

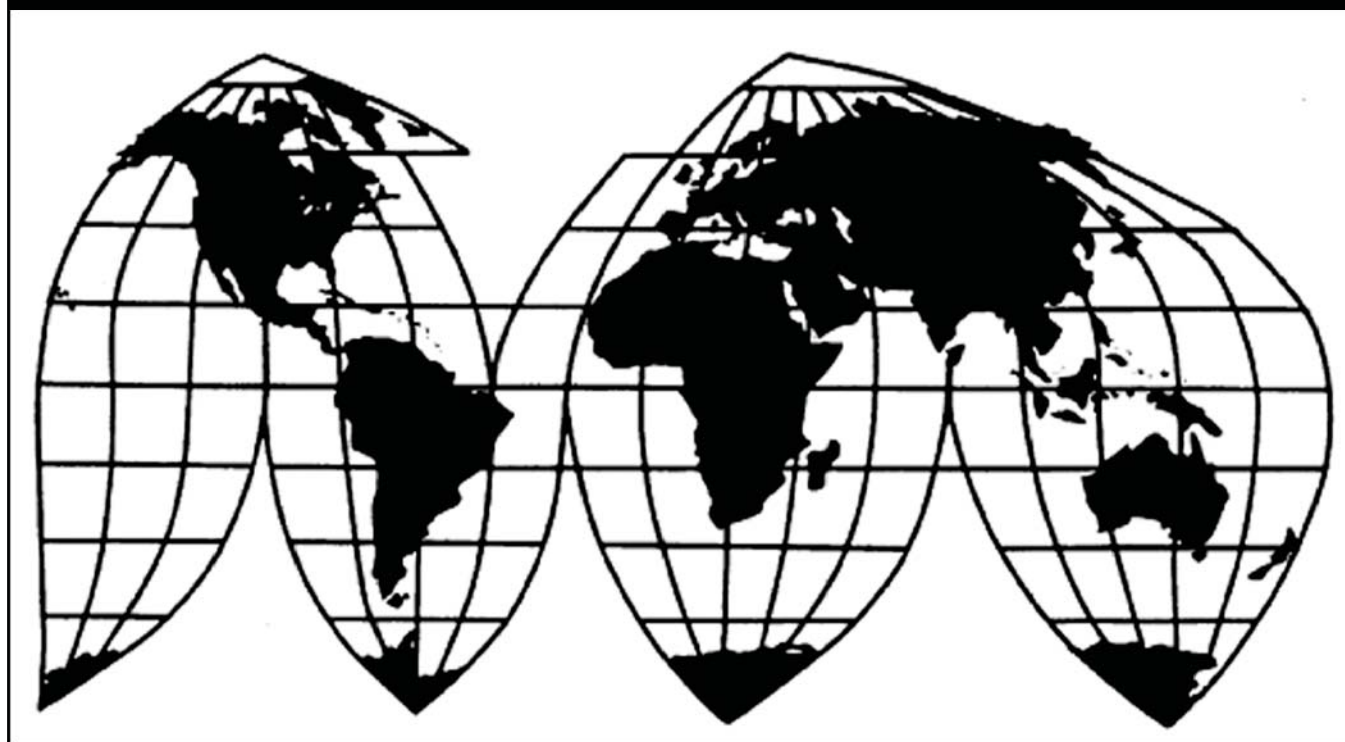
Woven Electric Blankets from China

Investigation No. 731-TA-1163 (Final)

Publication 4177

August 2010

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Deanna Tanner Okun, Chairman

Charlotte R. Lane

Daniel R. Pearson

Shara L. Aranoff

Irving A. Williamson

Dean A. Pinkert

Robert B. Koopman

Acting Director of Operations

Staff assigned

Joshua Kaplan, Investigator

Shannon Gaffney, Industry Analyst

Joshua Levy, Economist

David Boyland, Accountant

Karl von Schrittz, Attorney

Lita David-Harris, Statistician

George Deyman, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Woven Electric Blankets from China

Investigation No. 731-TA-1163 (Final)

Publication 4177



August 2010

CONTENTS

	<i>Page</i>
Determination	1
Views of the Commission	3
Part I: Introduction	I-1
Background	I-1
Statutory criteria and organization of the report	I-1
Statutory criteria	I-1
Organization of the report	I-2
U.S. market summary	I-2
Summary data and data sources	I-3
Previous and related investigations	I-3
Nature and extent of sales at LTFV	I-3
The subject merchandise	I-4
Commerce's scope	I-4
Tariff treatment	I-4
The product	I-5
Description and applications	I-5
Manufacturing process	I-6
Domestic like product issues	I-6
Knit electric blankets	I-7
Woven shells	I-8
Electric mattress pads	I-8
Part II: Conditions of competition in the U.S. market	II-1
U.S. market characteristics	II-1
Channels of distribution	II-1
U.S. purchasers	II-2
Supply and demand considerations	II-2
Supply	II-2
Demand	II-4
Substitutability issues	II-8
Factors affecting purchasing decisions	II-8
Comparison of the U.S.-produced and imported WEBs	II-12
Elasticity estimates	II-15
U.S. supply elasticity	II-15
U.S. demand elasticity	II-15
Substitution elasticity	II-16
Part III: U.S. producer's production, shipments, and employment	III-1
U.S. producer	III-1
U.S. capacity, production, and capacity utilization	III-1
U.S. producer's shipments	III-2
U.S. producer's inventories	III-2
U.S. producer's imports	III-2
U.S. employment, wages, and productivity	III-2

CONTENTS

	<i>Page</i>
Part IV: U.S. imports, apparent consumption, and market shares	IV-1
U.S. importers	IV-1
U.S. imports	IV-2
Negligibility	IV-3
Apparent U.S. consumption	IV-3
U.S. market shares	IV-4
Ratio of imports to U.S. production	IV-5
Part V: Pricing and related information	V-1
Factors affecting prices	V-1
Raw material costs	V-1
U.S. inland transportation costs	V-1
Pricing practices	V-1
Pricing methods	V-1
Sales terms and discounts	V-2
Price data	V-2
Price trends	V-2
Price comparisons	V-4
Lost sales and lost revenues	V-5
Part VI: Financial experience of the U.S. producer	VI-1
Background	VI-1
Operations on woven electric blankets	VI-1
Revenue	VI-1
Cost of goods sold	VI-2
Financial results on WEBs	VI-2
Capital expenditures, research and development expenses, assets, and return on investment ...	VI-3
Capital and investment	VI-3
Part VII: Threat considerations and information on nonsubject countries	VII-1
The industry in China	VII-1
U.S. inventories of WEBs from China	VII-2
U.S. importers' current orders	VII-3
Antidumping investigations in third-country markets	VII-3
Information on nonsubject countries	VII-3
Appendixes	
A. <i>Federal Register</i> notices	A-1
B. Hearing witnesses	B-1
C. Summary data	C-1

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 (Final)

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 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), 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 have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective June 30, 2009, following receipt of a petition filed with the Commission and Commerce by Sunbeam Products, Inc., doing business as Jarden Consumer Solutions, Boca Raton, FL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of woven electric blankets from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 11, 2010 (75 FR 11557). The hearing was held in Washington, DC, on June 29, 2010, 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)).

VIEWS OF THE COMMISSION

Based on the record in the final phase of this investigation, we find 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 the U.S. Department of Commerce (“Commerce”) has found to be sold in the United States at less than fair value (“LTFV”).

I. 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 WEBs.¹ Jarden filed briefs and participated in the Commission’s hearing.² No respondent participated as a party in the final phase of the investigation.³

II. 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.”⁴ 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.”⁵ 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.”⁶

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.⁷ No single factor is dispositive, and the Commission

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

² Milliken & Company (“Milliken”), *** domestic producer of the fabric shells used by Jarden in the production of WEBs, filed a post-conference brief in support of the petition in the preliminary phase of the investigation, but has not filed a brief in the final phase of the investigation.

³ In the preliminary phase of this investigation, respondents that participated in the staff conference and filed a post-conference brief were foreign producer Hung Kuo Electronic (Shenzhen) Company Limited (“Hung Kuo”), importer Biddeford Blankets, LLC (“Biddeford”), and the Ad Hoc Coalition of Blanket Importers (the “Coalition”), which includes importer and purchaser J.C. Penney. Woven Electric Blankets from China, Inv. No. 731-TA-1163 (Preliminary), USITC Pub. 4097 (August 2009) (“Preliminary Determination”), at 1 (Leslie Hearn, Senior Buyer, J.C. Penney Purchasing Corporation, appeared on behalf of the Coalition at the conference). Importer Perfect Fit Industries (“Perfect Fit”) participated in the staff conference but did not submit a post-conference brief. Id.

⁴ 19 U.S.C. § 1677(4)(A).

⁵ 19 U.S.C. § 1677(4)(A).

⁶ 19 U.S.C. § 1677(10).

⁷ 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 (continued...)”).

may consider other factors it deems relevant based on the facts of a particular investigation.⁸ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁹ Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹⁰ the Commission determines what domestic product is like the imported articles Commerce has identified.¹¹

B. Product Description

Commerce has 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.¹²

⁷ (...continued)

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).

⁸ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

⁹ 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.").

¹⁰ 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).

¹¹ 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 in which Commerce found five classes or kinds). The finished, semi-finished, and unassembled woven electric blankets and throws subject to this investigation are currently classifiable under subheading 6301.10.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). CR at I-5; PR at I-4; CR/PR at Table I-2.

¹² CR at I-5; PR at I-4.

WEBs consist of a woven fabric shell, made of synthetic 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.¹³ They are produced in standard bedding sizes, including twin, full, queen, and king, and also as electric throws in smaller sizes.¹⁴ WEBs are generally used as bedding articles, to keep sleeping individuals warm, but can also be used anywhere near an electric outlet, as by individuals resting in a couch or chair.¹⁵ 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.

C. Like Product Analysis

In the preliminary phase of this investigation, Jarden argued that the Commission should define a single domestic like product that is coextensive with the scope of the investigation. Respondents countered that the Commission should expand the domestic like product definition to encompass electric mattress pads and knitted electric blankets from outside the scope. The Commission did not expand the domestic like product definition to include knit electric blankets and certain other types of heated bedding products because it found that such products were not produced in the United States.¹⁶ It also did not expand the domestic like product definition to include electric mattress pads, which were produced in the United States, because it found a clear dividing line separating WEBs from electric mattress pads.¹⁷ Finally, it determined that the evidence on the record of the preliminary phase investigation did not support expansion of the domestic like product to include fabric shells pursuant to a semi-finished products analysis.¹⁸ Consequently, for purposes of the preliminary phase investigation, the Commission defined a single domestic like product coextensive with the scope of investigation.

In the final phase of this investigation, Jarden argues that the Commission should again define the domestic like product as coextensive with the scope of the investigation.¹⁹ It also 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.²⁰

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

¹³ CR at I-6; PR at I-5.

¹⁴ CR at I-6; PR at I-5.

¹⁵ CR at I-6; PR at I-5.

¹⁶ Preliminary Determination at 7.

¹⁷ The Commission found that although electric mattress pads and WEBs shared broad physical characteristics and uses and channels of distribution, they differed in ways that limited their interchangeability and corresponded with differing customer and producer perceptions of the products. See Preliminary Determination at 5-7. It also found that WEBs and electric mattress pads are produced in different facilities with different production processes and employees. See Preliminary Determination at 6.

¹⁸ See Preliminary Determination at 8-10.

¹⁹ Jarden argues that there is no new evidence on the record that would warrant the Commission’s reconsideration of its determination in the preliminary phase of the investigation not to expand the domestic like product to include electric mattress pads. Jarden’s Prehearing Br. at 5-6. It also argues that the Commission should not expand the domestic like product to include knit electric blankets, though it began domestic production of such blankets in ***, because such blankets were not produced in the United States during *** and knit electric blankets differ from WEBs in terms of the Commission’s domestic like product factors. See Jarden’s Prehearing Br. at 2-3; Hearing Tr. at 13 (Powers).

²⁰ See Jarden’s Prehearing Br. at 4-5.

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

In this final phase, the record contains no new information or arguments from the parties that would warrant reconsideration of the Commission's determination from the preliminary phase not to expand the domestic like product definition to include electric mattress pads or knit electric blankets. Rather, the record supports the Commission's finding from the preliminary phase that a clear dividing line separates WEBs from electric mattress pads.²¹ With respect to knit electric blankets, Jarden began *** domestic production in ***.²² Therefore, the record contains no data on domestically produced knit electric blankets.

We therefore do not expand the domestic like product definition to include either knit electric blankets or electric mattress pads.

2. **Whether the Commission Should Define the Domestic Like Product to Include Fabric Shells Pursuant to a Semi-Finished Products 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.²³

Based on the following analysis of our semi-finished product factors, we determine that the record does not support the inclusion of fabric shells within the definition of the domestic like product.²⁴

Dedicated production

Fabric shells are an intermediate product dedicated to the production of WEBs, with no other current uses.²⁵

Separate markets

There is no known separate market for fabric shells.²⁶ *** for use in the production of WEBs.²⁷

²¹ See CR at I-13-14; PR at I-8-9.

²² CR at I-10; PR at I-7.

²³ See, e.g., Glycine from India, Japan, and Korea, Inv. Nos. 731-TA-1111-1113 (Preliminary), USITC Pub. 3921 (May 2007) at 7.

²⁴ We note that inclusion of fabric shells in the domestic like product would result in the inclusion of Milliken, *** domestic producer of fabric shells, in the domestic industry. CR at I-13; PR at I-8.

²⁵ CR at I-13; PR at I-8.

²⁶ CR at I-13; PR at I-8.

²⁷ CR at I-7 n.14; PR at I-6 n.14; see also Milliken's Postconference Br. at 1; Jarden's Postconference Br., Exhibit 1 at 2.

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 smooth woven fabric with integral channels for the insertion of heating wire, wound into large rolls for delivery to WEB producers.²⁸ 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 controller module, and a power cord, and packaged for shipment to retailers and ultimate sale to consumers.²⁹ Fabric shells have no use other than as an input in the production of WEBs, whereas WEBs are used to keep sitting or resting individuals warm.³⁰ 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 or less of the cost of producing WEBs and *** percent of their retail value.³¹

Significance of transformation

The transformation of fabric shells into WEBs entails five production steps. First, the fabric shell is napped by ***.³² Second, the napped fabric shell is chemically treated to set the fibers and improve the blanket's appearance.³³ Third, a heating wire is *** inserted into the blanket using ***.³⁴ Jarden produces its own heating wire using a proprietary process.³⁵ Fourth, the WEB is assembled with a regulatory label, controller, and trim, and then tested.³⁶ Finally, the WEB is packaged and placed in inventory.³⁷

Conclusion

There is no new evidence on the record of the final phase of the investigation that would warrant changing our determination in the preliminary phase of the investigation. Although the evidence remains mixed, the record does not, on balance, support expansion of the domestic like product definition beyond the scope to include fabric shells. We therefore do not include fabric shells within the domestic like product definition.

²⁸ CR at I-6-7; PR at I-5-6; Conference Tr. at 21 (Sullivan).

²⁹ CR at I-7-8; PR at I-6.

³⁰ CR at I-6; PR at I-5; Jarden's Prehearing Br. at 4.

³¹ CR at I-12; PR at I-8; Jarden's Prehearing Br. at 5; see also Jarden's Postconference Br. at 3. Based on information submitted by Jarden, fabric shells accounted for *** of Jarden's total cost of goods sold in 2009. CR at VI-8; PR at VI-2.

³² CR at I-7; PR at I-6.

³³ CR at I-7; PR at I-6; Conference Tr. at 21 (Sullivan).

³⁴ CR at I-7; PR at I-6.

³⁵ CR at I-7-8; PR at I-6; Conference Tr. at 23 (Sullivan).

³⁶ CR at I-8; PR at I-6.

³⁷ CR at I-9; PR at I-6.

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.³⁸

III. 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.”³⁹ 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 to include the only known domestic producer, Jarden.⁴⁰

A. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry as a related party 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.⁴¹ Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation.⁴²

³⁸ 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.

³⁹ 19 U.S.C. § 1677(4)(A).

⁴⁰ CR/PR at Table III-1. We note that the Commission has collected data from Jarden that cover all products within the domestic like product definition, since Jarden is the only domestic producer of WEBS, semi-finished WEBS, and unassembled WEBS (in the sense that it processes the components defined as unassembled WEBS).

⁴¹ 19 U.S.C. § 1677(4)(B).

⁴² The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161 (Ct. Int’l Trade 1992), *aff’d without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in *Allied Mineral Products, Inc. v. United States*, 28 CIT 1861, 1865 (2004) (“The most significant factor considered by the Commission in making the ‘appropriate circumstances’ determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise.”); *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 12 (Ct. Int’l Trade 2001) (“the provision’s purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters.”), *aff’d*, 34 Fed. Appx. 725 (Fed. Cir. 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) (“where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry”).

Jarden is a related party because it was an importer of subject merchandise from China during the period examined.⁴³ We find that appropriate circumstances do not exist to exclude Jarden from the domestic industry as a related party. Jarden is the petitioner and the sole U.S. producer of WEBs,⁴⁴ and its interests primarily lie in domestic production rather than importation. Jarden's imports of WEBs from China were *** units in 2007, equivalent to only *** percent of its domestic production, *** units in 2008, equivalent to only *** percent of its domestic production, and *** units in 2009, equivalent to only *** percent of its domestic production.⁴⁵ ***.⁴⁶ Accordingly, we define the domestic industry as Jarden, the only domestic producer of the domestic like product.

IV. MATERIAL INJURY BY REASON OF IMPORTS OF SUBJECT MERCHANDISE FROM CHINA⁴⁷

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁴⁸ 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.⁴⁹ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁵⁰ In assessing whether 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.⁵¹ 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."⁵²

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,⁵³ it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the

⁴³ See CR/PR at Table III-4; 19 U.S.C. § 1677(4)(B).

⁴⁴ See, e.g., 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.

⁴⁵ CR/PR at Table III-4.

⁴⁶ CR/PR at Table III-4 n.1.

⁴⁷ Based on questionnaire responses, subject imports from China accounted for essentially 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-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).

⁴⁸ 19 U.S.C. §§ 1671d(b), 1673d(b).

⁴⁹ 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 ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

⁵⁰ 19 U.S.C. § 1677(7)(A).

⁵¹ 19 U.S.C. § 1677(7)(C)(iii).

⁵² 19 U.S.C. § 1677(7)(C)(iii).

⁵³ 19 U.S.C. §§ 1671d(a), 1673d(a).

Commission's reasonable exercise of its discretion.⁵⁴ 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.⁵⁵

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.⁵⁶ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁵⁷ Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or

⁵⁴ 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'd, 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

⁵⁵ 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).

⁵⁶ SAA at 851-52 ("{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

⁵⁷ 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, Invs. Nos. 701-TA-414 and 731-TA-928 (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.").

contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.⁵⁸ It is clear that the existence of injury caused by other factors does not compel a negative determination.⁵⁹

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.”⁶⁰ ⁶¹ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁶²

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.⁶³ 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 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

⁵⁸ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁵⁹ 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.”).

⁶⁰ 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.

⁶¹ 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 when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance upon presumptions or rigid formulas. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, nonsubject 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 nonsubject 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.

⁶² 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.”).

⁶³ Mittal Steel, 542 F.3d at 875-79.

injury from nonsubject imports or other factors to subject imports.⁶⁴ 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.^{65 66}

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.⁶⁷ Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.⁶⁸

B. Conditions of Competition

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

1. Demand Conditions

WEB demand is highly seasonal, with sales concentrated in the third and fourth quarters of every year, and particularly during the winter holidays.⁶⁹ WEB production, however, takes place year round, with producers building inventories during the first half of each year according to projections of demand in the second half of the year.⁷⁰ Major shipments to customers begin in the third quarter.⁷¹

Jarden conducts a line review process beginning in the fourth quarter of each year to formulate annual demand forecasts that determine WEB production during the upcoming year.⁷² Pursuant to this process, Jarden meets with all potential customers and establishes each customer's anticipated needs for

⁶⁴ 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).

⁶⁵ Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Invs. Nos. 731-TA-1131 to 1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

⁶⁶ 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.

⁶⁷ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁶⁸ 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.").

⁶⁹ CR at II-1, 10-11; PR at II-1, 5; CR/PR at Tables V-1-3; Jarden's Prehearing Br. at 8.

⁷⁰ CR at II-1; PR at II-1; Jarden's Prehearing Br. at 8; Hearing Tr. at 32 (Kaplan).

⁷¹ Hearing Tr. at 32 (Kaplan).

⁷² CR at V-2; PR at V-1; Jarden's Prehearing Br. at 8; Hearing Tr. at 22 (Fretwell).

the upcoming season, in terms of quantities, assortments, and prices.⁷³ Retailers finalize their selections by the end of January or early February and provide Jarden with a demand forecast for the second half of the year at that time, which Jarden uses to plan its WEB production and build inventories as necessary to satisfy projected demand.⁷⁴ Binding purchase orders are received shortly before shipment, but typically conform closely to the forecast in terms of volume, price, and assortment.⁷⁵ In the preliminary phase of this investigation, importer Biddeford reported that ***.⁷⁶

Jarden views the negotiation of incentive programs, including *** as an important part of the line review process.⁷⁷ Four of six responding importers, including Biddeford, reported offering similar incentive programs to their customers.⁷⁸ Jarden indicated that its customers have increasingly leveraged low-priced subject imports to demand more generous incentives, and particularly more generous mark-down dollars (which enable retailers to mark down and move end-of-season inventory) and more generous guaranteed returns (through which Jarden agrees to buy back unsold merchandise).⁷⁹ We consider incentive programs to be an integral part of WEB pricing, and analyze WEB sales and prices net of all costs associated with incentive programs.⁸⁰

Apparent U.S. consumption of WEBs increased from *** units in 2007 to *** units in 2008 before declining to *** units in 2009, a level *** percent lower than in 2007.⁸¹ When asked how demand for WEBs in the U.S. market has changed since 2007, *** 5 of 16 responding importers reported that it had fluctuated, 4 importers reported that demand had increased, 1 importer reported that demand had decreased, and 6 importers reported that demand was unchanged.⁸² Reasons given by *** responding importers for declining or fluctuating WEB demand included changes in the weather and heating oil costs, competition from substitute products, retail distributors closing or consolidating outlets, and the maturity of the WEB market.⁸³ The increasing popularity of knit electric blankets also contributed to the decline in apparent U.S. consumption of WEBs during the period examined.⁸⁴ Jarden projected that U.S. WEB demand in 2010 will be lower than in 2009.⁸⁵

⁷³ Jarden's Prehearing Br. at 8; Jarden's Responses to Commissioner Questions, at 8; Hearing Tr. at 22 (Fretwell).

⁷⁴ Jarden's Prehearing Br. at 8; Hearing Tr. at 22 (Fretwell).

⁷⁵ Hearing Tr. at 23 (Fretwell).

⁷⁶ CR at V-2; PR at V-1; Conference Tr. at 168 (Porter).

⁷⁷ CR at V-3; PR at V-2; Jarden's Prehearing Br. at 7; Hearing Tr. at 23-24 (Fretwell); Jarden's Responses to Commissioner Questions at 7-9. We note that 5 of 18 responding purchasers reported that "incentive programs" are a "very important" purchasing factor, 6 reported that this factor is "somewhat important," and 7 reported that this factor is "not important." CR/PR at Table II-3.

⁷⁸ CR at V-3-4; PR at V-2.

⁷⁹ Hearing Tr. at 24-25 (Fretwell); Jarden's Responses to Commissioner Questions at 8. Jarden reported that the value of the sales incentives it provided to its customers increased as a share of gross sales from *** percent in 2007 to *** percent in 2008 and *** percent in 2009. Id.

⁸⁰ See CR at V-4, VI-2; PR at V-2, VI-1.

⁸¹ CR/PR at Table IV-3.

⁸² CR at II-13; PR at II-7.

⁸³ CR at II-13; PR at II-7. Jarden also indicated that the recession reduced WEB demand in the U.S. market "a bit" in 2009 because the recession was "particularly significant" for the demographic that purchases WEBs. Hearing Tr. at 43-44 (Kaplan).

⁸⁴ CR at II-15; PR at II-7-8; CR/PR at Figure II-4.

⁸⁵ Hearing Tr. at 43-44 (Kaplan); Jarden's Responses to Commissioner Questions, at 5.

The U.S. market for WEBs is characterized by a small number of large retail customers, making the loss of even a single customer potentially significant in terms of lost sales.⁸⁶ According to Jarden, purchasers generally source WEBs from a single supplier, making the line review process an “all or nothing” proposition.⁸⁷ Losing a customer during the line review process has an immediate negative impact on the following year’s production, with no opportunity to regain the customer until the subsequent line review process.⁸⁸

2. Supply Conditions

Jarden was the only domestic producer of WEBs during the period examined, and its capacity increased by *** percent between 2007 and 2009 due to continuous production efficiency improvements and the reduction of production bottlenecks.⁸⁹ As noted above, Jarden produces WEBs year-round but sells WEBs primarily in the second half of the year.

The only other substantial source of WEBs in the U.S. market during the period examined was China, as there were virtually no imports from nonsubject countries during the period.⁹⁰

During the period of investigation, there was a substantial shift in the channels of distribution for subject imports. In 2007 and 2008, the majority of subject imports were for sale to retailers (76.4 percent and 83.5 percent, respectively).⁹¹ However, in 2009, only 45.1 percent of subject imports were for sale to retailers and the majority had shifted to direct imports by retailers (54.9 percent).⁹²

3. Substitutability

The record indicates that there is a moderate to high degree of substitutability between domestic and subject imported WEBs.⁹³ ***, 8 of 10 responding importers, and 10 of 12 responding purchasers reported that subject imports are “always” interchangeable with the domestic like product.⁹⁴ A majority of the 12 responding purchasers reported that subject imports are comparable to the domestic like product with respect to 14 of 18 attributes, including “quality meets industry standards” and “return rates,” while half reported that subject imports are comparable to the domestic like product with respect to delivery

⁸⁶ CR at II-1-2; PR at II-1. The five largest reporting purchasers of WEBs, ***. Id.

⁸⁷ Hearing Tr. at 53 (Fretwell).

⁸⁸ Jarden’s Prehearing Br. at 8.

⁸⁹ CR/PR at Table III-1; CR at III-2; PR at III-1; Hearing Tr. at 36 (Kaplan).

⁹⁰ CR at IV-3-4; PR at IV-2; CR/PR at Table IV-2. A small quantity of WEBs, 1,008 units, was imported from Hong Kong in 2008. Id. *** report that they have switched their sourcing of WEBs from China to the Philippines to avoid potential antidumping duty liability, CR at IV-1 n.5; PR at IV-1 n.5, and Jarden has heard that ***. Jarden’s Responses to Commissioner Questions, at 10. However, there were no reported imports of WEBs from the Philippines during the period examined. CR/PR at Table IV-2.

⁹¹ CR/PR at Table II-1.

⁹² CR/PR at Table II-1.

⁹³ See CR at II-17; PR at II-8; CR/PR at Tables II-4-5.

⁹⁴ Jarden’s Prehearing Br. at 6-7; CR at Table II-5.

terms and delivery time.⁹⁵ A majority of responding purchasers reported that both domestically produced and subject imported WEBs always or usually meet minimum quality specifications.⁹⁶

The record also indicates that price is an important consideration in purchasing decisions. When asked to identify the top three factors considered in selecting among different suppliers of WEBs, all 18 responding purchasers reported that price was among their top three factors, though quality was most frequently cited as the most important factor.⁹⁷ When asked to rate the importance of 18 factors relevant to selecting among different suppliers of WEBs, 13 of 18 responding purchasers reported that “lowest price” was a “very important” factor and 9 responding purchasers reported that “discounts offered” was a “very important” factor.⁹⁸ When asked how often they purchase the lowest priced WEBs, 3 purchasers responded “always,” 4 responded “usually,” 8 responded “sometimes,” and three responded “never.”⁹⁹ When asked whether differences other than price are ever significant to purchasers, Jarden responded “***,” but a majority of responding importers and purchasers reported “always” or “frequently.”¹⁰⁰ Thus, although the record indicates that non-price factors are important to purchasing decisions, it also indicates that price is an important factor, if not the most important factor, consistent with evidence that the vast majority of purchasers found subject imports to be “always” interchangeable with the domestic like product.¹⁰¹

Ten responding purchasers and six importers reported that knit electric blankets are a substitute for WEBs.¹⁰² The record of the final phase of this investigation indicates that sales of knit electric blankets increased significantly over the period examined, largely at the expense of sales of WEBs.¹⁰³

⁹⁵ CR at II-24; PR at II-13; CR/PR at Table II-6. Most responding purchasers reported that the domestic like product is inferior to subject imports in terms of “lowest price” (i.e., domestic like product prices are higher). Id. With respect to “branding,” five purchasers reported that the domestic like product is superior to subject imports, five reported that the domestic like product is comparable, and two reported that the domestic like product is inferior. Id.

⁹⁶ CR at II-26; PR at II-13; CR/PR at Table II-7. Specifically, 9 of 15 responding purchasers reported that domestically produced WEBs always or usually meet minimum quality specifications, while 15 of 17 responding purchasers reported that subject imported WEBs always or usually meet minimum quality specifications. Id.

⁹⁷ CR at II-18; PR at II-9; CR/PR at Table II-2.

⁹⁸ CR/PR at Table II-3. A greater number of purchasers reported that availability, delivery time, product consistency, quality meets industry standards, and reliability of supply were “very important” factors. Id.

⁹⁹ CR at II-21; PR at II-11.

¹⁰⁰ CR/PR at Table II-4.

¹⁰¹ CR/PR at Table II-5.

¹⁰² CR at II-14; PR at II-7.

¹⁰³ CR at II-14-15; PR at II-7-8; CR/PR at Figure II-4.

C. Volume of Subject Imports¹⁰⁴

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”¹⁰⁵

Subject import volume increased 27.9 percent over the period examined, from 915,471 units in 2007 to 920,949 units in 2008 and 1,171,145 units in 2009.¹⁰⁶ U.S. shipments of subject imports increased 31.0 percent over the period, from 859,540 units in 2007 to 956,103 units in 2008 and 1,125,759 units in 2009.¹⁰⁷ It is noteworthy that subject import volume and U.S. shipments increased significantly in absolute terms despite the *** percent decline in apparent U.S. consumption during the period.¹⁰⁸

U.S. shipments of subject imports as a share of apparent U.S. consumption increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹⁰⁹ Because there were virtually no nonsubject imports in the U.S. market, the *** percentage point increase in subject import market share between 2007 and 2009 came entirely at the expense of the domestic industry, which lost *** percentage points of market share during the period.¹¹⁰ As subject imports increasingly displaced domestic shipments from the U.S. market, the ratio of subject imports to domestic production increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹¹¹

We conclude that subject import volume is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume and market share over the period examined also is significant.

D. 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.¹¹²

¹⁰⁴ 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 subheading 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.

¹⁰⁵ 19 U.S.C. § 1677(7)(C)(i).

¹⁰⁶ CR/PR at Table IV-2.

¹⁰⁷ CR/PR at Table IV-3.

¹⁰⁸ CR/PR at Table IV-3.

¹⁰⁹ CR/PR at Table IV-4.

¹¹⁰ CR/PR at Table IV-4.

¹¹¹ CR/PR at Table IV-5.

¹¹² 19 U.S.C. § 1677(7)(C)(ii).

As addressed in section IV.B.3. above, the record indicates that there is a moderate to high degree of substitutability between subject imports and the domestic like product and that price is an important consideration in purchasing decisions.¹¹³

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, although not all firms reported pricing for all products for all quarters.¹¹⁴ Pricing data reported by these firms accounted for *** percent of the domestic industry's U.S. shipments and *** percent of subject import shipments in 2009.¹¹⁵

Sales price data indicate that subject imports predominately undersold the domestic like product during the period examined. Subject imports undersold the domestic like product in 17 of 24 quarterly comparisons, or 70.8 percent of the time, at margins ranging from 2.5 to 17.0 percent.¹¹⁶ As the vast majority of reported pricing product sales, *** percent, were made in the third and fourth quarters of every year,¹¹⁷ we find price comparisons for these quarters to be particularly probative.¹¹⁸ For these quarters, subject imports undersold the domestic like product in 9 of 12 comparisons, or 75.0 percent of the time, at margins ranging from 2.5 to 16.9 percent.¹¹⁹

We also have considered the purchase price data reported by large importer/retailers that directly imported WEBs from China for their own use. Subject import purchase price data cover a substantial proportion of subject import volume, *** percent in 2009.¹²⁰ These purchase price data accounted for *** percent of subject import shipments for which pricing data were reported in 2009.¹²¹ Although subject import purchase prices are at a different level of trade than domestic like product sales prices, and thus

¹¹³ See CR at II-17-20; PR at II-8-10; CR/PR at Tables II-2-3.

¹¹⁴ CR at V-5; PR at V-2. No sales price data were reported for subject imported products 3 and 4. CR/PR at Table V-3.

¹¹⁵ CR at V-5; PR at V-2-3. Importer/distributor sales price data accounted for *** percent and importer/retailer purchase price data accounted for *** percent of total reported subject imports in 2009. CR at V-5 n.12; PR at V-2 n.12.

¹¹⁶ CR/PR at Table V-5.

¹¹⁷ CR at V-13 n.15; PR at V-4 n.15

¹¹⁸ Jarden maintained that pricing data from the third and fourth quarters of each year are most probative for the Commission's pricing analysis, and the Coalition seemingly acknowledged as much in the preliminary phase investigation. See Hearing Tr. at 35 (Kaplan); Coalition's Postconference Br. at 13. Although our analysis of subject import volume and impact is predicated on data collected on an annual basis, not on a quarterly basis, we note that in this investigation these data would largely reflect subject import volume and impact in the third and fourth quarters of each year of the period examined, when the vast majority of WEB sales were made. See CR at V-13 n.15; PR at V-4 n.15.

¹¹⁹ CR at V-13 & n.15; PR at V-4 & n.15; CR/PR at Tables V-1-2. Subject imports oversold the domestic like product in only *** quarters, at overselling margins ranging from 1.7 to 3.5 percent. *Id.*

¹²⁰ CR at V-5 n.12; PR at V-2 n.12; CR/PR at Tables V-1-2 (sales price data accounted for *** percent and purchase price data accounted for *** percent of total subject import volume in 2009).

¹²¹ CR at V-5 n.12; PR at V-2 n.12; CR/PR at Tables V-1-2. We also note that the volume of reported direct purchases by importer/retailers increased relative to the volume of reported sales by importer/distributors over the period examined, suggesting that retailers found direct imports to be economically advantageous. With respect to product 1, the volume of subject import purchases as a share of the total volume of subject import purchases and sales increased from *** percent in 2007 to *** percent in 2009. CR/PR at Table V-1. With respect to product 2, the volume of subject import purchases as a share of the total volume of subject import purchases and sales increased from *** percent in 2007 to *** percent in 2009. *Id.* at Table V-2. There were no reported subject import sales of products 3 and 4, but *** reported direct subject import purchases of *** units of product 3 and *** units of product 4 in the second half of 2009. Compare CR/PR at Table V-3 with Importers' Questionnaire of *** at Question III-2b.

cannot be directly compared to domestic sales prices,¹²² the fact that subject import purchase prices were almost always lower than domestic sales prices lends some additional support to our underselling analysis above.¹²³ For all the foregoing reasons, we find subject import price underselling of the domestic like product to be significant.

We also find that subject import underselling and the competitive purchase prices reported by importer/retailers depressed prices for the domestic like product to a significant degree. A linear trend line analysis taking into account sales price data over the entire period examined indicates that sales prices for domestically produced products 1 and 2 (the only pricing products facing substantial subject import competition) declined over the period, notwithstanding price fluctuations related to the seasonality of the WEB market.¹²⁴ Moreover, because most WEB sales occur in the third and fourth quarters, we examined price trends between the third quarter of 2007 and the fourth quarter of 2009. Between these quarters, 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.¹²⁵ By contrast, domestic prices for products 3 and 4, which did not face substantial subject import competition, either increased or declined *** between the third quarter of 2007 and the fourth quarter of 2009.¹²⁶

We find further support for our pricing analysis in record evidence indicating that *** of Jarden's major customers switched to subject imports due in part to their lower prices.¹²⁷ ***,¹²⁸ a J.C. Penney buyer testified at the conference that price was a consideration in J.C. Penney's decision to switch to

¹²² Domestic producers were asked to reported their net sales 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. CR at V-4; PR at V-2. Retailers that imported WEBs directly were asked to reported net values, landed duty-paid. Id.

¹²³ Subject import purchase prices were lower than domestic sales prices in 21 quarterly comparisons and higher than domestic sales prices in 3 quarterly comparisons. CR/PR at Tables V-1-2; Importers' Questionnaire Response of *** at Question III-2b.

¹²⁴ CR at V-5, 12 & n.13; PR at V-2-3 & n.13. In conducting the linear trend line analysis, Commission staff fit linear trend lines to the domestic and subject imported prices for products 1 and 2 over the period examined (i.e., straight lines that most closely fit the data points), see CR/PR at Figure V-1, indicating the general trends of the data points.

¹²⁵ CR/PR at Tables V-1-2.

¹²⁶ Domestic prices for product 3 increased by *** percent and domestic prices for product 4 declined only *** percent between the third quarter of 2007 and the fourth quarter of 2009, in the absence of any reported subject import sales of the products. CR/PR at Tables V-3-4. Although *** reported direct subject import purchases of products 3 and 4 in the third and fourth quarters of 2009, the reported volume of these purchases, at *** units, was equivalent to only *** percent of the total reported volume of subject import sales and purchases of products 1 and 2 (*** units). See CR at V-5 n.11; PR at V-2 n.11; CR/PR at Tables V-1-2.

We also note that as the average unit value of Jarden's net sales declined *** percent over the period examined, while its unit cost of goods sold fluctuated within a narrow range, resulting in a significant increase in the ratio of Jarden's total cost of goods sold to net sales from *** percent in 2007 to *** percent in 2009. CR/PR at Tables VI-1-2. We recognize that the decline in the average unit value of Jarden's net sales resulted in part from a change in product mix over the period examined, as the share of Jarden's gross sales comprised of *** increased at the expense of ***. See id. at Table VI-3. Nevertheless, the decline in the average unit value of Jarden's net sales also reflects a decline in the average unit value of Jarden's gross sales of ***. See CR at V-5 n.11; PR at V-2 n.11; CR/PR at Tables V-1-3; see also Jarden's Responses to Commissioner Questions, at 2 (***). Moreover, Jarden's ***. Jarden's Responses to Commissioner Questions at 1-2; CR at Table VI-3.

¹²⁷ Jarden made a total of *** lost sales allegations, totaling \$***, and *** lost revenue allegations, totaling \$***. CR at V-15; PR at V-5.

¹²⁸ See ***.

subject imports, although not the most important consideration.¹²⁹ In e-mail correspondence between Jarden and ***,¹³⁰ ***, but acknowledged in an e-mail to Jarden that Jarden lost business to subject imports in part because it ***,¹³¹ ***,¹³² ***,¹³³ However, *** indicated in an e-mail to Jarden that ***,¹³⁴ ***,¹³⁵ *** subsequently switched to subject imports following the 2009 line review, after indicating in an e-mail to Jarden that ***,¹³⁶

In sum, we conclude that subject import price underselling was significant and that subject imports depressed prices for the domestic like product to a significant degree.

E. Impact of the Subject Imports¹³⁷

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.”¹³⁸ 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.”¹³⁹

The domestic industry’s performance declined significantly over the period examined according to most measures. Domestic industry production declined by *** percent, from *** units in 2007 to *** units in 2008 and *** units in 2009.¹⁴⁰ Domestic industry capacity, however, increased by *** percent, from *** units in 2007 to *** units in 2008 and 2009, due to efficiency gains and the reduction of

¹²⁹ CR at V-18; PR at V-6.

¹³⁰ Jarden’s Prehearing Br. at 21, Exhibit 1.

¹³¹ Jarden’s Prehearing Br. at 21; CR at V-18; PR at V-6.

¹³² This was Jarden’s largest lost sales allegation. CR/PR at Table V-7.

¹³³ CR at V-19; PR at V-6.

¹³⁴ Jarden’s Prehearing Br. at 21, Exhibit 2.

¹³⁵ CR at V-18; PR at V-6.

¹³⁶ Jarden’s Prehearing Br. at 21-22, Exhibit 3. *** appears to have been satisfied with Jarden’s performance in all other respects, ***. Id.

¹³⁷ In its final determination of sales at LTFV, Commerce found the following weighted-average dumping margins: 77.75 percent for Hung Kuo Electronic (Shenzhen) Co., Ltd., aka Ongain Electronic (Shenzhen), Ningbo V.K. Industry and Trading Co., Ltd., and Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd., and 174.85 percent for all others. CR/PR at Table I-1. Pursuant to 19 U.S.C. § 1677(35)(C)(ii), we consider the dumping margins most recently published by Commerce prior to the closing of the record in this investigation.

¹³⁸ 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.”)

¹³⁹ 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).

¹⁴⁰ CR/PR at Tables III-1, C-1.

production bottlenecks.¹⁴¹ The domestic industry's declining production drove down its rate of capacity utilization from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹⁴²

The domestic industry's declining production took a significant toll on employment, hours worked, and wages. Between 2007 and 2009, domestic industry employment declined by *** percent, from *** production related workers ("PRWs") in 2007 to *** PRWs in 2008 and *** PRWs in 2009, while hours worked declined by *** percent and wages paid declined by *** percent.¹⁴³ At the hearing, a witness for Jarden testified that Jarden was forced to lay off another 60 employees in early 2010.¹⁴⁴

The domestic industry's U.S. shipments increased from *** units in 2007 to *** units in 2008 before declining to *** units in 2009, a level *** percent below that in 2007.¹⁴⁵ The domestic industry's share of apparent U.S. consumption by quantity declined from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹⁴⁶

The domestic industry's net sales volume declined by *** percent over the period examined, increasing *** from *** units in 2007 to *** units in 2008 before declining to *** units in 2009.¹⁴⁷ Due to the *** percent decline in the average unit value of Jarden's net shipments over the period examined, the *** percent decline in the domestic industry's net sales volume (*i.e.*, gross sales less non-defective returns and buybacks) was exceeded by the *** percent decline in the domestic industry's net sales value, from \$*** in 2007 to \$*** in 2008 and \$*** in 2009.¹⁴⁸ The domestic industry's operating income declined from \$*** in 2007 to \$*** in 2008 to *** \$*** in 2009, while its operating profit margin declined from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹⁴⁹ Its return on investment declined ***, from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.¹⁵⁰

Based on the foregoing trends, we find a causal nexus between the domestic industry's deteriorating condition and subject imports. In a declining U.S. market, subject imports increased their market share by *** percentage points between 2007 and 2009 at the direct expense of the domestic industry, since there were virtually no nonsubject imports in the U.S. market during the period.¹⁵¹ Given the importance of price to purchasing decisions, and evidence that a succession of Jarden's major customers switched to subject imports due in large part to their lower price, the significant subject import price underselling we have found contributed significantly to the shift in market share from the domestic industry to subject imports. We have also found that subject imports depressed domestic like product prices for those sales retained by the domestic industry to a significant degree.¹⁵² By capturing significant

¹⁴¹ CR/PR at Tables III-1, C-1; CR at III-2; PR at III-1.

¹⁴² CR/PR at Table III-1.

¹⁴³ CR/PR at Tables III-5, C-1.

¹⁴⁴ Hearing Tr. at 20 (Sullivan).

¹⁴⁵ CR/PR at Tables IV-3, C-1.

¹⁴⁶ CR/PR at Table IV-4.

¹⁴⁷ CR/PR at Table VI-1, C-1.

¹⁴⁸ CR/PR at Tables VI-1, C-1.

¹⁴⁹ CR/PR at Table VI-1.

¹⁵⁰ CR/PR at Table VI-4. Capital expenditures and research and development expenditures also declined *** between 2007 and 2009, by *** percent and *** percent, respectively. CR/PR at Table VI-5. Domestic industry capital expenditures declined from \$*** in 2007 to \$*** in 2008 and \$*** in 2009, while domestic industry R&D expenses declined from \$*** in 2007 to \$*** in 2008 and \$*** in 2009. *Id.*

¹⁵¹ CR/PR at Table IV-5.

¹⁵² The structure of the U.S. WEB market, characterized by a relatively small number of large retail purchasers, amplified the price-depressing effect of subject imports. CR at II-1; PR at II-1. As Jarden lost one *** customer after another during the period examined, it came under increasing pressure to reduce its prices and offer more

(continued...)

market share from the domestic industry and significantly depressing domestic like product prices, subject imports had a significant adverse impact on the domestic industry over the period examined.

We have considered whether there are other factors that adversely impacted the domestic industry.¹⁵³ We recognize that the *** percent decline in apparent U.S. consumption between 2007 and 2009 has contributed to the domestic industry's deteriorating performance during that period.¹⁵⁴ In the preliminary phase of this investigation, respondents argued that WEB demand declined in part as increased sales of knit electric blankets cannibalized WEB sales, though Jarden disputed this claim.¹⁵⁵ The record of the final phase of the investigation shows that WEB demand declined as sales of knit electric blankets increased at the expense of sales of WEBs over the period examined, with WEBs' share of commercial U.S. shipments of WEBs and knit electric blankets combined declining from *** percent in 2007 to *** percent in 2009.¹⁵⁶ Notwithstanding the *** percent decline in apparent U.S. consumption of WEBs between 2007 and 2009, however, U.S. shipments of subject imports increased *** percent over the period, as subject imports captured *** percentage points of market share from the domestic industry.¹⁵⁷ Thus, most of the decline in Jarden's U.S. WEB shipments resulted from its loss of market share to subject imports and not the decline in WEB demand.¹⁵⁸

In the preliminary phase of this investigation, respondents also identified several non-price factors that in their view accounted for Jarden's declining performance over the period examined, arguing that subject imports offered superior quality and greater flexibility in terms of branding, for instance.¹⁵⁹

¹⁵² (...continued)

generous pricing incentive programs in a bid to retain its remaining customers. See Hearing Tr. at 25 (Fretwell) (“[W]e have either [had] to lower our base prices even more or offer more extensive pricing incentive programs”), 26 (“The loss of even one customer has the additional negative effect of increased product cost, the loss of production volume and the inability to absorb overhead income and further depress sales.”); Jarden Consumer Solutions Product Overview, Hearing Materials, June 29, 2010, at 2.

¹⁵³ We note that there were virtually no nonsubject imports in the U.S. market during the period examined. See CR/PR at Tables IV-2-3.

¹⁵⁴ See, e.g., Hearing Tr. at 43-44 (Kaplan) (testifying that “the recession was significant and particularly significant in the demographics that buy these products as discussed earlier, so I think in this case the recession had an effect that was larger than the increase in energy prices and you saw a modest decline in total consumption or maybe more than modest decline in total consumption in 2009”); 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 . . .”).

¹⁵⁵ See Biddeford's Postconference Br. at 9; Coalition's Postconference Br. at 9; Conference Tr. at 171 (Porter); but see Jarden's Prehearing Br. at 22-23; Conference Tr. at 53 (Pacheco).

¹⁵⁶ CR at II-15; PR at II-7-8; CR/PR at Figure II-4.

¹⁵⁷ CR/PR at Table IV-3.

¹⁵⁸ Had Jarden maintained the *** percent market share that it held in 2007 in 2009, its U.S. shipments would have been *** units in 2009, down from *** units in 2007, indicating that the decline in apparent U.S. consumption alone would have reduced Jarden's U.S. shipments by *** units. CR/PR at Tables IV-3-4. Jarden's loss of *** percentage points of market share to subject imports between 2007 and 2009 reduced its U.S. shipments to *** units in 2009, or *** units less than the *** units that Jarden would have shipped in 2009 had it not lost market share to subject imports. See id.

¹⁵⁹ See Preliminary Determination at 16-17; see also CR at II-17-18; PR at II-8-9; Conference Tr. at 138-142 (Hearn); Coalition's Postconference Br. at 8 n.33; Biddeford's Postconference Br. at 17-21, Exhibit 10.

Respondents also argued that Jarden's focus on Walmart 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

(continued...)

Jarden countered that the quality of its WEBs is comparable or superior to that of subject imports and that it has offered similar branding opportunities to its customers, including co-branding and private label brands.¹⁶⁰ In the final phase of this investigation, we have collected additional information on the non-price differences between subject imports and the domestic like product.¹⁶¹ As addressed in section IV.B.3. above, the vast majority of importers and purchasers reported that subject imports and the domestic like product are “always” interchangeable, and most purchasers reported that subject imports and the domestic like product are comparable in terms of packaging, product range, product consistency, quality, and return rates.¹⁶² With respect to “branding,” five purchasers reported that the domestic like product is superior to subject imports, five reported that the domestic like product is comparable, and only two reported that the domestic like product is inferior.¹⁶³ Other record evidence, however, indicates that most purchasers found non-price factors to be “always” or “frequently” significant to their purchasing decisions.¹⁶⁴ On balance, the record indicates that there is a moderate to high degree of substitutability between subject imports and the domestic like product notwithstanding the non-price factors cited by respondents in the preliminary phase of the investigation, and these factors do not detract from our conclusion that there is a causal nexus between subject imports and the material injury sustained by the domestic industry, particularly in light of the customer-specific evidence cited above showing price was the key factor in Jarden’s loss of several major accounts.¹⁶⁵

In sum, the record in the final phase of this investigation indicates that there was a causal nexus between subject imports and the deteriorating condition of the domestic industry over the period examined sufficient to establish that the domestic industry is materially injured by reason of subject imports.

¹⁵⁹ (...continued)

compete head-to-head with Walmart on price. Biddeford’s Postconference Br. at 21-22; Conference Tr. at 134-35 (Porter).

¹⁶⁰ See Preliminary Determination at 17; see also CR at II-18; PR at II-9; Jarden’s Postconference Br. at 9-11, Exhibit 2; Conference Tr. at 50-51 (Pacheco), 50-51 (Sullivan); Milliken’s Postconference Br. at 3-5; Jarden’s Prehearing Br. at 23-24; Hearing Tr. at 11 (Powers), 24 (Fretwell), 33-34 (Kaplan), 64 (Fretwell), 83-84 (Sullivan), 85 (Powers).

¹⁶¹ Respondents have not participated as parties and therefore provided no further arguments or evidence addressing the issue.

¹⁶² See CR/PR at Tables II-5-6.

¹⁶³ CR/PR at Table II-6. At the hearing, a witness for Jarden testified that “Sunbeam is a brand with over 97 percent consumer awareness.” Hearing Tr. at 24 (Fretwell). This evidence comports with evidence from the preliminary phase of the investigation that ***, and that Biddeford’s efforts to sell subject imported WEBs to Walmart failed in part because of Walmart’s preference for the Sunbeam brand. See Jarden’s Postconference Br., Exhibit 1-F, at 2; Conference Tr. at 158 (Porter).

¹⁶⁴ CR/PR at Table II-4; see also id. at Table II-3 (thirteen purchasers reported that “lowest price” was an important purchasing factor, but a greater number of purchasers reported that availability, delivery time, product consistency, quality meets industry standards, and reliability of supply were “very important” factors).

¹⁶⁵ Commissioner Pinkert finds that the second triggering factor required under Bratsk and Mittal -- that price-competitive, nonsubject imports are a significant factor in the U.S. market -- is not satisfied in this case because nonsubject imports are virtually absent from the U.S. market (the data on the record indicate a market share of no more than *** percent for such imports). CR/PR at Table IV-2. Consequently, he does not undertake to analyze how they would have responded had the subject imports exited the U.S. market during the period under examination.

CONCLUSION

For the foregoing reasons, and based on the record in the final phase of this investigation, we find that an industry in the United States is materially injured by reason of subject imports of WEBs from China sold in the United States at LTFV.

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 the Commission’s investigation (74 FR 32192, July 7, 2009)
July 27, 2009	Commerce’s notice of initiation (74 FR 37001)
August 14, 2009	Commission’s preliminary determination (74 FR 42323, August 21, 2009)
February 3, 2010	Commerce’s preliminary determination (75 FR 5567); scheduling of final phase of Commission investigation (75 FR 11557, March 11, 2010)
June 29, 2010	Commission’s hearing ¹
July 2, 2010	Commerce’s final determination (75 FR 38459)
July 28, 2010	Date of the Commission’s vote
August 10, 2010	Commission’s determination transmitted to Commerce

¹ A list of witnesses that appeared at the hearing may be found at 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.

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 since March 11, 2010 cited in the tabulation are presented in app. A.

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 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, 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. *Parts IV and V* present the volume of subject imports and pricing of domestic and imported products, respectively. *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. The leading U.S. importers of WEBs from China are ***. One company *** is known to have imported small quantities of WEBs into the United States from a source other than China (Hong Kong), but only in 2008. The single-largest purchaser of WEBs is Walmart.⁴

Apparent U.S. consumption of WEBs totaled approximately *** in 2009. Jarden’s U.S. shipments of WEBs totaled *** in 2009, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from China totaled 1.1 million units (\$37.5 million) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. There were no reported imports of WEBs from nonsubject sources in 2009.

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 2007-09). 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 SALES AT LTFV

On July 2, 2010, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from China.⁶ Table I-1 presents Commerce’s final dumping margins with respect to imports of WEBs from China.

³ Petition, p. 4.

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, the use of 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: Final Determination of Sales at Less Than Fair Value*, 75 FR 38459, July 2, 2010.

Table I-1

WEBs: Commerce’s final weighted-average LTFV margins with respect to imports from China

Exporter/Producer	Final dumping margin (ad valorem)
Hung Kuo Electronic (Shenzhen) Co., Ltd., aka Ongain Electronic (Shenzhen) Co., Ltd.	77.75%
Ningbo V.K. Industry and Trading Co., Ltd.	77.75%
Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd.	77.75%
All others	174.85%

Source: 75 FR 38459, July 2, 2010.

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 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. Table I-2 presents current tariff rates for WEBs.

⁷ Ibid.

Table I-2
WEBs: Tariff rates, 2010

HTS provision	Article description	General ¹	Special	Column 2 ²
		Rates (<i>ad valorem</i>)		
6301 6301.10.00	Blankets and traveling rugs: Electric blankets.....	11.4%	Free (BH, CA, CL, E*, IL, JO, MX, P, PE, SG) 1.1% (MA) 3% (AU) 6.8% (OM) (³)	77.5%
¹ Normal trade relations duty rate, formerly known as the most-favored-nation duty rate, applicable to imports from 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 (2010).				

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 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 situated under, the individual.¹³

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.

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 ***.

Manufacturing Process

The manufacturing process for WEBs can be divided into five distinct stages. The first stage of production involves weaving the blanket shell.¹⁴ The next stage involves napping the fabric to give it a soft texture. The third stage involves chemical treatment of the blanket shell to improve the appearance of the blanket's surface. The fourth stage involves insertion of the wire into the blanket shell. The final stage consists of blanket assembly and trim.

To construct the blanket shell, 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.

***¹⁵ ***¹⁶ ***.

***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 finished by sewing the edge and trim. Finally, the WEB is packaged in a bag 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.

In the preliminary phase of this investigation, the Commission defined a single domestic like product, comprised of WEBs as well as semi-finished and unassembled WEBs, coextensive with the scope of the investigation.¹⁹ The petitioner had argued for a coextensive domestic like product, whereas Chinese producer Hung Kuo Electronic (Shenzhen) Co., Ltd. ("Hung Kuo"), importer Biddeford Blankets, LLC ("Biddeford"), and the Ad Hoc Coalition of Blanket Importers ("the Coalition") contended that the domestic like product definition should be expanded beyond the scope of the investigation to include U.S.-produced electric mattress pads as well as knit electric blankets and other heated bedding products, on the basis 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

¹⁴ ***.

¹⁵ ***.

¹⁶ The fabric is not treated with flame retardant chemicals.

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

¹⁸ ***.

¹⁹ *Woven Electric Blankets from China, Investigation No. 731-TA-1163 (Preliminary)*, USITC Publication 4097, August 2009, p. 10.

distribution, are perceived as similar by customers and producers, and are priced “very similarly.”²⁰ After conducting its six domestic like product factors analysis, the Commission determined not to expand the domestic like product to include electric mattress pads because “a clear dividing line can be drawn separating WEBS from electric mattress pads.”²¹ The Commission also declined to include knit electric blankets and other heated bedding products in the domestic like product because, at least in the period covered by the preliminary phase of the investigation, there was no known U.S. production of such products.²² The Commission also applied a semi-finished product analysis to the question of whether fabric shells should be included in the domestic like product; it found that the evidence in the preliminary phase of the investigation did not support the inclusion of fabric shells within the domestic like product definition, but stated that it intended to revisit the issue in any final phase of the investigation.²³

Knit Electric Blankets

Respondents and several large importers, including ***, stated in questionnaire responses that knit electric blankets are substitutable for WEBS. Respondents have asserted that knit electric blankets compete directly with WEBS and that the trend in the domestic consumer market is moving toward knit electric blankets, estimating that the volume of knit electric blanket imports increased by *** percent during 2006-08.²⁴ Although during the preliminary phase of this investigation there was no known U.S. production of knit electric blankets, ***,²⁵ ***,²⁶

*** contends that the production process for knit fabric for use in electric blankets is *** than that for WEBS.²⁷ ***.

In addition, ***,²⁸ ***,²⁹

During the preliminary phase investigation, the Commission did not expand the domestic like product to include knit electric blankets and other heated bedding products that are not produced in the United States.³⁰ During the hearing for the final phase of the investigation, the Commission revisited the issue of whether to include knit electric blankets in the scope of the investigation.³¹ Representatives from Jarden reaffirmed that the products are made on different machines and have distinct production processes and therefore should not be considered like products.³²

²⁰ E.g., Hung Kuo/Biddeford’s postconference brief, pp. 4-8 and the Coalition’s postconference brief, p. 4.

²¹ *Woven Electric Blankets from China, Investigation No. 731-TA-1163 (Preliminary)*, USITC Publication 4097, August 2009, pp. 5-7.

²² *Ibid.*, pp. 5, 1-6.

²³ *Ibid.*, pp. 8-10.

²⁴ Respondent Biddeford’s postconference brief, p. 1.

²⁵ Hearing transcript, p. 20 (Sullivan) and ***. An e-mail from *** further explained ***, May 5, 2010.

²⁶ Hearing transcript, p. 20 (Sullivan).

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

²⁸ *** written submission to the USITC, July 27, 2009, p. 2.

²⁹ Filament yarn is spun using filament fibers. Filament fibers are fibers of an indefinite length, such as silk.

³⁰ *Woven Electric Blankets from China, Inv. No. 731-TA-1163 (Preliminary)*, USITC Publication 4097, August 2009, p. 5.

³¹ Hearing transcript, p. 40 (Pinkert).

³² Hearing transcript, pp. 42-43 (Powers) and (Sullivan).

Woven Shells

In addition to the information collected by Commission staff on knit electric blankets during the conference, staff also requested that counsel to Jarden comment on the possible inclusion of woven fabric shells in the definition of the domestic like product. In reply, counsel stated that Jarden was not requesting that such fabric shells be included in the definition.³³

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, whereas 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, and also lack 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 as “substantial.”³⁴

During the preliminary phase of the investigation, the Commission found that while all fabric shells are used in the production of WEBs, have no separate market, and represent a large portion of the cost of WEBs, there are differences in the characteristics and functions of the two products, and woven shells undergo a significant transformation to become WEBs. On balance, the Commission found that the evidence in the preliminary phase investigation did not support the inclusion of fabric shells within the domestic like product definition, but expressed an intention to revisit this issue during the final phase of the investigation.³⁵

In the final phase, *** woven fabric shells undergo significant transformation to become WEBs, there are no other markets for woven shells aside from use as a material in the production of WEBs, and that woven shells do not have independent uses aside from WEB production.³⁶

Electric Mattress Pads

Respondents argued during the preliminary phase of this investigation that electric mattress pads and WEBs have similar physical characteristics and uses; are made in common manufacturing facilities with common production processes; are interchangeable; are perceived by customers and producers to be comparable; share channels of distribution; and are priced similarly by producers, importers, and retailers.³⁷

The petitioner emphasized that while electric mattress pads and WEBs share channels of distribution, the two products differ in each of the other five of the Commission’s domestic like product factors. Jarden asserted that electric mattress pads have a different look and feel than WEBs, leading to distinct consumer and producer perceptions of the two products, and that prices are higher for electric

³³ Conference transcript, p. 58 (von Schrlitz) and (Altschuler).

³⁴ Petitioner’s postconference brief, exh. 1, pp. 1-4.

³⁵ *Woven Electric Blankets from China, Investigation No. 731-TA-1163 (Preliminary)*, USITC Publication 4097, August 2009, p. 10.

³⁶ ***.

³⁷ *Woven Electric Blankets from China, Investigation No. 731-TA-1163 (Preliminary)*, USITC Publication 4097, August 2009, pp. I-6-9.

mattress pads.³⁸ In addition, while there is domestic production of both electric mattress pads and WEBs, Jarden and *** make the products with different equipment, different employees, and in separate locations.³⁹ Jarden contended that for locations other than a bed, the two products are not interchangeable; while WEBs can be used anywhere near an electrical outlet, electric mattress pads are solely designed for warming while affixed to a mattress.⁴⁰

During the preliminary phase of the investigation, the Commission found that while electric mattress pads and WEBs appear to share some physical characteristics and uses, there are more differences than similarities between the two products, constituting a “clear dividing line” between them.⁴¹ Therefore, the Commission did not expand the domestic like product definition beyond the scope of the investigation to encompass electric mattress pads.⁴²

³⁸ Ibid., p. I-4.

³⁹ Ibid., p. I-7.

⁴⁰ Ibid., p. I-6.

⁴¹ Ibid., p. 7.

⁴² Ibid., p. 7.

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, peaking during the winter holidays.² Inventory levels vary substantially over the year as WEBs are manufactured year-round for sale in the fall and winter.³ The U.S. market for WEBs is characterized by a relatively small number of large retail customers.⁴

CHANNELS OF DISTRIBUTION

Jarden reported that it sells virtually all of its WEBs directly to retailers.⁵ U.S. importers of Chinese WEBs either sell imported Chinese WEBs to retailers or are retailers that import Chinese WEBs directly (table II-1). Imports for sale to retailers accounted for the vast majority of imported Chinese WEBs during 2007-08, but were overtaken by direct imports by retailers in 2009, as direct imports by retailers increased by more than 80 percent in 2009.⁶ Four responding importers sold only to distributors, four sold only to end users, and one sold through both channels of distribution.

Table II-1

WEBs: U.S. importers' U.S. shipments of WEBs from China, by channels of distribution, 2007-09

Item	Period		
	2007	2008	2009
	Share of reported U.S. shipments (<i>percent</i>)		
Imports for sale to retailers	76.4	83.5	45.1
Direct imports by retailers	23.6	16.6	54.9

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

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

² Jarden's prehearing brief, p. 8.

³ Ibid., p. 8.

⁴ Jarden's prehearing brief, pp. 7-8. Biddeford's postconference brief, p. 22. Hearing transcript, p. 21 (Fretwell) and pp. 30 and 32 (Kaplan).

⁵ Hearing transcript, p. 21 (Fretwell).

⁶ The substantial increase in direct imports by retailers was largely the result of ***.

U.S. PURCHASERS

Eighteen purchasers reported usable WEB questionnaire information to the Commission.⁷ Seventeen of the 18 responding firms reported that they were retailers.⁸ Reported purchase and direct import quantities of the responding firms accounted for 93.6 percent of apparent U.S. consumption in 2009. The five largest responding purchasers in 2009 were ***.⁹

Figure II-1

WEBS: Top five responding U.S. purchasers' reported yearly purchases of WEBS, by purchaser, by source, 2007-09

* * * * *

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 from *** units in 2007 to *** units in 2009.¹⁰ At the same time, Jarden's capacity utilization decreased steadily from *** percent in 2007 to *** percent in 2009, as Jarden's production fell by *** percent from *** units in 2007 to *** units in 2009. Jarden's high level of *** in 2009 indicates that it *** in response to changes in U.S. demand.

Alternative markets

Between 2007 and 2009, Jarden's exports of WEBS increased from *** percent of its shipments in 2007 to *** percent in 2009. At these levels, Jarden ***. Jarden exported 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 ratio to its total shipments fluctuated,

⁷ *** reported that it did not purchase WEBS. *** reported that it purchased knit electric blankets, but no WEBS during 2007-09.

⁸ ***.

⁹ Mark Sullivan of Jarden testified that it is unlikely that the number of retail purchasers will increase in the near future. However, he has seen other general merchandise channels, such as drug and grocery stores, offering more general merchandise product categories, so there may be more outlets for products such as WEBS in the future. Mr. Sullivan also noted that online outlets are small, but fast-growing outlets for WEBS. Hearing transcript, p. 82.

¹⁰ Jarden maintains that the increase in its capacity was due to de-bottlenecking and equipment reworking. Hearing transcript, p. 36 (Kaplan).

decreasing from *** percent of total shipments in 2007 to *** percent in 2008, then increasing to *** percent in 2009. These levels of inventories suggest that Jarden *** in response to changes in demand.

Production alternatives

Jarden reported that ***.¹¹

Supply constraints

Jarden reported that ***.¹² At the Commission hearing, Jarden testified that it has no knowledge of any instance when it was unable to ship a major customer order, although Jarden acknowledged that there have been instances when a shipment was late or missing product.¹³

Subject Imports from China

Based on available information, Chinese producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of WEBs to the U.S. market. Chinese producers have demonstrated the ability to rapidly increase WEB production capacity and production in the short run. Available information also indicates that Chinese producers have the ability to switch between production of WEBs and production of other products. However, Chinese producers' supply response is limited by their ***.

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 2009, provided useable data in their foreign producer questionnaire responses.¹⁴ Reported Chinese capacity increased from *** units in 2007 to *** units in 2009. Chinese capacity utilization also increased, from *** percent in 2007 to *** percent in 2009, as Chinese production increased by *** percent over the period. Available data indicate that Chinese producers have the ability to *** increase WEB production capacity in the short run (a *** percent increase in 2009). However, Chinese producers' supply response is limited by their ***.

¹¹ ***. Mark Sullivan of Jarden testified that most of Jarden's equipment is specifically designed for and dedicated to producing WEBs. Hearing transcript, p. 20 (Sullivan).

¹² 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).

¹³ Hearing transcript, pp. 89-90 (Fretwell).

¹⁴ In the preliminary phase of the investigations, one Chinese firm certified that it had not produced or exported WEBs since January 1, 2006; it did not respond in the final phase. The Commission did not receive information from the only other known Chinese suppliers of WEBs to the United States, ***. For more information concerning the WEB industry in China, see Part VII of this report.

Alternative markets

The responding Chinese producers' WEB exports to the United States increased by *** percent during 2007-09, ***, ***, as Chinese exports to the United States accounted for ***.¹⁵

Inventory levels

Reported Chinese end-of-period WEB inventory levels *** during the period. Year-end Chinese inventories were equivalent to *** percent of Chinese total shipments during 2007-09.

Production alternatives

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

Supply constraints

U.S. importers of Chinese WEBs were asked if they have ever refused, declined, or been unable to supply WEBs since January 1, 2007. Thirteen of fourteen responding importers answered "no." The one importer that answered "yes" (***) reported that it "declines to accept the risk of potential increased AD duties and is moving to a substitutable product."

Nonsubject Imports

There is no publicly available information regarding nonsubject-country production or exports of WEBs during the period for which data were collected. There is limited aggregate information available, however, on electric blankets (woven, knit, and other non-woven blankets combined). According to Global Trade Atlas statistics, the largest global exporters of electric blankets in 2009 were China (69 percent of total exports by value), the Czech Republic (13 percent), the United States (5 percent), and Indonesia (4 percent).

In addition, five purchasers reported some production of WEBs in the Philippines (the only nonsubject source reported by purchasers). For example, *** reported that it was planning to purchase WEBs from the Philippines in 2010, "in order to avoid potential risk of retroactive application of high AD duties." 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.

¹⁵ Jarden reports that, based on market studies obtained by Jarden, Chinese production and exports of electric blankets (WEBs and non-woven electric blankets) increased in every year over the last few years. A study by the China Beijing Mai Luo International Economic Information Center shows that the Chinese industry exported more than 8.6 million units in 2008, which is almost *** of the U.S. market in 2008. Jarden's prehearing brief, pp. 26-27 and exhibit 8.

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.¹⁶ 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.¹⁷

As shown in figure II-2, monthly prices of residential home heating oil increased during the winter heating seasons in 2007 and the first quarter of 2008, fell during the last quarter of 2008 and the first quarter of 2009, then increased during the fourth quarter of 2009 and the first quarter of 2010. As shown in figure II-3, average temperatures during December 2009-February 2010 were below normal or much below normal for much of the country, particularly the Southeast, Southwest, and Midwest. At the same time, average temperatures were above normal in some Northeast and Northwestern states. ***.¹⁸

Business Cycles

Jarden maintains that the income effect of the recession (declining income) has been greater than 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.¹⁹ Jarden also maintains that the recession has exacerbated retailers' shift to lower-priced imports.²⁰ In the preliminary phase of the investigation, respondents reported that the economic downturn had reduced demand both because it reduced consumers' demand and because retailers were maintaining lower inventories, which also led to some loss of sales.²¹

Jarden reported that WEBs were subject to distinctive conditions of competition including ***. Eleven of 15 responding importers reported that WEBs were subject to distinctive conditions of competition, including seasonal demand and the impact of heating costs on demand. Six of 12 responding importers reported that conditions of competition had changed since 2007, citing changes in weather; entry of new manufacturers; increased competition from knit electric blankets and electric mattress pads; and retail stores closing outlets, which reduced available shelf space. Eight of 18 responding purchasers reported that WEBs were subject to distinctive conditions of competition such as seasonal and weather-related demand.

Apparent Consumption

Available data indicate that apparent U.S. consumption of WEBs fell over the period. Apparent U.S. consumption of WEBs increased ***, by *** percent, from *** units in 2007 to *** units in 2008, before falling by *** percent to *** units in 2009. Overall, apparent U.S. consumption of WEBs was *** percent lower in 2009 than it was in 2007.

¹⁶ Hearing transcript, pp. 12 and 61-62 (Powers and Kaplan).

¹⁷ Hearing transcript, pp. 21-22 (Fretwell) and p. 31 (Kaplan).

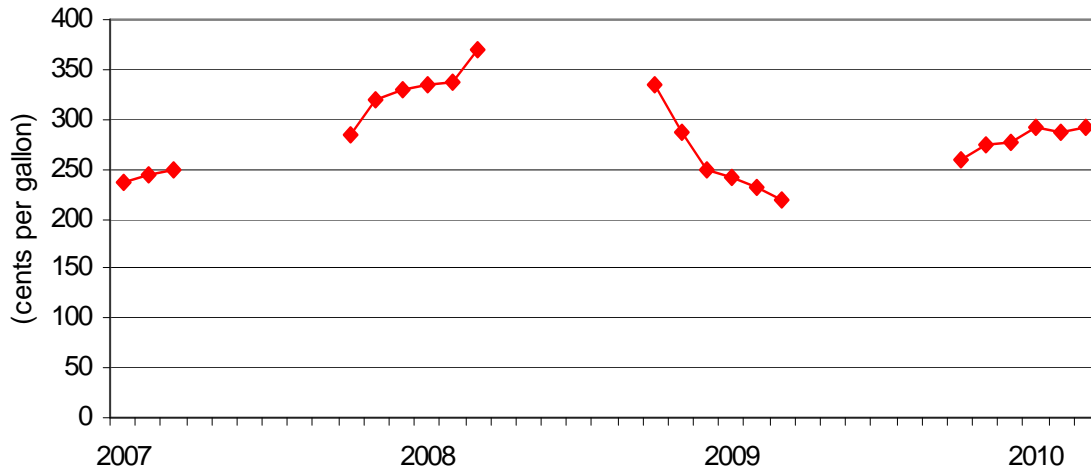
¹⁸ Petitioner's postconference brief, exhibit 1-F.

¹⁹ Hearing transcript, pp. 43-44 (Kaplan).

²⁰ Hearing transcript, p. 72 (Powers).

²¹ Conference transcript, p. 176 (Layton).

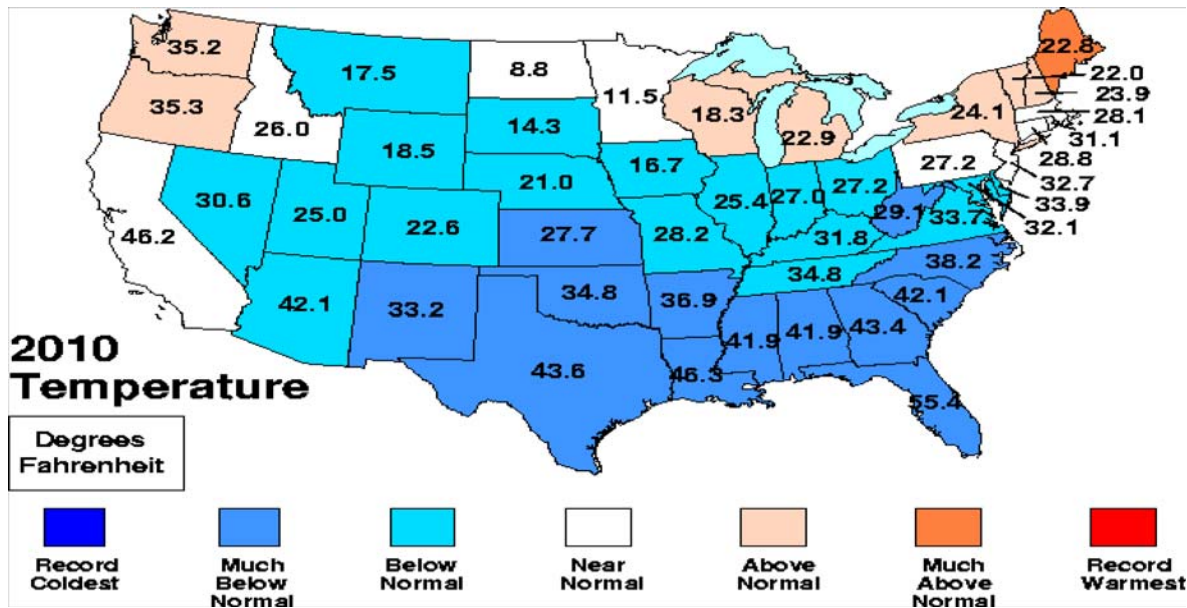
Figure II-2
WEBS: U.S. No. 2 heating oil residential prices, by month, January 2007-March 2010



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.

Figure II-3
WEBS: Average temperatures, by state, December 2009-February 2010



Source: U.S. Department of Commerce, NOAA.

S

Demand Trends

*** 5 of the 16 responding importers reported that demand for WEBs had fluctuated since 2007, 4 importers reported that demand had increased, 1 importer reported that demand had decreased, and 6 importers reported that demand was unchanged. Most firms reporting that demand had increased reported that consumers had bought WEBs to save money on heating costs. Firms reporting fluctuating or declining demand cited changes in the weather and heating oil costs, competition from substitute products, retail distributors consolidating or closing store outlets, and the fact that the market for WEBs was a mature market.²²

When asked how purchasing patterns had changed between the second half of 2008 and the second half of 2009, *** 8 of the 13 responding purchasers reported no change.²³ Three purchasers reported that purchases increased due to colder weather and an increased number of stores, and two reported that purchases decreased due to the popularity of knit electric blankets and the recession.

When asked how demand outside the United States had changed since 2007, four importers reported that it was unchanged, two reported that it had decreased, and one reported that it had increased.²⁴ A reason cited for decreased demand was the increased use of substitute products.

Substitute Products

Jarden, 6 of 15 responding importers, and 11 of 18 responding purchasers reported substitutes for WEBs. Jarden reported that ***. Ten purchasers and six importers listed knitted electric blankets as substitutes. Other substitutes listed were thermal weave and fleece electric blankets, electric mattress pads, and non-electric blankets and throws. One of seven responding importers reported that the price of substitute products affects the price of WEBs. Three purchasers reported that changes in the prices of knit electric blankets affected the prices of WEBs. *** reported that increased production has reduced the prices for knit electric blankets, and in turn exerted downward price pressure on WEBs. *** switching from WEBs to knit electric blankets due to cost and retail considerations.

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.²⁵

When asked how demand had been affected by the availability of knit electric blankets, ***, 6 of 13 responding importers, and 11 of 14 responding purchasers reported that demand was unchanged. Three purchasers and five importers reported that demand for WEBs had decreased as a result of the availability of knit electric blankets.²⁶

Figure II-4 shows commercial U.S. shipments of domestic and imported Chinese WEBs, and imported knit electric blankets (quantity basis) during 2007-09. WEBs' share of commercial U.S. shipments of WEBs and knit electric blankets combined fell from *** percent in 2007 to *** percent in 2009. Correspondingly, knit electric blankets' share increased from *** percent in 2007 to *** percent in 2009. These data indicate that sales of knit electric blankets have taken market share from sales of

²² ***. Petitioner's postconference brief, exhibit 1-F.

²³ Importers were not asked this question.

²⁴ Neither Jarden nor any of the purchasers answered this question.

²⁵ Conference transcript, pp. 171, 175-176 (Porter). Biddeford's postconference brief, p. 14.

²⁶ In addition, one importer reported that demand fluctuated and one importer reported that demand increased due to the availability of knit electric blankets.

WEBs during 2007-09.²⁷ However, the data also indicate that sales of imported Chinese WEBs took market share from sales of domestic WEBs.

Cost Share

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

Figure II-4
WEBs: Commercial U.S. shipments of U.S.-produced and imported Chinese WEBs and imported knit electric blankets, 2007-09

* * * * *

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported WEBs depends upon such factors as relative prices, quality (e.g., fabric size, weight, blend, and thread count; wiring controls; and return rates), 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, reliability of supply, payment terms, and product service). 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.²⁸ Jarden acknowledges that price is not the sole factor considered by purchasers, but maintains that price is now the most important factor.²⁹ 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 Walmart, but insists that all retailers carry the same range of Sunbeam-branded WEBs. As a result, other retailers such as J.C. Penney and Target would have to compete with Walmart almost exclusively on the basis of price if they wanted to carry Jarden's WEBs.³⁰ Respondents maintain that imported Chinese WEBs allow retailers to differentiate their WEB products from Walmart'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.^{31 32} J.C. Penney maintains that Biddeford offers higher quality WEBs than Jarden, higher thread counts, different fiber contents offering

²⁷ ***.

²⁸ Jarden's prehearing brief, pp. 6-7.

²⁹ Conference transcript, p. 34 (S. Kaplan).

³⁰ Conference transcript, pp. 134-135 and 159-160 (Porter).

³¹ Conference transcript, p. 135 (Porter).

³² Jarden acknowledges that, traditionally, the brand of a product has been a key factor in almost any consumer purchase because it reinforces the performance and safety of the product. Jarden noted that, at the beginning of the investigation period, Jarden was still able to command a premium because of its brand name. However, Jarden maintains that, now, the low price of the imported Chinese WEBs has made brand name recognition of little importance. Hearing transcript, pp. 24 and 50-51 (Fretwell). Alternatively, later in the hearing Jarden stated that "...brand is an important part of the consumer purchase." Hearing transcript, p. 122 (Fretwell).

a better feel, and larger blankets, and that Biddeford’s product has lower return rates.³³ Other differences reported by respondents include longer warranties, a greater number of settings on the controller, longer electric cords, larger bindings, sewing around three edges, thinner wires, and the availability of jacquard weaving.^{34 35}

Jarden *** contest respondents’ arguments concerning the importance of non-price factors. Jarden reports that it has offered co-branding and private brands to retailers who request different branding. For example, Jarden has offered ***.³⁶ Jarden reported that it offers WEBs in 15 different colors, with four different fabric choices, five different edge treatments, and eight different controller choices.³⁷ Jarden also maintains that, because its WEBs are produced using its patented auto wire machines, its WEBs have fewer manufacturing defects and wider, more consistent heating areas.³⁸ ***.

Table II-2 summarizes purchasers’ responses concerning the top three factors in their purchase decisions. Quality was most frequently listed as the most important factor. Price was reported to be one of the top three factors by all 18 responding purchasers, and was most frequently listed as the second most important factor.

Table II-2
WEBs: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Quality	12	2	2
Price/cost	3	11	4
Reliability of supply	2	2	0
Delivery	1	0	1
Brand	0	3	2
Vendor partnership	0	0	2
Other ¹	0	0	6

¹ Other factors include availability, incentives, channel of distribution, negotiated agreements, service/execution, and meets/exceeds customer expectations.

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

Purchasers listed the following factors when determining the quality of WEBs: fabric, softness, blends, weaving quality, weight and size of blanket, consistent heating, durability, washability, safety, packaging, wiring, controls, return rates, and customer satisfaction.

³³ Conference transcript, pp. 137-141 (Hearn).

³⁴ Conference transcript, pp. 130-131 (Porter).

³⁵ 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).

³⁶ Jarden’s prehearing brief, pp. 23-24. Hearing transcript, p. 27 (Fretwell).

³⁷ Hearing transcript, pp. 27, 63-64, and 99 (Fretwell).

³⁸ Ibid., pp. 28 and 62 (Fretwell).

Purchasers were asked to rate the importance of 18 factors in their purchasing decisions (table II-3). All responding purchasers reported that “reliability of supply” was very important. Other factors reported by most purchasers to be very important were availability, product consistency, and quality meets industry standards (17 firms); delivery time (14); lowest price (13); return rates (11); and delivery terms, discounts offered, and quality exceeds industry standards (9).

Table II-3

WEBs: Importance of purchasing factors, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	17	0	1
Branding	7	5	6
Delivery terms	9	9	0
Delivery time	14	4	0
Discounts offered	9	6	3
Extension of credit	2	5	11
Incentive programs	5	6	7
Minimum quantity requirements	3	4	11
Packaging	9	8	1
Lowest price	13	5	0
Product range	6	10	2
Product consistency	17	1	0
Quality meets industry standards	17	1	0
Quality exceeds industry standards	9	6	2
Reliability of supply	18	0	0
Return rates	11	7	0
Technical support/service	4	13	1
U.S. transportation costs	4	8	6

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

Eleven of 18 responding purchasers reported that they required suppliers to be or to become qualified or certified to sell to their firm. Most firms that reported a time period for qualification reported that it took 30 days, although one firm reported that it could take as little as 3 days, one firm reported that it could take as long as 60 days, and two firms reported that qualification is “ongoing.” Purchasers’ qualification procedure may include an assessment of suppliers’ ability to meet quality standards, specifications, and UL certification; ability to supply needed volume and meet delivery requirements; and an evaluation of the supplier’s financial history.

Purchasers’ responses concerning how often they or their customers make purchasing decisions for WEBs based on the country of origin and producer are shown in the following tabulation.

Purchaser/customer decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on country of origin	5	2	0	1
Purchaser makes decision based on producer	4	2	2	0
Purchaser's customers make decision based on country of origin	5	7	4	5
Purchaser's customers makes decision based on producer	2	9	12	11

Purchasers were also asked if they or their customers ever specifically order WEBs from one country in particular over other possible sources of supply. Three of 18 responding purchasers responded affirmatively. One of these, ***, reported that it prefers U.S.-produced product; one, ***, reported shifting to Philippine suppliers; and one, ***, reported that Chinese product was its only option.³⁹

Asked if certain grades, forms, or types of WEBs were available only from a single source, 16 purchasers reported “no” and 2 reported “yes.” Reported product differences include size, construction, technology of electric components, quality, brand names, and range of color and pattern.

When asked how often they purchase the lowest priced WEBs, three purchasers responded “always,” four responded “usually,” eight responded “sometimes,” and three responded “never.” Ten purchasers reported buying WEBs from one source although a comparable product was available at a lower price from another source. Specifically, ***, and other firms reported purchasing higher priced WEBs because of branding, private labels, quality, availability, and reliability.

Jarden reported that *** of its sales were ***, with lead times of *** days.⁴⁰ Eight of 13 responding importers reported selling all of their WEBs from inventories, while 5 reported selling all of their WEBs produced to order. Importers’ reported lead times from inventories ranged from 2 to 45 days, while reported lead times for made-to-order products ranged from 60 to 180 days.⁴¹

Producers, importers, and purchasers were requested to provide information regarding the significance of differences other than price for domestic, subject, and nonsubject WEBs (table II-4). *** reported that there were never differences other than price for all country pairs. Most responding importers and purchasers reported that there were always or frequently differences other than price between U.S. and Chinese product and U.S. and nonsubject-country product. Most importers reported that there were sometimes or never differences other than price between Chinese and nonsubject-country product, while one purchaser reported there were never differences other than price between Chinese and nonsubject-country product and one reported frequent differences. Reported differences include that China and the Philippines have advantages in product range, features, and the ability to respond quickly to trends in WEBs product design; the U.S. manufacturer base is very small and is reluctant to innovate and offer broader product lines with advanced features and benefits; quality and ability to meet mandatory specifications and delivery requirements; the U.S. manufacturer offers the Sunbeam brand, but Biddeford offers both the Biddeford brand or private label; Sunbeam could not provide the higher picks (tighter

³⁹ Jarden maintained that purchasers can reduce costs (e.g., logistical, multiple points of contact, and negotiation process costs) by sole-sourcing WEBs. Jarden stated that there aren’t any disadvantages to maintaining a single source, as long as the purchaser monitors the marketplace. Hearing transcript, p. 92 (Powers).

⁴⁰ ***.

⁴¹ 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 ***. 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.

weave) or range of fabrics requested; Biddeford has the license to use the Sealy trademark; differences in hand (feel), thread count, size, satin binding, and wire thickness; differences in customer return rates; differences in packaging; and differences in purchasing flexibility.

Table II-4

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				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	3	3	2	2	5	3	2	3
U.S. vs. nonsubject countries	***	***	***	***	2	1	1	1	1	1	0	0
China vs. nonsubject countries	***	***	***	***	1	1	1	2	0	1	0	1

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

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

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

Producers, importers, and purchasers 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-5). *** most importers and purchasers responded that WEBS from each of the different country sources were always interchangeable. Specifically, 8 of 10 responding importers and 10 of 12 responding purchasers reported that U.S. product and that from China could always be used interchangeably. Differences reported by importers include that *** blankets have enhanced safety features and correspondingly 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. One importer reported that the WEBS from the United States, China, and nonsubject countries sometimes can be used interchangeably, but different product ranges, more frequently updated features, and limits on flexibility and quick response reduced interchangeability.

*** WEBS had been subject to a recall notice or other safety issue since January 1, 2007.⁴² However, Chinese WEBS imported by Bilt-Safe Technologies were subject to a recall notice on December 29, 2008.⁴³ 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, 2007.⁴⁴

⁴² 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.

⁴³ Bilt-Safe Technologies is no longer in business. CPSC, “CPSC, Bilt-Safe Technologies Announce Recall of Electric Blankets,” December 29, 2008.

⁴⁴ CPSC, “International Home Fashions and Bilt-Safe Technologies Recall “Classic Beautyrest” Electric Throws Due to Fire Hazard,” August 15, 2007.

Table II-5

WEBS: Perceived interchangeability between product 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				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	8	1	1	0	10	1	0	1
U.S. vs. nonsubject countries	***	***	***	***	3	1	1	0	5	1	0	0
China vs. nonsubject countries	***	***	***	***	3	1	1	0	5	1	0	0

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

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

Purchasers were asked to compare U.S.-produced WEBS, those produced in China, and those produced in nonsubject countries with respect to 18 different attributes (table II-6). Of the 12 firms that compared U.S. and Chinese product, a majority reported that the products were comparable for all factors except for delivery terms and delivery time (half the purchasers reported that U.S. and Chinese WEBS were comparable), branding (five purchasers reported that U.S. product was superior and five reported that U.S. and Chinese product were comparable), and lowest price (most responding purchasers reported that the U.S. product was inferior (i.e., higher in price)).

Two purchasers compared U.S. and nonsubject-country WEBS. One of the responding firms reported that the U.S.-produced and nonsubject WEBS were comparable for all factors except delivery time and lowest price, while the other reported that U.S. and nonsubject WEBS were comparable in terms of availability, product range, and quality meets industry standards; superior in terms of technical support/service; and inferior with respect to all other factors. Two firms compared Chinese and nonsubject product with respect to the 18 factors, reporting that they were comparable in all factors.

When asked how often U.S.-produced WEBS meet their firm’s minimum quality specifications, five purchasers reported “always,” four reported “usually,” two reported “sometimes,” and four reported “never” (table II-7). Fifteen of 17 responding purchasers reported that the Chinese product “always” or “usually” meets their minimum quality specifications.

Table II-6

WEBs: Comparisons between U.S.-produced, subject Chinese, and nonsubject-country products, as reported by U.S. purchasers

Factor	Number of firms reporting ¹								
	U.S. vs. China			U.S. vs. nonsubject			China vs. nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	2	9	1	0	2	0	0	2	0
Branding	5	5	2	0	1	1	0	2	0
Delivery terms	4	6	2	0	0	2	0	2	0
Delivery time	4	6	2	0	1	1	0	2	0
Discounts offered	0	9	2	0	1	1	0	2	0
Extension of credit	0	9	1	0	1	0	0	1	0
Incentive programs	0	7	3	0	1	0	0	1	0
Minimum quantity requirements	0	10	0	0	1	0	0	1	0
Packaging	2	7	3	0	1	1	0	2	0
Lowest price ²	0	5	6	0	0	2	0	2	0
Product range	1	9	2	0	2	0	0	2	0
Product consistency	2	8	2	0	1	1	0	2	0
Quality meets industry standards	1	8	3	0	2	0	0	2	0
Quality exceeds industry standards	2	7	3	0	1	1	0	1	0
Reliability of supply	1	8	2	0	1	1	0	2	0
Return rates	1	8	2	0	1	1	0	2	0
Technical support/service	3	8	0	1	1	0	0	2	0
U.S. transportation costs ²	3	6	1	0	1	0	0	1	0

¹ Not all purchasers responded for all factors.

² A rating of superior means that the price or U.S. transportation costs are generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price and/or U.S. transportation costs as generally lower than the other country's price and/or U.S. transportation costs.

Note.—S = Superior, C = Comparable, I = Inferior.

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

Table II-7

WEBS: Ability to meet minimum quality specifications, by source

Country	Number of firms reporting ¹			
	Always	Usually	Sometimes	Never
United States	5	4	2	4
China	9	6	1	1
Philippines	1	2	0	0

¹ Purchasers were asked how often domestically produced or imported WEBS meet their firm's minimum quality specifications.

Source: Compiled from responses to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Party comments on these estimates and staff responses to these comments are included in this section.

U.S. Supply Elasticity⁴⁵

The domestic supply elasticity for WEBS measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of WEBS. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced WEBS. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to *** increase or decrease shipments to the U.S. market in response to a change in market demand; an estimate in the range of 5 to 10 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for WEBS measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of WEBS. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products. The availability of substitute products and evidence that sales of knit electric blankets have taken market share from WEBS suggests a more elastic demand elasticity. However, purchaser responses generally indicated that demand for WEBS was not affected by the availability of knit electric blankets. In addition, most purchasers indicated that WEB prices were not affected by prices for substitute products. On balance, it is likely that the aggregate demand for WEBS is moderately inelastic, with values ranging from -0.5 to -1.0.

Jarden did not comment specifically on staff's demand elasticity estimate range, but characterized demand as being "relatively inelastic."⁴⁶

⁴⁵ A supply function is not defined in the case of a non-competitive market.

⁴⁶ Hearing transcript, p. 38 (Kaplan).

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.⁴⁷ Product differentiation, in turn, depends upon such factors as quality (e.g., fabric size, weight, blend, and thread count; wiring controls; and return rates) 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, reliability of supply, payment terms, and product services). Based on available information, staff believes that there is a moderate to high degree of substitution between domestic and imported Chinese WEBS; an estimate in the range of 2 to 5 is suggested.

Jarden contends that the importance of price is further evidenced by the effect of *** on market share in 2009. Jarden maintains that this is consistent with a high degree of substitutability between domestic and subject WEBS. Because of this evidence, Jarden believes the estimated range of the substitution elasticity between domestic and subject WEBS should be increased from 3 {sic} to 5 to a higher range of 4 to 7.⁴⁸

The information indicating that Jarden also offers co-branding and private labels to retailers suggests that branding is not as differentiating a factor as initially believed. However, domestic and imported Chinese WEBS are still often differentiated by the particular brand names offered (e.g., Sunbeam vs. Sealy). Additionally, available evidence indicates that domestic and imported Chinese WEBS are still differentiated, to some extent, by differences in fabric blends and weights, wiring, controls, return rates, customer service, product range, and delivery times. Based on these factors, staff has increased the lower bound estimate to 3, and believes that an elasticity of substitution estimate range of 3 to 5 is appropriate.

⁴⁷ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

⁴⁸ Jarden's prehearing brief, p. 7.

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 margin of dumping was presented earlier in this report and information on the volume of imports of the subject merchandise is presented in *Part IV*. Information on the pricing of domestic and imported subject products is presented in *Part 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 6 U.S. companies identified in the petition and through independent research.¹ Out of these companies, Jarden provided useable data and *** certified that they had not produced WEBs since January 1, 2007.²

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 was until recently dedicated exclusively to the production of electrical heated bedding.³

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Production of WEBs and capacity utilization both decreased during the period for which data were collected, while capacity increased. The decrease in production in 2009 can be attributed to Jarden's facility ***. The capacity increases during the period for which data were collected 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 *** and *** the level of apparent consumption in ***.

Jarden identified *** as constraints that limit the company's production capacity and ability to switch between products. ***.⁵ Examples of differences in the production process of WEBs and knit electric blankets include napping, wiring, and finishing processes.⁶ Jarden's capacity, production, and capacity utilization data for WEBs are presented in table III-1.

¹ The six U.S. companies to whom producer questionnaires were sent were E&E Co. Ltd. ("E&E"), Jarden, Milliken and Company ("Milliken") Perfect Fit Industries ("Perfect Fit"), Sealy Corporation ("Sealy"), and Westpoint Home, Inc. ("Westpoint").

² *** reported production of fabric shells used in the production of WEBs. ***.

³ Presentation from Jarden plant visits, July 9, 2009 and April 29, 2010. Jarden has recently begun producing knit electric blankets and fans at its Waynesboro facility in addition to the company's WEB production. Hearing transcript, p. 13 (Powers).

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

⁵ Jarden's producer questionnaire response, sections II-2 through II-5. E-mail from ***, May 12, 2010.

⁶ Hearing transcript, pp. 42-43 (Sullivan).

Table III-1

WEBS: Jarden's capacity, production, and capacity utilization, 2007-09

* * * * *

U.S. PRODUCER'S SHIPMENTS

Data on Jarden's shipments of WEBS are presented in table III-2. Jarden's commercial shipments to both the domestic market and the export market decreased during the period for which data were collected. Average unit values of commercial shipments also decreased during this period. Jarden reported *** internal consumption or transfers to related firms located in the United States.

Table III-2

WEBS: Jarden's shipments, by types, 2007-09

* * * * *

U.S. PRODUCER'S INVENTORIES

End-of-period inventories for WEBS decreased in absolute terms during the period for which data were collected, but increased as a share of production and shipments. The *** decrease in U.S. production and shipments resulted in an increase in the ratios of inventories to production and shipments. Data on end-of-period inventories of WEBS during the period for which data were collected are presented in table III-3.

Table III-3

WEBS: Jarden's end-of-period inventories, 2007-09

* * * * *

U.S. PRODUCER'S IMPORTS

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

Table III-4

WEBS: Jarden's imports, 2007-09

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Jarden's employment-related data showed a decrease in all indicators from 2007 to 2009 with the exception of unit labor costs, which increased during this period. The most recent decrease in production and related workers (PRWs), hours worked, and wages paid reflects Jarden's decision to ***. Jarden's aggregate employment data for WEBS are presented in table III-5.

Table III-5

WEBS: Jarden's employment-related data, 2007-09

* * * * *

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

U.S. IMPORTERS

Importer questionnaires were sent to 98 possible importers of subject WEBs, as well as to all potential U.S. producers of WEBs.¹ Usable questionnaire responses were received from 18 companies reporting WEB imports, representing 34.6 percent of total imports from China in 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 in 2008 consisted of WEBs and that the remainder consisted of knit or other non-woven electric blankets.³ By combining reported WEB imports in 2009 with reported knit electric blanket imports in 2009, approximately 15 percent of imports under this basket category remain unaccounted for in questionnaire data.⁴

Of the 18 firms that imported WEBs during the 2007-2009 period, five stated that they had changed, or plan to change, the amount of WEBs imported from China as a result of the filing of the petition in this investigation and/or Commerce’s determination of sales at less than fair value.⁵ When asked to provide reasons for changes in U.S. imports of WEBs from China since January 1, 2007, the four largest importers of WEBs in 2009 listed the following: Decreased demand for WEBs accompanied by an increased demand for knit electric blankets; quality of products, cost, vendor partnership, product assortment, and brand flexibility; and responses to requests for product differentiation as reasons for changes in imports.⁶ Table IV-1 lists all responding U.S. importers of WEBs from China and other sources, their locations, and their shares of U.S. imports, in 2009.

Table IV-1
WEBs: U.S. importers, U.S. headquarters, source of imports, and shares of imports in 2009

* * * * *

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 2007. Usable responses were received from each of these companies with one percent or more of imports with the exception of ***, both of which are no longer in business. One other importer, ***, imported greater than one percent of imports and was unable to provide useable data, but according to its questionnaire response has imported knit blankets only since January 1, 2007.

² Percentage obtained by dividing reported 2009 WEB imports from China of 1,171,145 units by imports from China under HTS subheading 6301.10.00 of 3,384,534 units.

³ Conference transcript, p. 52 (Pacheco).

⁴ Reported WEB and knit electric blanket imports combined totaled 2,860,882 units in 2009.

⁵ These firms were ***. The *** WEB importers in this group, ***, have switched WEB sources from China to the Philippines. Questionnaire responses, sections II-7 and II-8.

⁶ The four largest importers of WEBs in 2009 were ***. Questionnaire response, section II-9.

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 WEB data from questionnaire responses accounted for only 34.6 percent of the quantity of imports from China under HTS subheading 6301.10.00 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.⁷

On both a quantity and value basis, WEB imports from China increased during the period for which data were collected. Unit values of WEB imports also increased during this period. All reported WEB imports were from China, with the exception of a small quantity from Hong Kong imported in 2008.⁸

Table IV-2
WEBs: U.S. imports, by sources, 2007-09

Source	Calendar year		
	2007	2008	2009
Quantity (units)			
China	915,471	920,949	1,171,145
Nonsubject	0	1,008	0
Total	915,471	921,957	1,171,145
Value (1,000 dollars)¹			
China	24,530	24,863	34,650
Nonsubject	0	8	0
Total	24,530	24,872	34,650
Unit value (dollars per unit)¹			
China	26.79	27.00	29.59
Nonsubject	(2)	8.25	(2)
Average	26.79	26.98	29.59

Table continued on following page.

⁷ In addition to collecting data on imports of WEBs, staff also collected data on imports of knit electric blankets. In 2009, the quantity of knit electric blanket imports from China was reported to be approximately 1.7 million units, up from 1.1 million units in 2007. These imports, when combined with WEB imports of 1.2 million units from China in 2009, accounted for approximately 85 percent of total imports from China reported under HTS subheading 6301.10.00.

⁸ Import data reported by the following firms were used to create this dataset: ***. One company, ***, provided WEB import data that were not included in the dataset because another company, ***, was the importer of record for these WEBs. E-mail from ***, May 12, 2010.

Table IV-2--Continued
WEBs: U.S. imports, by sources, 2007-09

Source	Calendar year		
	2007	2008	2009
Share of quantity (percent)			
China	100.0	99.9	100.0
Nonsubject	0.0	0.1	0.0
Total	100.0	100.0	100.0
Share of value (percent)			
China	100.0	100.0	100.0
Nonsubject	0.0	⁽³⁾	0.0
Total	100.0	100.0	100.0
¹ Landed, U.S. port of entry, duty-paid. ² Not applicable. ³ Less than 0.05 percent.			
Note—A small percentage of imports by *** and *** was ultimately exported. Such imports accounted for less than 10 percent of total subject imports in 2009. These imports are included for the purposes of this table but are not included in U.S. commercial shipment data shown in later tables.			
Source: Compiled from data submitted in response to Commission questionnaires.			

NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁹ 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. Imports from China accounted for essentially 100 percent of total imports of WEBs by both quantity and value during the twelve-month period ending March 2009.¹⁰

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of WEBs during the period for which data were collected are shown in table IV-3 and figure IV-1. Apparent U.S. consumption decreased during the period for which data were collected, ***.

In the preliminary phase of the investigation, respondents contended that knit fleece electric blankets and throws, which were introduced into the U.S. marketplace around 2004 or 2005, have forced WEB prices downward and have taken substantial market share from both domestically-produced and

⁹ 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)).

¹⁰ Compiled from data submitted in response to Commission questionnaires. *** reported minimal imports from a source other than China during the period for which data were collected.

imported WEBs.¹¹ Respondents further maintained that in addition to the market share captured by knit electric blankets, electric mattress pads have also taken market share from WEBs.¹²

Table IV-3

WEBs: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2007-09

Item	Calendar year		
	2007	2008	2009
Quantity (units)			
U.S. producer's U.S. shipments	***	***	***
U.S. shipments of imports from--			
China	859,540	956,103	1,125,759
Nonsubject countries	0	1,008	0
Total U.S. imports	859,540	957,111	1,125,759
Apparent U.S. consumption	***	***	***
Value (1,000 dollars)			
U.S. producer's U.S. shipments	***	***	***
U.S. shipments of imports from--			
China	28,981	29,514	37,535
Nonsubject countries	0	11	0
Total U.S. imports	28,981	29,525	37,535
Apparent U.S. consumption	***	***	***
Note.--Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Figure IV-1

WEBs: Apparent U.S. consumption, by sources, 2007-09

* * * * *

U.S. MARKET SHARES

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

¹¹ In the final phase of the investigation, data received from responding purchasers also indicate a shift from purchases of WEBs to purchases of knit electric blankets during 2007-09. Additional information on this issue is found in the section entitled "Demand" (Substitute Products) in Part II of this report.

¹² Hung Kuo/Biddeford's postconference brief, pp. 8, 14.

Table IV-4
WEBS: U.S. consumption and market shares, 2007-09

* * * * *

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 an increase in 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 ratios of imports to U.S. production, 2007-09

Item	Calendar year		
	2007	2008	2009
Quantity (units)			
U.S. production	***	***	***
Imports from:			
China	915,471	920,949	1,171,145
Nonsubject countries	0	1,008	0
Total imports	915,471	921,957	1,171,145
Ratio of U.S. imports to production (percent)			
Imports from:			
China	***	***	***
Nonsubject countries	***	***	***
Total imports	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

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 2009. Jarden reported that the cost share of shells ***.¹

U.S. Inland Transportation Costs

Jarden *** purchase WEBs f.o.b. from/at its plant in Waynesboro, MS. Biddeford, *** importer/distributor, reported that U.S. inland transportation costs averaged *** percent, while the other five responding importer/distributors reported that average transportation costs ranged from 1 to 20 percent. *** five of six responding importer/distributors reported selling on an f.o.b. basis, and *** two of six responding importer/distributors reported that their customers arranged transportation. Jarden reported that *** percent of its WEB sales were to customers located 1,000 miles or farther 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; ***, four of the other five responding importer/distributors reported that most of their sales were to customers located 100 miles or farther from their U.S. storage facilities. Jarden and the four responding importers/distributors ***.

PRICING PRACTICES

Pricing Methods

Jarden reported that its customers typically ***,² ***,³ ⁴
Biddeford reported that ***.

Two importer/distributors (***) *** reported that prices are negotiated, two (***) use price lists to determine prices, and one (***) uses a cost-plus markup to determine prices.

¹ For more information concerning raw material costs, see Part VI of this report.

² Paul Powers of Jarden testified that these demand forecasts are an “imperfect science.” Mr. Powers reported that Jarden considers the WEB demand history, but also subscribes to weather prediction services to try to predict next year’s weather. Based on these factors, Jarden and its retailer customers try to create a demand forecast to match Jarden’s supply forecast. Hearing transcript, p. 98 (Powers).

³ Mike Fretwell of Jarden testified that “Most importantly, once the retailer awards the business through the forecast the decision is final for the entire season. This means if we lose an account in a line review we’ve lost a customer for the entire year. We won’t be able to get that customer back until the line review of the following season for the next year.” Hearing transcript, p. 23 (Fretwell).

⁴ Jarden maintains that the imported Chinese WEBs have caused other uncertainties in the market by extending the line review process. Jarden states that retailers have learned that the importers will continue to offer better incentive programs, so they now delay making their decisions. Delays in forecasts mean that Jarden must delay its production planning, which further adds to its operational and manufacturing challenges. Hearing transcript, pp. 26 and 51-52 (Fretwell).

Sales Terms and Discounts

Jarden offers a number of incentive programs, including ***,⁵ ***,⁶

Biddeford also offers a number of incentive programs, including ***,⁷ ***,⁸

Three of the other five responding importers/distributors reported offering discount programs, including quantity discounts, annual volume discounts, and specific discount promotions.⁹

***.

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 2007-December 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 size

Product 4.--Blend of synthetic and natural fibers woven electric blanket, queen size¹⁰

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 pricing for all products for all quarters.¹¹ Pricing data reported by these firms accounted for *** percent of the U.S. producer's U.S. shipments of WEBs and *** percent of subject imports from China in 2009.¹²

Price Trends

Price and quantity data for products 1-4 are presented in tables V-1 to V-3 and figure V-1. A summary of price trends is presented in table V-4. As shown in table V-4, prices for U.S.-produced product 1 and imported Chinese products 1 and 2 were lower at the end of the period than at the

⁵ Jarden projects that the cost of its *** program is approximately \$*** per unit. ***.

⁶ Jarden estimates that its *** was approximately *** in 2009.

⁷ ***.

⁸ ***.

⁹ *** offers specific discount promotions, *** offers quantity discounts and annual volume discounts, and *** offers annual volume discounts.

¹⁰ 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). Biddeford reported that ***. Jarden reported that its WEB product mix ***. Petitioner's postconference brief, exh. 1-I.

¹¹ *** provided usable sales price data for imports of products 1 and 2 from China. The following retailers provided purchase price data for their imports of products 1 and 2 from China: ***.

¹² Importer/distributor sales price data accounted for *** percent and importer/retailer purchase price data accounted for *** percent of total subject imports in 2009.

beginning of the period, prices for U.S.-produced product 2 were higher at the end of the period, and prices for U.S.-produced products 3 and 4 were *** higher at the end of the period. However, since WEB sales are highly seasonal, comparing WEB prices in the first quarter of 2007 to WEB prices in the fourth quarter of 2009 may be misleading. Setting linear trend lines to the price series may compensate for some of the seasonality issues by smoothing the quarterly fluctuations. This analysis indicates that sales prices for U.S.-produced and imported Chinese products 1 and 2 and purchase prices for imported Chinese products 1 and 2 all declined over the period, with sales prices for imported Chinese products 1 and 2 showing the greatest declines.¹³ This analysis also indicates that prices for U.S.-produced products 3 and 4 increased *** during 2007-09.¹⁴

Table V-1

WEBs: Weighted-average prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2007-December 2009

* * * * *

Table V-2

WEBs: Weighted-average prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2007-December 2009

* * * * *

Table V-3

WEBs: Weighted-average sales prices and quantities of domestic products 3 and 4, by quarters, January 2007-December 2009

* * * * *

Figure V-1

WEBs: Weighted-average prices and quantities of domestic and imported products, by quarters, January 2007-December 2009

* * * * *

Table V-4

WEBs: Summary of weighted-average prices for products 1-4 from the United States and China

* * * * *

¹³ The slopes of the fitted linear trend lines were *** for sales prices of U.S.-produced product 1, *** for sales prices of imported Chinese product 1, and -0.0254 for purchase prices of imported Chinese product 1. The slopes of the fitted linear trend lines were *** for sales prices of U.S.-produced product 2, *** for sales prices of imported Chinese product 2, and -0.2235 for purchase prices of imported Chinese product 2. The slopes of the trend lines indicate the rate of change of the trend lines. Negative slopes indicate declines, whereas positive slopes indicate increases.

¹⁴ The slopes of the fitted linear trend lines were *** for sales prices of U.S.-produced product 3 and *** for sales prices of U.S.-produced product 4.

Price Comparisons

Margins of underselling and overselling comparing sales prices of U.S.-produced and imported Chinese products 1 and 2 are presented in table V-5. As can be seen from the table, sales prices for WEBs imported from China were below those for U.S.-produced WEBs in 17 of 24 instances; margins of underselling ranged from 2.5 to 17.0 percent. In the remaining 7 instances, sales prices for WEBs from China were between 0.4 and 3.5 percent above prices for the domestic product. Underselling tended to be more prevalent in sales of product 2--imported Chinese product 2 was priced below U.S.-produced product 2 in 10 of 12 instances, compared to 7 of 12 instances for product 1. This tendency also holds for the peak quantity quarters. Comparing WEB sales made in the third and fourth quarters (the quarters during which the vast majority of WEBs are sold)¹⁵ shows that imported Chinese WEBs undersold U.S.-produced WEBs in 9 of 12 instances (4 of 6 instances for product 1 and 5 of 6 instances for product 2) during 2007-09.

Table V-5
WEBs: Instances of underselling/overselling and the range and average of margins, by product, January 2007-December 2009

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Product 1						
China-sales	7	2.5 to 17.0	***	5	0.4 to 3.5	***
Product 2						
China-sales	10	3.5 to 16.9	***	2	0.7 to 1.7	***
Total						
China-sales	17	2.5 to 17.0	***	7	0.4 to 3.5	***
Source: Compiled from data submitted in response to Commission questionnaires.						

Petitioner argues that, in this case, the Commission should compare the U.S. producer's sales prices with retailers' direct import purchase prices. Petitioner notes that the great majority (70 percent) of Chinese WEBs are imported directly by retailers and, therefore, price comparisons based on retailers' direct import purchase prices would be more representative than price comparisons based on importers' sales prices to retailers. Petitioner further maintains that there is no *a priori* reason that a direct importer will carry higher marginal logistical costs associated with importing than a purchase from a domestic distributor.¹⁶

¹⁵ Based on reported pricing data, sales of products 1-4 in the third and fourth quarters during 2007-09 accounted for *** percent of total sales of products 1-4 during 2007-09.

¹⁶ Petitioner argues that the large global retailers that make up the "lion's share" of customers in this investigation already have major logistical operations in place in China. For this reason, petitioner contends that the logistical support costs of these retailers are already sunk, and no marginal logistical costs are likely associated with importing WEBs. Furthermore, petitioner argues that, to the extent that WEBs fill out the retailers' shipping containers, increase their control of inventories and just-in-time delivery, and increase scale, direct importation will lower retailer costs compared to the alternative of purchasing from an unrelated distributor such as Biddeford. Petitioner's

(continued...)

Respondents maintain that retailers incur additional costs when importing directly from China, and, therefore, the U.S. producer's sales prices to retailers should not be compared to retailers' direct import purchase prices since they represent different levels of distribution.¹⁷

Importers were asked if they incur additional transaction costs when they import Chinese WEBs directly compared to when they purchase imported Chinese WEBs from a U.S. importer. Nine of ten responding importers reported incurring additional transaction costs. Reported additional transaction costs are presented in table V-6.

Table V-6
WEBs: Additional transaction costs incurred by retailers importing Chinese WEBs directly, as a share of the landed-duty paid cost of imports

Additional transaction cost factor	Reported cost range (percent)
Logistical support and coordination for the shipment of WEBs for imports on the Chinese side	0.0 to 3.2
Logistical support and coordination for the shipment of WEBs for imports on the U.S. side	0.0 to 17.0 ¹
Additional inventory carrying costs for WEB imports	0.0 to 3.0
Cost of quality control monitoring for WEB imports	0.0 to 1.0
Hedging of exchange rate risk for WEB imports	-
1 ***	
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 \$*** million and involved *** WEBs (table V-7) and the *** lost revenues allegations totaled \$*** million and involved *** WEBs (table V-8). During the final phase of these investigations, Jarden reported an additional *** lost sales allegations totaling \$*** million involving *** WEBs. Staff contacted all *** purchasers named in the allegations and a summary of the information obtained follows. ***.

Table V-7
WEBs: U.S. producer's lost sales allegations

* * * * *

¹⁶ (...continued)

postconference brief, p. 15 and submission in response to staff questions, July 31, 2009. Hearing transcript, pp. 43-47 (Kaplan).

¹⁷ 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. However, as noted above, the purchase values reported by retailers that import WEBs directly are landed duty-paid, and, therefore, should include any associated ocean freight costs and customs duties.

Table V-8
WEBS: U.S. producer's lost revenue allegations

* * * * *

*** 18
*** 19

*** 20

*** 21

¹⁸ ***.

¹⁹ ***.

²⁰ Jarden's prehearing brief, exhibit 3.

²¹ Jarden's prehearing brief, exhibit 2.

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

BACKGROUND

The sole U.S. producer, Jarden, reported its WEBs financial results on the basis of U.S. generally accepted accounting principles (“GAAP”) for calendar-year periods.¹ *** of Jarden’s WEBs revenue reflects U.S. commercial shipments to retailers, while a *** share of WEBs revenue represents exports to ***.² The financial results of Milliken, which are also presented in this section of the report, represent that company’s operations on woven shells. As noted in Part I of this report, the woven shell is a primary input in the production of WEBs.

Jarden’s U.S. producer questionnaire response was verified by staff on May 25-26, 2010. Revisions pursuant to verification are reflected in this and other sections of the report.³

OPERATIONS ON WOVEN ELECTRIC BLANKETS

Income-and-loss data for Jarden’s operations on WEBs are presented in table VI-1, with corresponding WEBs average per-unit information presented in table VI-2. Because WEBs financial results in part reflect changes in product mix, a variance analysis is not presented.⁴ Table VI-3 presents selected financial information related to WEBs product mix. Milliken’s financial results on woven shells (through operating income or (loss)) are presented in table VI-4.

Revenue

As shown in table VI-1, there are two primary adjustments to WEBs gross sales revenue: 1) other program costs and sales allowances, ***; and 2) provision and adjustments for non-defective returns. The amount of other program costs and sales allowances assigned to WEBs ranged from ***. In contrast, the net deduction for non-defective returns went from *** of gross sales in 2007 to *** of gross sales in 2008. While the absolute value of the net deduction for non-defective returns declined ***, it *** of gross sales in 2009. According to company officials, the ***.⁵

Table VI-1
Results of operations on WEBs, 2007-09

* * * * *

¹ WEB operations are a subset of the Consumer Solutions segment which is in turn one of three primary business segments recognized by the parent company (Jarden Corporation). Outdoor Solutions and Branded Consumables are Jarden Corporation’s other two segments. Jarden Corp. 2009 10-K, p. 1. ***. Verification report, p. 1.

² ***. Verification report, p. 7.

³ Verification report, p. 2. ***.

⁴ While fluctuations in product mix are inherent in most financial results reported to the Commission, more substantial changes in product mix negatively impact the utility of the Commission’s variance analysis.

⁵ ***. Verification report, pp. 7-8.

Table VI-2 shows that average gross sales value declined throughout the period. In conjunction with the product mix information presented in table VI-3, the overall pattern of lower average gross sales value can be attributed in large part to ***,^{6 7}

**Table VI-2
Results of operations on WEBs (per unit), 2007-09**

* * * * * * *

Cost of Goods Sold

Raw material costs made up *** of total WEBs cost of good sold (COGS) (declining from *** in 2007 to *** in 2009), while other factory costs, *** component, increased from *** in 2007 to *** in 2009. Direct labor, ***, increased ***, as a share of total COGS, from *** in 2007 to *** in 2009. Based on information submitted by Jarden, the woven shell and controller component in 2009 accounted for *** and *** of total COGS, respectively.⁸

While overall average COGS remained within a relatively narrow range throughout the period examined (see table VI-2), the increase in other factory costs, particularly as a ratio to net sales, was notable (see table VI-1). ***,⁹

**Table VI-3
WEBs product mix, 2007-09**

* * * * * * *

**Table VI-4
Results of operations on WEB shells, 2007-09**

* * * * * * *

Financial Results on WEBs

As shown in table VI-1, Jarden began the period with *** operating income margin as well as its highest level of net sales revenue. Because SG&A expense ratios remained at about the same level (ranging from ***), the subsequent decline *** in 2009 can be attributed almost exclusively to a deterioration in the WEBs gross profit margin, which in turn reflects changes in both revenue and corresponding COGS. All things being equal, the shift in product mix noted previously would have resulted in at least some decline in relative WEBs profitability; i.e., ***.

⁶ In order to clarify hearing testimony regarding WEBs product mix, Jarden stated in its postconference brief that “. . . while its basic product offerings have not changed, there were some changes to the mix of product sizes during the POI . . . generally characterized by ***, which is in line with the percentages in the previous years.” Petitioner’s postconference brief, Exhibit A, p. 1.

⁷ ***. Jarden’s U.S. producer questionnaire, III-15.

⁸ The shell and controller component represented ***, respectively, of total COGS in 2007 and ***, respectively, in 2008. Auditor notes (final phase).

⁹ Verification report, p. 8. ***. Verification report, p. 4.

**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 related to Jarden’s WEB’s operations are presented in table VI-5.

The nature of the projects reflected in the reported capital expenditures and R&D expenses are described in footnote 10. Corresponding descriptions of suspended projects, generally attributed by Jarden to reduced WEBs sales volume, are consistent with the decline of reported capital expenditures and R&D expenses during the period.¹⁰

Table VI-5
Operations on WEBs: Capital expenditures, R&D expenses, assets, and return on investment, 2007-09

* * * * *

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 ***.
Milliken ***.

Anticipated Negative Effects

Jarden ***.
Milliken ***.

¹⁰ ***. Petitioner’s postconference brief, pp. 10-13.
With regard to R&D expenses, ***. Ibid.

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 obtained for consideration by the Commission on nonsubject countries and the global market.

THE INDUSTRY IN CHINA

The Commission requested data from 141 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 and 139 did not provide responses.¹ Hung Kuo estimated that in 2009 it accounted for *** percent of production of WEBs in China and *** percent of exports of WEBs from China to the United States. 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 2009.² Reported exports of WEBs to the United States by Hung Kuo and Pace in 2009 were approximately *** percent *** reported WEB imports in that year.³ Capacity, production, and shipments all increased from 2007 to 2009. *** projections for 2010 reflect ***.⁴ Hung Kuo reported that in 2009 ***. Hung Kuo reported *** as constraints on production capacity.⁵ The other Chinese producer, Pace China, stated in its questionnaire response that ***, but that the company could ***.⁶ For 2009, Pace China reported that ***. Pace China reported *** as constraints on production capacity.⁷ Table VII-1 presents data for reported production and shipments of WEBs in China.

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

² Data provided by the petitioner during the preliminary phase of this investigation estimated 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.

³ Reported U.S. WEB imports from China were approximately 1.2 million units and reported WEB exports from China to the United States were approximately *** units. *** Chinese exporter Hung Kuo has confirmed with staff that no nonsubject merchandise has been included with the company's reported WEB exports. E-mail from ***, June 3, 2010. Staff has also compared reported 2009 U.S. electric blanket imports of 2.86 million units with proprietary Customs data showing 3.38 million units imported and has found the two import data sources to be within 15 percent of each other.

⁴ ***.

⁵ Hung Kuo's foreign producer questionnaire response, section ***.

⁶ Pace China's foreign producer questionnaire response, sections ***.

⁷ Pace China's foreign producer questionnaire response, section ***.

Table VII-1**WEBS: China's reported production capacity, production, shipments, and inventories, 2007-09, and projections for 2010 and 2011**

* * * * *

U.S. INVENTORIES OF WEBS FROM CHINA

Reported inventories held by U.S. importers of subject merchandise from China are shown in table VII-2. Inventories of WEB imports from China decreased between 2007 and 2009 on a quantity basis and also relative to imports and shipments of imports.

Table VII-2**WEBS: U.S. importers' end-of-period inventories of imports, by source, 2007-09**

Source	Calendar year		
	2007	2008	2009
Imports from China:			
Inventories (<i>units</i>)	243,496	192,655	218,188
Ratio to imports (<i>percent</i>)	26.6	20.9	18.6
Ratio to U.S. shipments of imports (<i>percent</i>)	26.9	20.2	19.4
Imports from all other sources:			
Inventories (<i>units</i>)	0	0	0
Ratio to imports (<i>percent</i>)	(¹)	(¹)	(¹)
Ratio to U.S. shipments of imports (<i>percent</i>)	(¹)	(¹)	(¹)
Imports from all sources:			
Inventories (<i>units</i>)	243,496	192,655	218,188
Ratio to imports (<i>percent</i>)	26.6	20.9	18.6
Ratio to U.S. shipments of imports (<i>percent</i>)	26.9	20.1	19.4
¹ Not applicable.			
Note.— Ratios were calculated using data from firms that provided data on inventories and also on imports and U.S. shipments of imports.			
Note. — Importers' imports, shipments, and inventories do not reconcile. Importers *** reported that they were unable to separate inventories of imported WEBS from inventories of domestically-produced WEBS.			
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of WEBs from China after December 31, 2009. Three firms reported having made such arrangements, and only *** reported orders for imports in excess of *** units in 2010. Reported current orders by importers of WEBs are shown in table VII-3.

Table VII-3
WEBs: U.S importers' current orders, by quarter, 2010

* * * * *

ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There are no known antidumping (or countervailing duty) investigations or orders 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.’”⁸

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), but there is no information on the share of these exports that consists of WEBs as opposed to knit and other non-woven blankets, as the tariff classification includes all three products. According to Global Trade Atlas statistics, the largest exporters of electric blankets in the world in 2009 were China, the Czech Republic, the United States, and Indonesia. On a value basis China was by far the largest exporter, accounting for approximately 69 percent of total exports during 2009. That year, the Czech Republic, the United States, and Indonesia exported approximately 13 percent, 5 percent, and 4 percent, respectively of global electric blanket exports by value. China represents nearly all electric blanket imports into the United States and there were no imports from either the Czech Republic or Indonesia during the period for which data were collected. The United States does import some electric blankets from Korea, Spain, and Denmark, although these countries are not large exporters globally.⁹ The absence of countries other than China producing WEBs was noted during the staff conference related to this investigation, when respondent parties stated that they were unaware of any WEB production outside of China.¹⁰

⁸ 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).

⁹ Imports from these countries collectively accounted for less than one percent of the value of electric blanket imports (woven, knit, and other nonwoven) into the United States in 2009. Data compiled using USITC Dataweb statistics showing U.S. imports by value under HTS subheading 6301.10.00, accessed May 27, 2010.

¹⁰ Conference transcript, pp. 150 (Hearn) and 151 (Porter).

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-1163 (Final)]****Woven Electric Blankets From China****AGENCY:** United States International Trade Commission.**ACTION:** Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-1163 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from China of woven electric blankets, provided for in subheading 6301.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS).¹

¹ For purposes of this investigation, the Department of Commerce has defined the subject merchandise as 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. Although the HTSUS subheading is provided for convenience and customs purposes, only the written description of the scope is dispositive.

For further information concerning the conduct of this phase of the investigation, hearing procedures, 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 C (19 CFR part 207).

DATES: *Effective Date:* February 3, 2010.

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.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of woven electric blankets from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 30, 2009, by Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions, Boca Raton, FL.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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 the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on June 15, 2010, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 29, 2010, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 22, 2010. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 24, 2010, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 22, 2010. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for

filing posthearing briefs is July 6, 2010; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before July 6, 2010. On July 21, 2010, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 23, 2010, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's 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 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 8, 2010.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 2010-5234 Filed 3-10-10; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-951]

Certain Woven Electric Blankets From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* July 2, 2010.

SUMMARY: The Department of Commerce (“the Department”) has determined that certain woven electric blankets (“woven electric blankets”) from the People’s Republic of China (“PRC”) are being, or are likely to be, sold in the United States at less than fair value (“LTFV”) as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). The final dumping margins for this investigation are listed in the “Final Determination Margins” section below. The period covered by the investigation is October 1, 2008 through March 31, 2009 (the “POI”).

FOR FURTHER INFORMATION CONTACT: Howard Smith or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5193 and 482-4406, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The Department published its preliminary determination of sales at LTFV on February 3, 2010.¹ Between February 1, 2010 and February 12, 2010, the Department conducted a verification of the sole respondent in this investigation, Hung Kuo Electronics (Shenzhen) Company Limited (“Hung Kuo”) and its U.S. affiliate, Biddeford Blankets LLC (“Biddeford Blankets”). See the “Verification” section below for additional information.

On March 5, 2010, Hung Kuo submitted a written request that the Department issue revised cash deposit instructions to U.S. Customs and Border Protection (“CBP”) indicating that Hung Kuo Electronics (Shenzhen) Company Limited can also be translated as Ongain Electronics (Shenzhen) Company Limited. On March 30, 2010, the Department granted Hung Kuo’s request

¹ See *Certain Woven Electric Blankets From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 5567 (February 3, 2010) (“*Preliminary Determination*”).

and subsequently issued revised cash deposit instructions to CBP.²

In response to the Department’s invitation to comment on the *Preliminary Determination*, on April 1, 2010, Jarden Consumer Solutions (hereinafter, “Petitioner”) and Hung Kuo filed case briefs. Petitioner and Hung Kuo filed rebuttal briefs on April 6, 2010. On April 20, 2010, the Department rejected rebuttal surrogate value information, case briefs, and rebuttal briefs filed by Hung Kuo because they contained untimely filed new factual information, including the 2008–2009 financial statement of Bawa Woollen and Spinning Mills Limited (“Bawa”), an Indian producer of non-electric blankets, which Hung Kuo proposed as a surrogate value source for manufacturing overhead, selling, general, and administrative expenses, and profit. Hung Kuo refiled versions of these submissions without the new factual information on April 22, 2010. On May 7, 2010, Hung Kuo submitted a written request that the Department reconsider its decision to reject the 2008–2009 Bawa financial statement. On May 26, 2010, the Department notified Hung Kuo that it would not accept the untimely filed 2008–2009 Bawa statement.

On June 9, 2010, the Department notified interested parties that it would be reconsidering its valuation of the labor wage rate in this investigation, as a result of the recent decision in *Dorbest Limited et al. v. United States*, 2009–1257, –1266, issued by the United States Court of Appeals for the Federal Circuit (“CAFC”) on May 14, 2010. On June 9, 2010,³ and June 11, 2010,⁴ the Department placed export data, which the Department was considering in connection with the valuation of the labor wage rate, on the record of this investigation and invited interested parties to comment on the narrow issue of the labor wage value in light of the CAFC’s decision. On June 16, 2010, Hung Kuo and Petitioner submitted comments on the export data. On June 21, 2010, the Department released

² See Memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, concerning “Request to Modify Customs Instructions,” dated March 30, 2010.

³ See Memorandum to the File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Export Data,” dated June 9, 2010.

⁴ See Memorandum to the File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Export Data,” dated June 11, 2010.

additional information to interested parties.⁵

Analysis of Comments Received

All of the issues raised in the case and rebuttal briefs submitted in this investigation are addressed in the “Issues and Decision Memorandum for the Final Determination” dated June 25, 2010, which is hereby adopted by this notice (“Issues and Decision Memorandum”). Appendix I to this notice contains a list of the issues addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum, which is a public document, is on file in the Central Records Unit (“CRU”) at the Main Commerce Building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have made the following changes to our preliminary determination:

1. We have based Hung Kuo’s final margin on partial adverse facts available (“AFA”).

2. Pursuant to a recent decision by the CAFC, we have calculated a revised hourly wage rate to use in valuing Hung Kuo’s reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.⁶

3. In our final margin calculation we have revised the unit of measure conversion for certain inputs reported by Hung Kuo and limited the deduction of ocean freight expenses to the appropriate sales.

Scope of 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

⁵ See Memorandum to the File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Wage Data,” dated June 11, 2010.

⁶ See Issues and Decision Memorandum at Comment 13.

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.

Scope Comments

On August 3, 2009, Perfect Fit Industries ("Perfect Fit"), a U.S. importer of knitted electric blankets, submitted comments on the scope of this investigation. Perfect Fit requested that the Department amend the scope of this investigation to include the following two statements: (1) "knitted electric blankets in any form, whether finished, semi-finished, or assembled, are not within the scope of this investigation;" and (2) electric mattress pads in any form, whether finished, semi-finished, or assembled, are not within the scope of this investigation." Perfect Fit argued that this exclusionary language was warranted because Petitioner's counsel acknowledged that knitted electric blankets and electric mattress pads are not within the scope of the U.S. International Trade Commission's ("ITC") investigation of woven electric blankets from the PRC.⁷ No other parties commented on this issue.

The Department finds that Perfect Fit's suggested scope amendment is unnecessary and has made no revision to the scope of this investigation for the final determination. We note that the scope of this investigation explicitly covers woven electric blankets, and find that the addition of Perfect Fit's proposed exclusionary language to be superfluous and unwarranted.

⁷ See Perfect Fit's August 3, 2010 submission (citing the ITC's preliminary conference transcript at 16 and 111.)

Verification

As provided in section 782(i) of the Act, we conducted verifications of Hung Kuo's information.⁸ In conducting the verifications, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by Hung Kuo and Biddeford Blankets.

Adverse Facts Available

Section 776(a) of the Act provides that subject to section 782(d) of the Act, the Department may base its determinations on facts otherwise available if: (1) necessary information is not available on the record of a proceeding; or (2) an interested party (A) Withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided in section 782(i) of the Act. Section 782(d) of the Act allows the Department, subject to section 782(e) of the Act, to disregard all or part of a deficient or untimely response from a respondent.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used by the Department without undue difficulties.

Section 776(b) of the Act authorizes the Department to apply an adverse inference to the facts otherwise available with respect to an interested party if the Department finds that the party failed to cooperate by not acting to the best of its ability to comply with a request for information.

We find that Hung Kuo: (1) withheld actual consumption quantities for all electronic controller parts which had been requested by the Department; and (2) reported factors of production ("FOP") data for all electronic controller parts, certain market economy expenses relating to ocean freight, and certain market economy purchase quantity data that could not be verified. Therefore, pursuant to sections 776(a)(2)(A) and

⁸ See the Department's verification reports for the Hung Kuo, including the verification of its U.S. sales affiliate, Biddeford Blankets, on file in the CRU.

(D) of the Act, we find that the use of facts otherwise available for these items is warranted.

Furthermore, in selecting from among the facts otherwise available, we have determined, pursuant to section 776(b)(2) of the Act, that it is appropriate to apply an adverse inference because Hung Kuo failed to cooperate by not acting to the best of its ability to comply with a request for information. Specifically, Hung Kuo made misstatements to the Department regarding its methodology for reporting FOP data for electronic controller parts and Hung Kuo failed to provide verifiable information concerning certain ocean freight expenses, and the quantity of heating wire and integrated circuits purchased from its market economy suppliers. The information sought by the Department regarding Hung Kuo's ocean freight expenses and market economy purchases was within Hung Kuo's control and could have been reported to the Department. Accordingly, we have determined that Hung Kuo failed to cooperate by putting forth its maximum effort to obtain the data and, hence, has not acted to the best of its ability to comply with a request for information. Therefore, we have determined that it is appropriate to use adverse inferences in selecting the facts otherwise available on which to base Hung Kuo's dumping margin. Accordingly, we applied adverse facts available to the aforementioned data. Specifically, as adverse facts available we selected: (1) Electronic controller part consumption data obtained at verification;⁹ (2) the highest appropriate per-unit value on the record of this proceeding to value Hung Kuo's inputs which were sourced, in part, from market economy suppliers,¹⁰ and (3) record evidence of ocean-freight expenses incurred by Hung Kuo.¹¹ For further discussion concerning the Department's analysis, see Comment 1 of the Issues and Decision Memorandum accompanying this notice.

Surrogate Country

In the *Preliminary Determination*, pursuant to section 773(c) of the Act, we selected India as the appropriate surrogate country noting that it was on

⁹ The Department has used these data to adjust Hung Kuo's reported per-unit consumption for all controller parts.

¹⁰ In valuing Hung Kuo's heating wire and integrated circuit inputs, the Department has selected the highest value on the record (i.e., an Indian surrogate value, or the reported market economy purchase price).

¹¹ The Department has adjusted Hung Kuo's ocean freight using information contained in ocean freight invoices submitted by Hung Kuo.

the Department's list of countries that are at a level of economic development comparable to the PRC and that India is a significant producer of merchandise comparable to subject merchandise; additionally, we determined that reliable Indian data for valuing FOPs are readily available.¹² No party has commented on our selection of India as the appropriate surrogate country. Thus, we continue to find India to be the appropriate surrogate country in this investigation.

Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹³

In the *Preliminary Determination*, we found that Hung Kuo, and separate rate applicants, Ningbo V.K. Industry & Trading Co., Ltd., and Ningbo Jifa Electrical Appliances Co., Ltd./Ningbo Jinchun Electric Appliances Co., Ltd. demonstrated their eligibility for, and were hence assigned, separate rate status. No party has commented on the eligibility of these companies for separate rate status. Therefore, for the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation and that these companies are thus eligible for separate rate status.¹⁴

The PRC-Wide Rate

In the *Preliminary Determination*, the Department considered certain non-responsive PRC producers/exporters to be part of the PRC-wide entity because they did not respond to our requests for information and did not demonstrate that they operated free of government control over their export activities.¹⁵ No

additional information regarding these entities has been placed on the record since the publication of the *Preliminary Determination*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, we continue to find it appropriate to base the PRC-wide rate on facts otherwise available. Moreover, given that the PRC-wide entity did not respond to our request for information, we continue to find that it failed to cooperate to the best of its ability to comply with a request for information. Thus, pursuant to section 776(b) of the Act, and consistent with the Department's practice, we have continued to use an adverse inference in selecting from among the facts otherwise available.¹⁶

Pursuant to section 776(b) of the Act, the Department may select, as AFA, information derived from: (1) The petition; (2) the final determination from the LTFV investigation; (3) a previous administrative review; or (4) any other information placed on the record. To induce respondents to provide the Department with complete and accurate information in a timely manner, the Department's practice is to select, as AFA, the higher of: (a) the highest margin alleged in the petition; or (b) the highest calculated rate for any respondent in the investigation.¹⁷

Since we begin with the presumption that all companies within an NME country are subject to government control and only the exporters listed under the "Final Determination Margins" section below have overcome that presumption, consistent with the Department's practice, we are applying a single antidumping rate (*i.e.*, the PRC-wide rate) to all exporters of subject merchandise from the PRC, other than the exporters listed in the "Final Determination Margins" section of this notice.¹⁸

¹⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000) (where the Department applied an adverse inference in determining the Russia-wide rate); *Final Determination of Sales at Less Than Fair Value: Certain Artists Canvas from the People's Republic of China*, 71 FR 16116, 16118-19 (March 30, 2006) (where the Department applied an adverse inference in determining the PRC-wide rate).

¹⁷ See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decisions Memorandum at "Facts Available."

¹⁸ See, e.g., *Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) (applying the PRC-wide rate to all exporters of subject merchandise in the PRC based on the presumption that the export activities of the

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information, rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the Statement of Administrative Action ("SAA") as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."¹⁹ The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.²⁰ The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.²¹ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.²²

As total AFA the Department preliminarily selected the rate of 174.85 percent from the Petition. In the *Preliminary Determination*, we preliminarily found the rate of 174.85 percent to be the highest Petition margin that could be corroborated within the meaning of section 776(c) of the Act. For the final determination, we find that the rate is within the range of the margins calculated on individual sales by Hung Kuo, the cooperative respondent. Therefore, we continue to find that the margin of 174.85 percent has probative value. Accordingly, we find that the rate of 174.85 percent is corroborated within the meaning of section 776(c) of the Act.

companies that failed to respond to the Department's questionnaire were controlled by the PRC government).

¹⁹ See SAA, accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 at 870.

²⁰ See *id.*

²¹ See *id.*

²² See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

¹² See *Preliminary Determination*, 75 FR at 5569.

¹³ See, e.g., *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994); see also 19 C.F.R. § 351.107(d).

¹⁴ See *Preliminary Determination*, 75 FR at 5569-71.

¹⁵ See *id.*, 75 FR at 5571.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.²³ This practice is described in Department Policy Bulletin 05.1, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” which states:

[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its [non-market economy] 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.²⁴

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period October 1, 2008, through March 31, 2009:

Exporter and producer	Weighted-average margin
Hung Kuo Electronics (Shenzhen) Company Limited Produced by: Hung Kuo Electronics (Shenzhen) Company Limited.	77.75%
Ningbo V.K. Industry & Trading Co., Ltd. Produced by: Ningbo V.K. Industry & Trading Co., Ltd..	77.75%
Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd.. Produced by: Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd..	77.75%
PRC-Wide Rate	174.85%

Disclosure

We will disclose to parties the calculations performed within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to continue to suspend liquidation of all entries of woven electric blankets from the PRC, as described in the “Scope of Investigation” section, entered, or withdrawn from warehouse, for consumption on or after, February 3, 2010, the date of publication of the *Preliminary Determination* in the *Federal Register*. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate the Department has determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide entity rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC

exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 25, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix I

- Comment 1: Application of Partial Adverse Facts Available—Hung Kuo
- Comment 2: Financial Statements Used to Derive Manufacturing Overhead, Selling, General and Administrative Expenses, and Profit
- Comment 3: The Classification of Certain Expenses Contained in the Bawa Financial Statement Used to Derive Manufacturing Overhead, Selling, General and Administrative Expenses, and Profit
- Comment 4: The Treatment of Certain Movement Expenses Contained in the Prakash Surrogate Financial Statement
- Comment 5: Surrogate Value for Alphanumeric LEDs
- Comment 6: International Movement Expenses
- Comment 7: Calculation of Normal Value Using FOP Data That Reflect both Semi-Finished and Finished Goods

²³ See *Certain Woven Electric Blankets From the People's Republic of China: Initiation of*

Antidumping Duty Investigation, 74 FR 37001 (July 27, 2009) (“*Initiation Notice*”).

²⁴ Policy Bulletin 05.1 can be found on the Import Administration website at the following address: <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

Comment 8: Unit of Measure Conversion for
Certain Inputs

Comment 9: Surrogate Value for Acrylic/
Polyester Blend Woven Textile

Comment 10: Calculation of Indirect Selling
Expenses Applied to Hung Kuo's CEP Sales

Comment 11: Surrogate Value for Power
Cords

Comment 12: Hung Kuo's Reported FOP for
Woven Textile Used to Produce King Size
Electric Blankets

Comment 13: Valuation of Labor

[FR Doc. 2010-16198 Filed 7-1-10; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Woven Electric Blankets from China
Inv. No.: 731-TA-1163 (Final)
Date and Time: June 29, 2010 - 9:30 a.m.

A session was held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL WITNESSES:

The Honorable Roger F. Wicker, United States Senator, Mississippi

OPENING REMARKS:

Petitioner (**Philippe M. Bruno**, Greenberg Traurig LLP)

In Support of the Imposition of Antidumping Duty Order:

Greenberg Traurig LLP
Washington, DC
on behalf of

Jarden Consumer Solutions ("Jarden")

Paul Powers, Senior Vice President and General Manager,
Personal Comfort and Wellness, Jarden
Mike Fretwell, Vice President, Marketing, Jarden
Mark Sullivan, Plant Manager, Jarden
Regina Madigan, Director, Finance, Jarden
Dr. Seth Kaplan, Economist, The Brattle Group

Irwin P. Altschuler)
Philippe M. Bruno) – OF COUNSEL
Rosa S. Jeong)

CLOSING REMARKS:

Petitioner (**Irwin P. Altschuler**, Greenberg Traurig LLP)

APPENDIX C
SUMMARY DATA

Table C-1
WEBs: Summary data concerning the U.S. market, 2007-09

(Quantity=units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	2007	2008	2009	2007-09	2007-08	2008-09
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producer's share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producer's share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	859,540	956,103	1,125,759	31.0	11.2	17.7
Value	28,981	29,514	37,535	29.5	1.8	27.2
Unit value	\$33.72	\$30.87	\$33.34	-1.1	-8.4	8.0
Ending inventory quantity	243,496	192,655	218,188	-10.4	-20.9	13.3
All other sources:						
Quantity	0	1,008	0	(2)	(2)	-100.0
Value	0	11	0	(2)	(2)	-100.0
Unit value	(2)	\$10.91	(2)	(2)	(2)	(2)
Ending inventory quantity	0	0	0	(2)	(2)	(2)
All sources:						
Quantity	859,540	957,111	1,125,759	31.0	11.4	17.6
Value	28,981	29,525	37,535	29.5	1.9	27.1
Unit value	\$33.72	\$30.85	\$33.34	-1.1	-8.5	8.1
Ending inventory quantity	243,496	192,655	218,188	-10.4	-20.9	13.3
U.S. producer's:						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000)	***	***	***	***	***	***
Wages paid (\$1,000)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (units/1,000 hours)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Sales:						
Gross quantity	***	***	***	***	***	***
Net value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.

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