table IV-1
WEBs: U.S. importers, U.S. headquarters, source of imports, and shares of imports in 2008

* * * * *

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of WEBs from China and all other sources. Commission staff elected to use questionnaire responses to develop the import data presented in table IV-2. The principal reason for electing to use questionnaire responses is that usable responses were received from all of the firms believed to be large importers of WEBs. Although questionnaire responses accounted for only *** percent of the quantity of imports from China under HTS subheading 6301.10.00

¹ The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported greater than one percent of total imports under HTS subheading 6301.10.00 in any one year since 2006. Usable responses were received from each of these companies with one percent or more of imports with the exception of *** and ***, both of which are no longer in business. See questionnaire response from *** for information on the IHF bankruptcy and “Amazon Earnings Miss a Beat” at http://www.businessweek.com/technology/content/jul2009/tc20090723_346712.htm for information on the LNT bankruptcy. *BusinessWeek* article accessed July 30, 2009.

² Calculated by dividing total reported WEB imports during the period for which data were collected of *** units by U.S. imports from China under HTS subheading 6301.10.00 for the same period of 6,126,000 units.

³ Conference transcript, p. 52 (Pacheco).

⁴ E-mail from ***, July 27, 2009.

⁵ Calculated by dividing U.S. exports from Hung Kuo reported during the period from Jan. 1, 2006 through Jan.-Mar. 2009 of *** by total reported WEB imports of 2,921,888 units during the same period. According to import data provided by ***, ***, and *** in their questionnaire responses, *** and *** units are also known to have been exported to the United States from China during this period (***) and *** in 2008) by *** and ***, respectively.

during the period for which data were collected, there are known to be substantial imports of knit electric blankets and other non-woven electric blankets under that subheading.

On both a quantity and value basis, WEB imports from China remained relatively stable during 2006-08, but were lower in January-March 2009 than in January-March 2008. Unit values of WEB imports fluctuated little and there were no reported imports from countries other than China during this period.⁶

Table IV-2

WEBs: U.S. imports, by sources, 2006-08, January-March 2008, and January-March 2009

* * * * *

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁷ Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation.⁸ Imports from China accounted for 100 percent of total known imports of WEBs by both quantity and value during the 12-month period ending March 2009.⁹

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of WEBs during the period of investigation are shown in table IV-3. Apparent consumption decreased during the period for which data collected, ***.

Table IV-3

WEBs: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2006-08, January-March 2008, and January-March 2009

* * * * *

U.S. MARKET SHARES

U.S. market share data are presented in table IV-4. The data reflect an increase in market share of imported WEBs as a result of decreased U.S. producer shipments combined with increased imports from China.

⁶ Import data reported by the following firms were used to create this dataset: ***. Two companies, *** and ***, provided import data that were not included in the dataset. *** only imported nonsubject blankets during the period for which data were collected, while *** reported imports that were in fact purchases from ***, whose imports were already accounted for in the dataset.

⁷ Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

⁸ Section 771(24) of the Act (19 U.S.C. § 1677(24)).

⁹ Compiled from data submitted in response to Commission questionnaires. No imports from countries other than China were reported during the period for which data were collected.

Table IV-4

WEBS: U.S. consumption and market shares, 2006-08, January-March 2008, and January-March 2009

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of WEBS is presented in table IV-5. The combination of a decrease in U.S. production during the period for which data were collected and relatively steady imports during this same period resulted in an increase in the ratio of imports to production.

Table IV-5

WEBS: U.S. production, U.S. imports, and ratio of imports to U.S. production, 2006-08, January-March 2008, and January-March 2009

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Jarden reported that the cost of the WEB shells, controls, and wires accounted for *** percent, *** percent, and *** percent, respectively, of the total cost of production of WEBs in 2008. Jarden reported that the absolute cost of ***. Jarden attributed the ***. ***.¹

U.S. Inland Transportation Costs

Jarden *** purchase WEBs f.o.b. its plant in Waynesboro, MS. Biddeford, *** importer/distributor, reported that U.S. inland transportation costs averaged *** percent, while the other four responding importer/distributors reported that average transportation costs ranged from 1 to 5 percent. *** six of seven responding importer/distributors reported selling on an f.o.b. basis, and *** three of seven responding importers reported that their customers arranged transportation. Jarden reported that *** percent of its WEB sales were to customers located 1,000 miles or further from its production facilities, and *** percent were within 101 to 1,000 miles. Biddeford reported that *** of its WEBs are sold within 100 miles of its U.S. storage facilities; ***, the other five responding importer/distributors reported that most of their sales were to customers located 100 miles or further from their U.S. storage facilities. Jarden ***. Five responding importers/distributors reported selling nationally and one reported selling in the Southeast region.

PRICING PRACTICES

Pricing Methods

Jarden reported that its sales process typically begins in November of each year with a line review with its retail customers. The line review is the start of Jarden's presentation of the next season's recommended assortment of WEBs, pricing, and forecasted volume. Jarden's volume forecast takes into account factors such as historical sales, expected retail foot traffic, consumer preferences and trends, and the weather. At the end of the line review process, the pricing and volume are finalized and the business for the year is awarded. While these commitments are not legally binding, they form the basis for demand projections for the year and the terms generally do not change. Throughout the year, Jarden receives legally binding orders through purchase orders.²

Biddeford reported that, similar to Jarden, it sells WEBs based on purchase orders and not based on long-term contracts. Biddeford also reported that WEBs are a seasonal business that is subject to a line review each year to determine demand projections for the following year.³

¹ Petitioner's postconference brief, exh. 1-A.

² Conference transcript, pp. 26-27 and 88-89 (Pacheco).

³ Conference transcript, p. 168 (Porter).

Sales Terms and Discounts

Jarden maintains that although customer incentive plans have existed for decades, the Chinese importers have created or added to the programs to further enhance their offerings. Jarden contends that it cannot sell WEBS without engaging in a bidding war of incentive programs started by importers of Chinese WEBS. Jarden states that such incentive programs include various discounts and promotions such as mark-down dollars or return allowances, volume rebates, cooperative advertising funds like holiday discount promotions, and safety stocks.⁴ Jarden maintains that, in recent years, importers of Chinese WEBS have offered to buy back a much larger percentage of returns, which has forced Jarden to increase its buy-back volumes to meet the Chinese competitive practices.^{5 6}

Biddeford reported that its pricing policy is based on a “net-net” price that does not include any advertising allowances or mark-down dollars, and if the retailer would like an advertising allowance or mark-down dollars, those costs are added to the price. Biddeford reported that it has offered mark-down dollars only in the last couple of years, and that there have been occasions when retailers have negotiated more mark-down money from Biddeford after the sales agreement. Biddeford maintains that, during the last six years, it has not participated in buy-backs in a meaningful way.⁷

***.

PRICE DATA

The Commission requested U.S. producers and importers that are distributors of WEBS to provide quarterly data for the total quantity and value of WEBS shipped to unrelated customers in the U.S. market during January 2006 to March 2009. Retailers that imported WEBS directly from China were asked to provide purchase price data. U.S. producers and importers that are distributors were asked to report net values (i.e., gross sales values less all discounts, allowances, rebates, prepaid freight, and the value of returned goods), f.o.b. their U.S. point of shipment. Retailers that imported WEBS directly were asked to report net values, landed duty-paid. The products for which pricing data were requested are as follows:

Product 1.--100% synthetic woven electric blanket, twin size

Product 2.--100% synthetic woven electric blanket, queen size

Product 3.--Blend of synthetic and natural fibers woven electric blanket, twin size⁸

Jarden and two importer/distributors provided usable pricing data for sales of the requested products, and eight importer/retailers provided usable purchase price data, although not all firms reported

⁴ Jarden reported that mark-down dollars are funds provided to retailers to support liquidating existing inventory in store at the end of this season. Safety stock refers to certain levels of inventory that the Chinese exporter carries at its risk and warehouses to support in-stock levels at the stores should the sales exceed the forecast. Jarden argues that it does not need to carry safety stock since it manufactures domestically and can react within the season since it assembles to order. Conference transcript, p. 28.

⁵ Conference transcript, pp. 27-29 (Pacheco).

⁶ ***. Petitioner’s postconference brief, exh. 1-B. Jarden reported that the quantity of buy-backs ***. Petitioner’s postconference brief, exh. 1, p. 5 and exh. 1-J.

⁷ Conference transcript, pp. 146-148 and 163-164 (Porter).

⁸ Biddeford offers several fabric blends including 100 percent acrylic, 75/25 acrylic-polyester, 50/50 acrylic-polyester, and 100 percent polyester. Conference transcript, p. 145 (Porter). Jarden reported that its WEB product mix ***. Petitioner’s postconference brief, exh. 1-I. Biddeford reported that ***.

pricing for all products for all quarters.⁹ Pricing data reported by these firms accounted for *** percent of the U.S. producer's shipments of WEBs and *** percent of subject imports from China in 2008.¹⁰

Price Trends

Price and quantity data for products 1-3 are presented in tables V-1 to V-3 and figure V-1. A summary of price trends is presented in table V-4.

Table V-1

WEBs: Weighted-average prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2006-March 2009

* * * * *

Table V-2

WEBs: Weighted-average prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2006-March 2009

* * * * *

Table V-3

WEBs: Weighted-average prices and quantities of domestic product 3 and margins of underselling/(overselling), by quarters, January 2006-March 2009

* * * * *

Figure V-1

WEBs: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2006-March 2009

* * * * *

Table V-4

WEBs: Summary of weighted-average prices for products 1-3 from the United States and China

* * * * *

⁹ *** provided usable sales price data for imports from China. The following retailers provided purchase price data for their imports from China: ***. Importers did not report any sales nor purchases of product 3.

¹⁰ Importer/distributor sales price data accounted for *** percent and importer/retailer purchase price data accounted for *** percent of total subject imports in 2008.

Price Comparisons

Margins of underselling and overselling are presented in table V-5.¹¹ As can be seen from the table, sales prices for WEBs imported from China were below those for U.S.-produced WEBs in 15 of 26 instances; margins of underselling ranged from 0.2 to 28.8 percent. In the remaining 11 instances, sales prices for WEBs from China were between 1.6 and 20.7 percent above prices for the domestic product. In 2006 and 2007, U.S. producer sales prices were higher than import sales prices in all but two quarters. In 2008, however, import sales prices were higher than U.S. producer sales prices in every quarter. In 2009, results were mixed; product 1 prices for imported product were higher than domestic prices but prices of imported product 2 were lower than domestic prices.

Table V-5
WEBs: Instances of underselling/overselling and the range and average of margins, January 2006-March 2009

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	15	0.2 to 28.8	***	11	1.6 to 20.7	***

Source: Compiled from data submitted in response to Commission questionnaires.

LOST SALES AND LOST REVENUES

In the petition, Jarden reported instances of lost sales and revenues it experienced due to competition from imports of WEBs from China since January 2006. The *** lost sales allegations totaled *** and involved *** WEBs (table V-6) and the *** lost revenues allegations totaled *** and involved *** WEBs (table V-7). Staff contacted all *** purchasers named in the allegations and a summary of the information obtained follows.¹²

¹¹ Petitioner argues that, in this case, the Commission should compare U.S. producer sales prices to retailers with retailers' direct import purchase prices. ***. Petitioner's postconference brief, p. 15 ***. Respondents maintain that retailers incur additional costs when importing directly from China. For example, respondents note that retailers that import directly incur all of the ocean and inland U.S. freight expenses. In addition, respondents note that retailers that import directly are responsible for the duties assessed on imported WEBs from China. Biddeford's postconference brief, exh. 16, p. 3. As noted above, the purchase values reported by retailers that import WEBs directly are landed duty-paid, and, therefore, include any associated ocean freight costs and customs duties.

¹² *** Leslie Hearn, senior buyer for J.C. Penney, testified at the Commission conference. Ms. Hearn acknowledged that price is a factor in J.C. Penney's WEB purchasing decisions, but stated that it is not the primary factor. Ms. Hearn maintained that Biddeford's WEBs were higher quality than Jarden's WEBs, with a better "hand," tighter weave, greater length, and thinner wiring. Ms. Hearn reported that the return rates for Biddeford's WEBs were lower than the return rates for comparable Jarden WEBs. Ms. Hearn also testified that Biddeford holds the license for the Sealy brand trademark for WEBs and offered J.C. Penney the opportunity to be the exclusive retailer for Sealy-brand WEBs starting in 2009. Ms. Hearn maintained that J.C. Penney gained a tremendous competitive advantage when it became the exclusive retailer for Sealy-brand WEBs because it can capitalize on Sealy's marketing campaigns as well as its own customers' preexisting familiarity and comfort with Sealy-brand products. Ms. Hearn maintained that, although cost is a factor, these non-price factors played a larger role in J.C. Penney's decision to source WEBs from Biddeford. Conference transcript, pp. 136-142.

Table V-6

WEBS: U.S. producer's lost sales allegations

* * * * *

Table V-7

WEBS: U.S. producer's lost revenue allegations

* * * * *

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***.
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***.
***.

PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCER

BACKGROUND

The only known U.S. producer, Jarden, reported its financial results on WEBs on the basis of U.S. generally accepted accounting principles (“GAAP”).¹ *** of WEBs revenue reflects U.S. commercial shipments to retailers, while a *** share represents exports to ***.²

Program incentives, as described in a previous section of this report, represent *** deduction to Jarden’s gross WEBs revenue.³ According to the company, while program incentives are a normal part of doing business in this industry, the magnitude of program incentives increased during the period examined in response to Chinese competition.⁴

Although interim financial results are presented below, seasonality generally limits their usefulness.⁵ As discussed in a previous section of this report, WEBs sales take place primarily in the fall and winter months, while production begins in the first part of the year in order to build up inventory based on sales forecasts.⁶

OPERATIONS ON WOVEN ELECTRIC BLANKETS

Income-and-loss data for Jarden’s operations on WEBs are presented in table VI-1 and on an average unit basis in table VI-2.⁷ Table VI-3 presents a variance analysis of Jarden’s overall WEBs financial results.⁸

¹ As identified in the parent company’s public financial statements, Consumer Solutions is one of three primary business segments recognized by Jarden Corp., with the other two segments being Outdoor Solutions and Branded Consumables. Jarden Corp. 2008 10-K, p. 1. Electric blankets are identified as one of Consumer Solutions’ principal products. ***. Petitioner’s postconference brief, p. 14.

² While the primary sales channel is to retailers, testimony at the staff conference indicated that WEBs deemed “excess and obsolete” are ultimately sold to third-party distributors. Conference transcript, pp. 84-85 (Pacheco). ***. Staff field trip notes.

³ ***. Petitioner’s postconference brief, exh. 1-J. E-mail from Jarden to auditor, July 31, 2009. ***. Petitioner’s postconference brief, exh. 1-B. These items are discussed in more detail below. Safety stock, a program incentive reportedly provided by importers of Chinese WEBs, is not offered by Jarden. Conference transcript, p. 97 (Pacheco).

⁴ Conference transcript, p. 29 (Pacheco).

⁵ At the staff conference, a Jarden company official generally agreed with this assessment regarding the usefulness of interim financial results in this case. Conference transcript, p. 104 (Wright). ***. ***.

⁶ Conference transcript, p. 26 (Pacheco). Petition, p. 6.

⁷ As supplemental information, footnote 1 to table VI-2 presents WEBs average per-unit gross sales values; i.e., Jarden’s WEBs average per-unit revenue prior to deductions for program incentives.

⁸ Jarden’s product mix was characterized as being generally stable during the period examined. Conference transcript, p. 98 (Pacheco). ***. Petitioner’s postconference brief, exh. 1-I. ***.

Table VI-1
Results of operations on WEBs, 2006-08, January-March 2008, and January-March 2009

* * * * *

Table VI-2
Results of operations on WEBs (*per unit*), 2006-08, January-March 2008, and January-March 2009

* * * * *

Table VI-3
Variance analysis of financial results on WEBs, 2006-08

* * * * *

Revenue

With regard to changes in WEBs sales volume during the full-year period, *** took place in 2007. Jarden attributed ***.⁹

While total WEBs sales volume declined between 2006 and 2008 (*** percent), the decline in the absolute value of sales was larger (*** percent).¹⁰ At the staff conference, a company official stated that “. . . Jarden has been forced to lower its prices, limit our price increases, despite rising costs, and expand the incentive programs to keep our customers which forces down our net prices.”¹¹ Based on the information submitted by Jarden and as shown in table VI-1, the decline in total net sales value between 2006 and 2008 is due to ***. As shown in footnote 1 to table VI-2, average per unit gross sales value *** during the full-year period: ***. As such, the decline in average per-unit net sales value is ***.¹² As noted below, the reduction in average per unit sales value also appears to explain part of the corresponding increase in the WEBs COGS-to-sales ratio.

Average per-unit gross sales value and net sales value (see table VI-2 and footnote 1 to table VI-2) both increased in 2007 when WEBs sales volume declined by ***. In contrast, when the decline in sales volume was *** in 2008, average per-unit gross sales value and net sales value declined. With regard to this pattern, a Jarden company official stated that ***.¹³

⁹ USITC auditor preliminary notes.

¹⁰ The decline in WEBs revenue was *** the decline experienced by the Consumer Solutions segment as a whole; i.e., the Consumer Solutions segment’s total sales were 4.2 percent lower in 2008 compared to 2006, while WEBs revenue was *** percent lower. According to narrative information accompanying Jarden’s public segment financial results, the decline in the Consumer Solutions segment’s sales in 2008 compared to 2007 was “. . . primarily due to weakness in domestic sales in most product categories, primarily as a result of overall economic weakness at retail, partially offset by increased demand and improved pricing internationally (primarily Latin America). The statement characterizing lower segment revenue in 2007 compared to 2006 referenced “weakness in domestic sales.” Jarden 2008 10-K, pp. 40-43.

¹¹ Conference transcript, p. 31 (Pacheco).

¹² As reported to the Commission, ***. USITC auditor preliminary notes.
 ***. E-mail from Jarden to auditor, July 31, 2009. ***.

¹³ E-mail from Jarden to auditor, July 31, 2009. ***.

Cost of Goods Sold

Raw material costs made up *** percent of total WEBs cost of good sold (COGS) on a cumulative basis, while direct labor and other factory costs represent *** percent and *** percent, respectively.¹⁴

As shown in table VI-2, average per-unit raw material costs rose and fell during the period and reached their highest full-year level in *** along with average sales value. This pattern is generally consistent with supplemental information provided by Jarden which shows that the largest period-to-period increase in product costs occurred in ***. As noted in a previous section of this report, the WEBs *** components combined make up the majority of raw material costs and ranged from *** percent to *** percent of total COGS during the full-year period. Other raw material costs represent ***.¹⁵

Corresponding with overall higher average COGS in 2008 compared to 2006, Jarden attributed increases in the relative share of ***. In contrast, the increase in the *** share of COGS in 2007 was attributed to *** increases, while subsequent declines in 2008 and interim 2009 were attributed to ***.¹⁶ While input costs generally increased, changes in average per-unit COGS also reflect ***.¹⁷ The above trends are generally consistent with the corresponding *** during the full-year period.

While Jarden's WEBs production is capital-intensive, as described by a company official,¹⁸ the overall cost structure is ***. As noted above, *** component of COGS is raw material which is by definition a variable cost. Direct labor, as would generally be expected, is also in large part variable. As described by the company, the level of employment is augmented for seasonal packing and, in interim 2009, hours worked were reportedly reduced due to lower production levels.¹⁹ Based on supplemental information provided by the company, *** percent to *** percent of other factory costs are fixed costs. This in turn indicates that fixed costs *** of total COGS during the full-year period. Consistent with an overall cost structure in which fixed costs represent ***, WEBs average per-unit COGS, as shown in table VI-2, ***.²⁰

As shown in table VI-1, the COGS-to-sales ratio increased throughout the period. The pattern of change in average per-unit sales values indicates that the increase in the COGS-to-sales ratio in 2007 was due primarily to a larger increase in average per-unit COGS compared to the corresponding increase in average per-unit net sales value. In 2008, in contrast, the increase in the COGS-to-sales ratio appears to have been more a function of a larger decline in average per unit net sales value compared to the corresponding decline in average per-unit COGS. While the COGS-to-sales ratio clearly increased between 2006 and 2008 and thereby reduced WEBs gross profit margins, attributing the increases specifically to lower revenue and/or higher COGS is not possible due to changes in product mix during the period.²¹

¹⁴ ***. Petitioner's postconference brief, pp. 14. E-mail from Jarden to auditor, July 31, 2009.

¹⁵ At the staff conference, a company official stated that the Waynesboro, MS plant "... produce{s} the wire which is made of a copper alloy core assembly, and thermoplastic outer layers. The wire is manufactured in a proprietary process that we developed and patented." Conference transcript, p. 23 (Sullivan). ***. Petitioner's postconference brief, exh. 1-A. USITC Auditor preliminary notes. E-mail from Jarden to auditor, July 31, 2009.

¹⁶ Ibid.

¹⁷ E-mail from Jarden to auditor, July 31, 2009. Petitioner's postconference brief, exh. 1-A.

¹⁸ Conference transcript, p. 20 (Sullivan).

¹⁹ Conference transcript, p. 19 (Sullivan).

²⁰ ***. Petitioner's postconference brief, exh. 1-A.

²¹ ***. USITC auditor preliminary notes.

Financial Results

As shown in table VI-1, Jarden began the period with *** operating income margins which subsequently declined along with the level of absolute operating income.²² While SG&A expenses as a percent of sales did increase somewhat during the period, the majority of the overall decline in WEBs absolute operating income and operating income margins was due to declining sales volume and the corresponding contraction of gross profit margins. As indicated above, the deterioration in gross profit margins reflects a combination of factors related to both revenue and corresponding COGS.

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, ASSETS, AND RETURN ON INVESTMENT

Data on capital expenditures, research and development (“R&D”) expenses, assets, and return on investment are presented in table VI-4.

Table VI-4
Operations on WEBs: Capital expenditures, R&D expenses, assets, and return on investment, 2006-08, January-March 2008, and January-March 2009

* * * * *

While Jarden reported capital expenditures throughout the full-year period, the amounts reported were *** the corresponding depreciation expense, ranging from a low of *** percent of depreciation in *** expense to a high of *** percent in ***.²³ *** capital expenditures were reported in interim 2008 or interim 2009.²⁴ The nature of the projects reflected in the reported capital expenditures are described in footnote 25 along with descriptions of capital expenditures suspended during the period examined.²⁵ Table VI-4 shows that ***. In general, this appears to be consistent with testimony at the staff conference which emphasized the importance of innovation and product development.²⁶ Footnote 27 describes the company’s R&D projects, as well R&D projects that were suspended during the period examined.²⁷

²² In 2006, Jarden’s WEBs operations generated ***. Ibid.

²³ In contrast to and based on information in Jarden Corp.’s consolidated statement of cash flows, the parent company’s analogous ratio of capital expenditures to depreciation and amortization was ***, ranging from a low of 84.2 percent to 103.6 percent. USITC auditor preliminary notes. ***.

²⁴ ***.

²⁵ With regard to its capital expenditures, the company stated that ***. Petitioner’s postconference brief, pp. 10-13.

²⁶ Conference transcript, p. 32 (Pacheco).

²⁷ According to the company, ***. Petitioner’s postconference brief, pp. 10-13.

With regard to the cancellation of R&D projects, the company stated that ***. Ibid.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of WEBs from China on their firms' growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments.

Actual Negative Effects

Jarden ***.

Anticipated Negative Effects

Jarden ***.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information concerning the WEB industry in nonsubject countries.

THE INDUSTRY IN CHINA

The Commission requested data from 31 firms in China believed to be possible producers of WEBs. Of these firms, two producers, Hung Kuo and Pace Electric Co., Ltd. ("Pace China") provided questionnaire responses containing useable data, one firm certified that it had not produced or exported WEBs since January 1, 2006, and 28 did not provide responses.¹ Hung Kuo estimated that in 2008 it accounted for *** production of WEBs in China and *** exports of WEBs from China to the United States.² Pace China estimated that it accounted for *** percent of production of WEBs in China and *** percent of exports of WEBs from China to the United States in 2008. Reported exports of WEBs to the United States by Hung Kuo and Pace in 2008 were *** the quantity of reported U.S. imports of WEBs from China in that year.³ Table VII-1 presents data for reported production and shipments of WEBs in China.

Table VII-1

WEBs: China's reported production capacity, production, shipments, and inventories, 2006-08 January-March 2008, January-March 2009, and projections for 2009 and 2010

* * * * *

U.S. INVENTORIES OF WOVEN ELECTRIC BLANKETS FROM CHINA

Reported inventories held by U.S. importers of subject merchandise from China are shown in table VII-2.

¹ The only other known Chinese suppliers of WEBs to the United States, ***, did not provide the Commission with information. *** is supplier to *** and *** is supplier to ***.

² E-mail from ***, July 27, 2009.

³ Data provided by the petitioner estimate 2008 Chinese total electric blanket production (both WEBs and other types) as 40.25 million units and 2008 Chinese electric blanket exports as 8.66 million units. Petitioner's postconference brief, exhibit 9.

Table VII-2

WEBs: U.S. importers' end-of-period inventories of all imports, by source, 2006-08, January-March 2008, January-March 2009

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of WEBs from China after March 31, 2009. Importers' current orders of subject merchandise from China are shown in table VII-3.

Table VII-3

WEBs: U.S importers' current orders, by quarter, April-December 2009

* * * * *

ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There are no known antidumping (or countervailing duty) investigations on WEBs from China reported in third-country markets.

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"⁴

There is no publicly available information regarding international production or exports of WEBs during the period for which data were collected. There is some limited information available, however, on electric blankets (woven, knit, and other non-woven blankets combined). According to Global Trade Atlas statistics, the largest exporters of electric blankets in the world in 2008 were China, the Czech Republic, and Indonesia. On a value basis China was by far the largest exporter, with approximately 61 percent of total exports during that year. The Czech Republic and Indonesia exported approximately 21 percent and 5 percent, respectively. On a quantity basis the Czech Republic was the largest exporter, which implies that exported Czech electric blankets are on average of a much lower value than Chinese blankets.⁵ While China represents the large majority of electric blankets imports into the United States, neither the Czech Republic nor Indonesia were responsible for imports of these blankets into the United States during the period for which data were collected. The United States does import some electric blankets from Denmark, Korea, and Cameroon, although these countries are not large exporters globally.⁶

⁴ *Mittal Steel Point Lisas Ltd. v. United States*, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also *Bratsk Aluminum Smelter v. United States*, 444 F.3d 1369 (Fed. Cir. 2006).

⁵ Data compiled using Global Trade Atlas statistics showing global exports of HTS subheading 6301.10.00. Accessed July 29, 2009.

⁶ Imports from these countries accounted for less than one percent of the value of electric blanket imports into the United States in 2008. Data compiled using USITC Dataweb statistics showing U.S. imports by value under HTS (continued...)

There is no information available on how much of these exports are WEBs as opposed to knit and other non-woven blankets, as the tariff classification includes all three products. The lack of countries other than China producing WEBs was also mentioned during the staff conference related to this investigation, when respondent parties stated that they were unaware of any WEB production outside of China.⁷

⁶ (...continued)
subheading 6301.10.00. Accessed July 30, 2009.

⁷ Conference transcript, pp. 150 (Hearn) and 151 (Porter).

APPENDIX A

***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-1163
(Preliminary)]****Woven Electric Blankets From China****AGENCY:** United States International Trade Commission.**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-1163 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of woven electric blankets ("WEBs"), provided for in subheading 6301.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by August 14, 2009. The Commission's views are due at Commerce within five business days thereafter, or by August 21, 2009.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* June 30, 2009.

FOR FURTHER INFORMATION CONTACT: Joshua Kaplan (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://>

www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on June 30, 2009, by Sunbeam Products, Inc. dba Jarden Consumer Solutions, Boca Raton, FL.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. 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 investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with this investigation for 9:30 a.m. on July 21, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Joshua Kaplan (202-205-3184) not later than July 17, 2009, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has

testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 24, 2009, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: July 1, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-15919 Filed 7-6-09; 8:45 am]

BILLING CODE 7020-02-P

(“Petitioner”).¹ On July 2, 2009, the Department issued a request to Petitioner for additional information and for clarification of certain areas of the Petition. Based on the Department’s request, Petitioner filed a supplement to the Petition on July 8, 2009 (“Supplement to the Petition”). On July 10, 2009, the Department requested further information from Petitioner, including suggested refinements to the scope. Based on the Department’s request, Petitioner filed a second supplement to the Petition on July 14, 2009 (“Second Supplement to the Petition”). Based on conversations with Petitioner regarding scope and certain other clarifications, Petitioner filed a supplement to the Petition on July 15, 2009 (“Third Supplement to the Petition”).² On July 17, 2009, we received a submission on behalf of a U.S. importer of woven electric blankets and its affiliated Chinese producer and exporter, both interested parties to this proceeding as defined in section 771(9)(A) of the Act. This submission challenged the definition of the domestic like product. Petitioner filed its reply to this challenge on July 20, 2009.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (“Act”), Petitioner alleges that imports of woven electric blankets from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports materially injure, and threaten further material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate (see “Determination of Industry Support for the Petition” below).

¹ See Petition for the Imposition of Antidumping Duties: Certain Woven Electric Blankets from the People’s Republic of China, dated June 30, 2009 (“Petition”).

² See Memorandum from Dana Griffies to the File, regarding Petition for the Imposition of Antidumping Duties on Certain Woven Electric Blankets from the People’s Republic of China: Suggested Scope Changes, dated July 16, 2009, and Memorandum from Howard Smith to the File, regarding Telephone Conversations with Petitioner, dated July 16, 2009, and Memorandum from Drew Jackson to the File, regarding Petition for the Imposition of Antidumping Duties on Certain Woven Electric Blankets from the People’s Republic of China: Suggested Scope Changes, dated July 17, 2009.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–951]

Certain Woven Electric Blankets From the People’s Republic of China: Initiation of Antidumping Duty Investigation

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

DATES: *Effective Date:* July 27, 2009.

FOR FURTHER INFORMATION CONTACT: Drew Jackson at (202) 482–4406 or Rebecca Pandolph at (202) 482–3627, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On June 30, 2009, the Department of Commerce (“Department”) received an antidumping duty (“AD”) petition concerning imports of certain woven electric blankets (“woven electric blankets”) from the People’s Republic of China (“PRC”) filed in proper form by Jarden Consumer Solutions

Scope of Investigation

The products covered by this investigation are woven electric blankets from the PRC. For a full description of the scope of the investigation, please see the "Scope of Investigation" in Appendix I of this notice.

Comments on the Scope of Investigation

During our review of the Petition, we discussed the scope of the investigation with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding the product coverage of the scope. The Department encourages all interested parties to submit such comments by August 10, 2009, the first business day after twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period for scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination in this investigation.

Comments on Product Characteristics for the Antidumping Duty Questionnaire

We are requesting comments from interested parties regarding the appropriate physical characteristics of woven electric blankets to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors of production, as well as to develop appropriate product reporting criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product reporting criteria. We note that it is not always appropriate to use all product characteristics as product reporting criteria. We base product reporting criteria on meaningful

commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe woven electric blankets, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics.

In order to consider the suggestions of interested parties in developing the product characteristics for the antidumping duty questionnaire, we must receive comments at the above-referenced address by August 10, 2009. Additionally, rebuttal comments must be received by August 17, 2009.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this

may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.³

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

With regard to the domestic like product, Petitioner did not offer a definition of domestic like product distinct from the scope of the investigation. On July 17, 2009, Biddeford Blankets, LLC ("Biddeford") a U.S. importer of woven electric blankets, and Hung Kuo Electronics (Shenzhen) Company Limited (Hung Kuo), Biddeford's affiliated PRC producer and exporter of woven electric blankets, submitted a letter challenging the definition of the domestic like product, and requesting that the Department delay its initiation. Specifically, Biddeford and Hung Kuo argue that the domestic like product, as defined in the Petition, is overly narrow and should include, at a minimum, electric mattress pads. In addition, Biddeford and Hung Kuo state that Westpoint Stevens, a U.S. manufacturer and seller of electric mattress pads should be polled to determine whether it supports or opposes the Petition. Further, Biddeford and Hung Kuo request that the Department confirm Petitioner's claim that while non-woven electric blankets could be an acceptable substitute for woven electric blankets, non-woven electric blankets are not produced in the United States. Both Biddeford and Hung Kuo are interested parties to this proceeding as defined in section 771(9)(A) of the Act. On July 20, 2009, Petitioner filed its reply to this challenge, stating that Biddeford and Hung Kuo failed to provide any specific evidence supporting their claim, and limited their discussion to only a cursory analysis of the factors used to make a like product determination. We have analyzed these comments, and based on our analysis of the information submitted on the record, we have determined that woven electric blankets constitute a single domestic like product

³ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

and we have analyzed industry support in terms of that domestic like product.⁴

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above and Appendix I of this notice. To establish industry support, Petitioner provided its 2008 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.⁵ Petitioner calculated total domestic production based on its own production plus data estimates for two non-petitioning companies that may have been producing the domestic like product in the United States in 2008.⁶

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department, including a search of the Internet, indicates that Petitioner has established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).⁷ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.⁸ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition

was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.⁹

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party (*e.g.*, domestic producer) as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting that the Department initiate.¹⁰

Allegations and Evidence of Material Injury and Causation

Petitioner alleged that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleged that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contended that the industry's injured condition is illustrated by reduced market share, increased import penetration, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, shipments, capacity, and capacity utilization, reduced employment, and an overall decline in financial performance.¹¹ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹²

Period of Investigation

In accordance with 19 CFR 351.204(b)(1), because the Petition was filed on June 30, 2009, the anticipated period of investigation ("POI") is October 1, 2008, through March 31, 2009.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department has based its decision to initiate an investigation of woven electric blankets from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in the Initiation

Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

U.S. Price

Petitioner obtained constructed export prices ("CEP")¹³ for woven electric blankets in four standard sizes: Twin, full, queen, and king. These prices were based on U.S. offers for sale of woven electric blankets manufactured in the PRC.¹⁴ Petitioner presented an affidavit attesting that the offers were made during the POI.¹⁵

To calculate the net U.S. price, Petitioner did not deduct from the starting U.S. prices any CEP selling expenses or movement expenses other than the U.S. customs duty of 11.40 percent that is imposed on woven electric blankets upon importation into the United States.¹⁶ This approach is conservative in that it does not understate the net U.S. price.

Normal Value

According to Petitioner, since the PRC is a non-market economy ("NME") country, it based NV on factors of production and surrogate values.¹⁷ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation.¹⁸ Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner used India as the surrogate country because it claimed India is at a level of economic development comparable to that of the PRC and is a significant producer of woven electric

⁴ For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Certain Woven Electric Blankets from the PRC ("Initiation Checklist") at Attachment II ("Industry Support"), dated concurrently with this notice and on file in the Central Records Unit ("CRU"), Room 1117 of the main Department of Commerce building.

⁵ See Petition, at 2–3, Exhibit 2, and Supplement to the Petition, at 3–4, and Exhibit S1.

⁶ See *id.*; see also Initiation Checklist at Attachment II, Industry Support.

⁷ See Section 732(c)(4)(D) of the Act, and Initiation Checklist at Attachment II.

⁸ See Initiation Checklist at Attachment II.

⁹ See *id.*

¹⁰ See *id.*

¹¹ See Petition, at 11–12, 15–26, Exhibits 2, 18, 20–24, and Supplement to the Petition, at 11, and Exhibits S12–S15.

¹² See Initiation Checklist at Attachment III.

¹³ See Initiation Checklist at 6 for details.

¹⁴ See Petition, at 8, and Exhibit 2, and Supplement to the Petition, at Exhibit S1, and Third Supplement to the Petition, at 2, and Exhibits S3–1 and S3–2.

¹⁵ See Initiation Checklist for further discussion.

¹⁶ See Petition, at 8, and Exhibit 2.

¹⁷ See Petition, at 7.

¹⁸ See Petition, at 7; see also Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding The People's Republic of China Status as a Non-Market Economy, dated May 15, 2006. This document is available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf>.

blankets.¹⁹ In support of this claim, Petitioner referenced the Department's previous findings that India is at a level of development comparable to the PRC,²⁰ and provided the names of a number of Indian manufacturers/suppliers of electric blankets, and U.N. data showing that India exported 53.197 metric tons of electric blankets during 2007.²¹

After examining the information provided by Petitioner, the Department has determined that the use of India as a surrogate country is appropriate for purposes of initiation. However, after initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioner calculated NVs and dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NVs for woven electric blankets of four standard sizes: Twin, full, queen, and king.²² Petitioner asserted that the production process and consumption quantities it used in manufacturing woven electric blankets are similar to those used by the PRC manufacturer of the woven electric blankets for which it obtained the U.S. price quotes noted above.²³ Petitioner stated that it employed a conservative methodology in calculating NV by only valuing the major components of woven electric blankets, namely the shell of woven fabric, binding, wire, and controller.²⁴

Petitioner valued the factors of production using reasonably available, public surrogate country data, including Indian import data from the Indian Ministry of Commerce, published in the Monthly Statistics of Foreign Trade of India as compiled by the Global Trade Atlas ("GTA"), the internet version of the World Trade Atlas, available at <http://www.gtis.com/gta>. Petitioner used GTA data for the period August 2008, through January 2009, the most recent

six months of data available at the time of the filing of the Petition.²⁵ In addition, Petitioner used exchange rates, as reported by the Federal Reserve, to convert Indian Rupees to U.S. Dollars.²⁶

Petitioner valued shells of woven fabric, binding, wire, controllers, and packing cartons using GTA data.²⁷ Petitioner valued direct labor and packing labor using the wage rate data published on the Department's Web site, at <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html#table1>.²⁸ Petitioner valued electricity using Indian electricity rates from the Central Electricity Authority in India for 2006.²⁹

Petitioner valued brokerage and handling costs using an average of costs incurred by Essar Steel Limited, Agro Dutch Industries Limited, and Kerjiwal Paper Ltd., three Indian companies that participated in antidumping duty proceedings before the Department. Petitioner adjusted these values for inflation using wholesale price index data published by the International Monetary Fund, which is available online at <http://www.imfstatistics.org/imf/>.³⁰

Petitioner based factory overhead, selling, general and administrative expenses, and profit, on financial data for large public limited companies as reported by the Reserve Bank of India ("RBI").³¹ Although Petitioner searched the internet, fee-based databases (*e.g.*, Dun and Bradstreet, Hoovers) and records of the Indian Ministry of Company Affairs, Petitioner was unable to locate company-specific financial data for, or aggregate industry financial data that specifically include, Indian producers of woven electric blankets.³² Given that the only financial data reasonably available to Petitioner at this time are the RBI data, the Department has accepted the use of RBI data for the purposes of initiation. See Section 732(b)(1) of the Act.

²⁵ See Petition, at 9–10, and Exhibit 10, and Supplement to the Petition, at 5–7, and Exhibit S7, and Second Supplement to the Petition, at 2, and Exhibits S2–1 and S2–3.

²⁶ See Petition, at 9, and Supplement to the Petition, at 7, and Exhibit S8.

²⁷ See Petition, at 9, and Exhibits 9 and 10; see also Supplement to the Petition, at 5–7, and Exhibit S6.

²⁸ See Petition, at 10, and Exhibit 12.

²⁹ See Petition, at 10, and Exhibits 14 and 15; see also Supplement to the Petition, at 7–8, and Exhibits S4 and S7.

³⁰ See Petition, at 10, and Exhibit 13, and Second Supplement to the Petition, at 2–3, and Exhibit S2–4.

³¹ See Supplement to the Petition, at 9–10, and Exhibit S11.

³² See Petition, at 10–11 and Exhibit 16, and Supplement to Petition, at 9–10, and Second Supplement to the Petition, at 3.

Fair-Value Comparisons

The data provided by Petitioner provide a reason to believe that imports of woven electric blankets from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of net U.S. prices to NVs, Petitioner calculated estimated dumping margins ranging from 128.32 percent to 394.55 percent.³³

Initiation of Antidumping Investigation

Based upon our examination of the Petition concerning woven electric blankets from the PRC and other information reasonably available to the Department, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of woven electric blankets from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Targeted-Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5).³⁴ The Department stated that "{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area."³⁵

In order to accomplish this objective, interested parties that wish to make a targeted-dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, should submit such an allegation to the Department no later than 45 days before the scheduled date of the preliminary determination.

Respondent Selection

The Department will request quantity and value information from the exporters and producers listed with complete contact information in the Petition. The quantity and value data received from NME exporters/producers

³³ See Second Supplement to Petition, at S2–3.

³⁴ See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008).

³⁵ See *id.* at 74931.

¹⁹ See Petition, at 8, and Supplement to the Petition, at 5 and Exhibit S5.

²⁰ See Petition, at 8.

²¹ See Supplement to the Petition, at 5 and Exhibit S5.

²² See Supplement to the Petition, at Exhibit S4; see also Second Supplement to the Petition, at Exhibit S2–3.

²³ See Petition, at 9, and Exhibit 8, and Supplement to the Petition, at 9, and Exhibit S1.

²⁴ See Petition, at 8.

will be used to select mandatory respondents.

The Department requires respondents to submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status.³⁶ Appendix II of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than August 11, 2009. In addition, the Department will post the quantity and value questionnaire along with filing instructions on its website, at <http://ia.ita.doc.gov/ia-highlights-and-news.html>.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate status application.³⁷ The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due sixty (60) days from the date of publication of this initiation notice in the **Federal Register**. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The

³⁶ See *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005).

³⁷ See Import Administration Policy Bulletin, Number: 05.1, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," dated April 5, 2005, available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf> ("Policy Bulletin, Number: 05.1"); see also *Certain Circular Welded Carbon Quality Steel Line Pipe From the Republic of Korea and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 73 FR 23188, 23193 (April 29, 2008) ("*Certain Circular Welded Carbon Quality Steel Line Pipe from the PRC*").

Separate Rates/Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of combination rates because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.³⁸

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than August 14, 2009, whether there is a reasonable indication that imports of woven electric blankets from the PRC materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the Petition would result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

³⁸ See Policy Bulletin, Number: 05.1; see also *Certain Circular Welded Carbon Quality Steel Line Pipe from the PRC*, 73 FR at 23193.

Dated: July 20, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The scope of this investigation covers finished, semi-finished, and unassembled woven electric blankets, including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both. Semi-finished woven electric blankets and throws consist of shells of woven fabric containing wire. Unassembled woven electric blankets and throws consist of a shell of woven fabric and one or more of the following components when packaged together or in a kit: (1) Wire; (2) controller(s). The shell of woven fabric consists of two sheets of fabric joined together forming a "shell." The shell of woven fabric is manufactured to accommodate either the electric blanket's wiring or a subassembly containing the electric blanket's wiring (e.g., wiring mounted on a substrate).

A shell of woven fabric that is not packaged together, or in a kit, with either wire, controller(s), or both, is not covered by this investigation even though the shell of woven fabric may be dedicated solely for use as a material in the production of woven electric blankets.

The finished, semi-finished and unassembled woven electric blankets and throws subject to this investigation are currently classifiable under subheading 6301.10.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, only the written description of the scope is dispositive.

Appendix II—Office of AD/CVD Enforcement

Quantity and Value Questionnaire

Requester(s): {insert name of company}:

{company address}

{contact name and title}

{contact telephone number}

{contact fax number}

{contact e-mail address}

Representation: {insert name of counsel and law firm and contact info}

Case: Certain Woven Electric Blankets from the People's Republic of China.

Period of Investigation: October 1, 2008 through March 31, 2009.

Publication Date of Initiation: {insert publication date}.

Officials in Charge:

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On July 21, 2009, the Department of Commerce ("Department") announced its decision to initiate an antidumping duty investigation to determine whether certain woven electric blankets from the PRC are being sold in the United States at less than fair value during the period of investigation of October 1, 2008 through March 31, 2009.

Section 777A(c)(1) of the Tariff Act of 1930, as amended ("Act"), directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, as is the case in investigation, section 777A(c)(2) of the Act permits the Department to examine either (1) a sample of exporters, producers or types of products that is

statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

In advance of the issuance of the full antidumping questionnaire, we ask that you respond to Attachments I of this Quantity and Value Questionnaire requesting information on production and the quantity and U.S. dollar sales value of all your sales to the United States during the period 1, 2008 through March 31, 2009, covered by the scope of this investigation (see Attachment II), produced in the PRC.³⁹ A full and accurate response to the Quantity and Value Questionnaire from all participating respondents is necessary to ensure that the Department has the requisite information to appropriately select mandatory respondents.

The Department is also requiring all firms that wish to qualify for separate-rate status in this investigation to complete a separate-rate status application as described in the *Notice of Initiation*. In other words, the Department will not give consideration to any separate-rate status application made by parties that fail to timely respond to the Quality and Value Questionnaire or fail to timely submit the requisite separate-rate status application.

To allow for the possibility of sampling and to complete this segment within the statutory time frame, the Department will be

limited in its ability to extend the deadline for the response to the Quantity and Value Questionnaire.

A definition of the scope of the merchandise subject to this review is included in Attachment II, and general instructions for responding to this Quantity and Value Questionnaire are contained in Attachment III. Your response to this questionnaire may be subject to on-site verification by Department officials.

Format for Reporting Quantity and Value of Sales

In providing the information in the chart below, please provide the total quantity in pieces/units, and kilograms, and total value (in U.S. dollars) of all your sales to the United States during the period 1, 2008 through March 31, 2009, covered by the scope of this investigation (see Attachment II), produced in the PRC.⁴⁰

- Please include only sales exported by your company directly to the United States.
- Please do not include any sales of subject merchandise manufactured in Hong Kong in your figures.

Additionally, if you believe that you should be treated as a single entity along with other named exporters, please complete the chart, below, both in the aggregate for all named parties in your group and, in separate charts, individually for each named entity. Please label each chart accordingly.

Market: United States	Total quantity in terms of number of blankets and/or throws ⁴¹	Total quantity ⁴² (in kilograms)	Terms of sale ⁴³	Total value ⁴⁴ (\$U.S.)
1. Export Price ⁴⁵				
2. Constructed Export Price ⁴⁶				
3. Further Manufactured ⁴⁷				
Total				

⁴¹ If any conversions were used, please provide the conversion formula and source.

⁴² If any conversions were used, please provide the conversion formula and source.

⁴³ To the extent possible, sales values should be reported based on the same terms (e.g., FOB).

⁴⁴ Values should be expressed in U.S. dollars. Indicate any exchange rates used and their respective dates and sources.

⁴⁵ Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States.

⁴⁶ Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation. Do not report the sale to the affiliated party in the United States, rather report the sale made by the affiliated party to the unaffiliated customer in the United States. If you have further manufactured sales, please report them under Item 3, rather than under Item 2.

⁴⁷ "Further manufactured" refers to merchandise that undergoes further manufacture or assembly in the United States before sale to the first unaffiliated customer.

³⁹ If your company did not produce the merchandise under investigation, we request that these questions be immediately forwarded to the company that produces the merchandise and supplies it to you or your customers.

⁴⁰ Please use the invoice date when determining which sales to include within the period noted above. Generally, the Department uses invoice date as the date of sale, as that is when the essential terms of sale are set. If you believe that another date

besides the invoice date would provide a more accurate representation of your company's sales during the designated period, please report sales based on that date and provide a full explanation.

[FR Doc. E9-17871 Filed 7-24-09; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

CALENDAR OF THE COMMISSION'S JULY 21, 2009 CONFERENCE

**In Opposition to the Imposition of
Antidumping Duties:**

Cameron LLP
Washington, DC
on behalf of

Perfect Fit Industries

Alexander W. Sierck, Esq.) – OF COUNSEL

Mayer Brown LLP
Washington, DC
on behalf of

Hung Kuo Electronic (Shenzhen) Company Limited
Biddeford Blankets, LLC

Mark Porter, President, Biddeford Blankets, LLC
Maurice Hebert, Vice President of Operations, Biddeford Blankets, LLC

Duane W. Layton, Esq.) – OF COUNSEL
Jeffery C. Lowe, Esq.)

Jochum Shore & Trossevin, P.C.
Washington, DC
on behalf of

The Ad Hoc Coalition of Blanket Importers

Leslie Hearn, Senior Buyer, J.C. Penney Purchasing Corp.

Marguerite Trossevin, Esq.) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioners

Irwin P. Altschuler, Greenberg Traurig, LLP

Respondents

Jeffery C. Lowe, Mayer Brown LLP

APPENDIX C
SUMMARY DATA¹

¹ The contents of Appendix C are being withheld from the public version of the report, as the information in this appendix in its current form could reveal business proprietary information.