

UNITED STATES INTERNATIONAL TRADE COMMISSION

**PRESTRESSED CONCRETE
STEEL WIRE STRAND FROM JAPAN
Investigation No. AA1921-188 (Review)**

DETERMINATION AND
VIEWS OF THE COMMISSION
(USITC Publication No. 3156, February 1999)

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PRESTRESSED CONCRETE STEEL WIRE STRAND FROM JAPAN

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission determines,² pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping finding on prestressed concrete steel wire strand from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on September 1, 1998 (63 FR 46477), and determined on December 4, 1998, that it would conduct an expedited review (63 FR 70158, December 18, 1998).

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

² Commissioner Askey dissenting.

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping finding concerning prestressed concrete steel wire strand (“PC strand”) from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹

I. BACKGROUND

In November 1978, the Commission determined that an industry in the United States was being injured by reason of dumped imports of PC strand from Japan pursuant to the Antidumping Act, 1921. Subsequently, the Department of the Treasury issued an antidumping finding covering these imports.² On September 1, 1998, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping finding on PC strand from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.³

In five-year reviews, the Commission first determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. Specifically, the Commission determines whether individual responses to the notice of institution are adequate and, based on these individually adequate responses, whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – show a sufficient willingness among each group to participate and provide information requested in a full review, and if not, whether other circumstances warrant a full review.⁴

In this review the Commission received one response to its notice of institution from interested parties American Spring Wire Corp., Florida Wire & Cable, Inc., Insteel Wire Products Co., and Sumiden Wire Products Corp., domestic producers of PC strand believed to account for 100 percent of domestic production. These parties also filed comments on adequacy, arguing that the review should be expedited because there was no respondent interested party response.⁵

On December 4, 1998, the Commission found that the response from the domestic interested party group was adequate and that the respondent interested party group response was inadequate because no respondent interested parties responded to the notice. Pursuant to Section 751(c)(3)(B) of the Act, the Commission voted to conduct an expedited review.⁶ On January 6, 1999, the domestic interested parties filed comments pursuant to 19 C.F.R. § 207.62(d) concerning the determination that the Commission should reach in this review.

¹ Commissioner Askey determined that revocation of the finding in this case is not likely to lead to continuation or recurrence of material injury to an industry in the United States. See her dissenting views. She joins Sections I-II of these views.

² 43 Fed. Reg. 34655 (Dec. 8, 1978).

³ 63 Fed. Reg. 46477 (Sept. 1, 1998).

⁴ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

⁵ See 19 C.F.R. § 207.62(b) (authorizing, *inter alia*, all interested parties that have responded to the notice of institution to file comments with the Commission on whether the Commission should conduct an expedited review).

⁶ 19 U.S.C. § 1675(c)(3)(B); see 63 Fed. Reg. 70158 (Dec. 18, 1998).

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”⁷ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”⁸ In its final five-year review determination, the Department of Commerce (“Commerce”) defined the imported product covered by the existing antidumping finding as shipments of “steel wire strand, other than alloy steel, not galvanized, which are stress-relieved and suitable for use in prestressed concrete.”⁹

Under the then applicable statutory provisions, the Commission did not make a like product determination *per se* in its original determination. Instead, the Commission “considered the relevant domestic industry to consist of facilities in the United States devoted to the production of steel wire strand for prestressed concrete.”¹⁰ Thus, the Commission essentially treated all PC strand as a single product. The domestic producers agree with the definitions of the domestic like product and the domestic industry implicitly found in the original investigation.¹¹

We find, based on the facts available, that the appropriate definition of the domestic like product in this expedited five-year review is the same as Commerce’s scope: all steel wire strand, other than alloy steel, not galvanized, which has been stress-relieved and is suitable for use in prestressed concrete.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.”¹² In defining the domestic industry in this review, we consider whether any producers of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act.

One foreign producer, Sumitomo Electric Industries, is related to Sumiden Wire Products Corp., a current domestic producer. However, Sumitomo is no longer subject to the outstanding antidumping finding.¹³ Thus, there is no reason to exclude Sumiden from the domestic industry. Accordingly, we define the domestic industry to encompass all U.S. producers of PC strand.

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁹ See 64 Fed. Reg. 857 (Jan. 6, 1999); see also 52 Fed. Reg. 37997 (Oct. 13, 1987) (Commerce explaining that galvanized steel wire strand was not included in the scope of the antidumping finding).

¹⁰ Steel Wire Strand for Prestressed Concrete from Japan, Inv. No. AA1921-188, USITC Pub. 928, at 4, 7 (Nov. 1978) (“Original Determination”).

¹¹ Domestic Industry’s Response to Notice of Institution at 18.

¹² 19 U.S.C. § 1677(4)(A). 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, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996).

¹³ 64 Fed. Reg. 858.

III. REVOCATION OF THE FINDING ON PC STRAND IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order or finding unless it makes a determination that dumping is likely to continue or recur and the Commission makes a determination that material injury would be likely to continue or recur if the order or finding is revoked, as described in section 752(a).

Section 752(a) of the Act states that in a five-year review “the Commission shall determine whether revocation of an order [or finding], or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹⁴ The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) indicates that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order or finding] . . . and the elimination of its restraining effects on volumes and prices of imports.”¹⁵ Thus, the likelihood standard is prospective in nature.¹⁶ The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”¹⁷ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{18 19}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.” It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is

¹⁴ 19 U.S.C. § 1675a(a).

¹⁵ URAA SAA, H.R. Rep. No. 316, 103d Cong., 2d Sess., vol. I, at 883-84.

¹⁶ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

¹⁷ 19 U.S.C. § 1675a(a)(5).

¹⁸ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

¹⁹ In analyzing what constitutes a reasonably foreseeable time, Commissioner Crawford examines all the current and likely conditions of competition in the relevant industry. She defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, she considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, her analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

revoked.^{20 21}

Section 751(c)(3) of the Act and the Commission's regulations provide that in an expedited five-year review the Commission may issue a final determination "based on the facts available, in accordance with section 776."²² We have relied on the facts available in this review, which consist primarily of the record in the original investigation and information submitted by the domestic industry in response to our notice of institution.

For the reasons stated below, we determine that revocation of the antidumping finding on PC strand from Japan would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."²³ Conditions of competition relevant to the PC strand industry are discussed below.

The supply of PC strand in the United States has expanded significantly since imposition of the original finding in 1978, reflecting new and diversified foreign sources of supply and some increase in domestic production capacity. Twenty years ago, three of the six domestic producers were large, integrated carbon steel producers. Now the domestic industry consists of four relatively small, non-integrated steel fabrication firms that begin the production process by purchasing carbon steel wire rod as a raw material input.²⁴ Wire rod is a global commodity and, as such, is available from a number of domestic and international sources.

The domestic industry currently supplies about three-quarters of the U.S. market.²⁵ Domestic producers have some available capacity to meet future growth in demand.^{26 27}

²⁰ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

²¹ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings "the findings of the administrative authority regarding duty absorption." 19 U.S.C. § 1675a(a)(1)(D). Commerce stated in its five-year review determination that it has not issued any duty absorption findings in this matter. 64 Fed. Reg. 859.

²² 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or another person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

²³ 19 U.S.C. § 1675a(a)(4).

²⁴ Commissioner Crawford notes that non-integrated firms have less flexibility in matching downward trends in prices.

²⁵ Domestic Producers' Response to Notice of Institution, Exh. 6; Table I-3, Confidential Report ("CR") at I-11, Public Report ("PR") at I-10.

²⁶ In 1997, the domestic producers utilized 90.4 percent of their capacity, and utilized 82.7 percent in January-June 1998. Domestic Producers' Response to Notice of Institution, Exh. 6; Table I-1, CR at I-7, PR at I-6.

²⁷ Commissioner Crawford notes that the barriers to entry into the U.S. PC strand market appear to be low, based on the significant number of nonsubject and domestic competitors that have entered (and in some cases exited) the U.S. market.

Before the antidumping finding was imposed, Japan accounted for more than 60 percent of domestic consumption,²⁸ as well as approximately 90 percent of all imports of PC strand. The volume of PC strand imports from Japan has declined substantially during the life of the finding to less than one percent of domestic consumption at present.²⁹

Nonsubject imports have become more important in the U.S. market than they were at the time that the finding was imposed. At present, nonsubject imports account for about one-quarter of domestic consumption.^{30 31}

Demand for PC strand is derived from its use in construction. PC strand is used in pre-tensioned and post-tensioned prestressed concrete construction applications, such as bridge girders, beams, pilings, and deck and roof trusses.³² Since imposition of the finding, the domestic construction industry has enjoyed a lengthy expansion, thus increasing demand for PC strand.³³ The domestic industry expects demand to remain positive in the near term due to the general level of growth in construction and the increasing attractiveness of concrete as a building material vis-a-vis its substitutes.³⁴

Another condition of competition relevant to demand is that PC strand is predominantly a commodity product. Its appearance, the uniformity of its surface, its exact specifications, and other quality factors typically associated with steel products matter little to most purchasers, so long as the strand meets general strength, elongation, and bendability requirements.³⁵ Sales of PC strand have become concentrated in certain grades and sizes since the original investigation, raising the degree of substitutability among PC strand from different sources.³⁶

Moreover, the facts available in this review indicate that competition among suppliers continues to be based predominantly on price.³⁷ These facts imply that domestic and imported PC strand are good substitutes for one another.³⁸

We find that the conditions of competition in the market for PC strand are not likely to change in the reasonably foreseeable future. Accordingly, in this review the current conditions in the PC strand industry are

²⁸ Original Determination at A-21; Table I-3, CR at I-11, PR at I-10.

²⁹ Domestic Producers' Response to Notice of Institution at 14 and Exhs. 4-6; Domestic Producers' Comments at 24; Table I-3, CR at I-11, PR at I-10; Table I-4, CR at I-13, PR at I-11. Import data are for all imports from Japan. It is not possible to distinguish between subject and nonsubject imports, except to note that there have been no antidumping duties collected on this merchandise during the three most recent years for which information is available. *Id.*

³⁰ Domestic Producers' Response to Notice of Institution, Exh. 9; Table I-3, CR at I-11, PR at I-10.

³¹ Commissioner Crawford notes that the volume of nonsubject imports has increased. Total nonsubject import volumes in 1997 were several times the levels of such imports in 1992. Domestic Producers' Response to Notice of Institution, Exh. 4. Approximately two dozen countries now supply PC strand to the U.S. market. CR at I-8 n.20, PR at I-7 n.20.

³² Original Determination at 3-4, 7; CR at I-5, PR at I-4.

³³ Domestic Producers' Response to Notice of Institution at 12; *see* Domestic Producers' Comments at 7.

³⁴ Domestic Producers' Response to Notice of Institution at 16; Domestic Producers' Comments at 7. This outlook contrasts with conditions at the time of the original investigation, when a rapid increase in demand in the early part of the period examined was followed by a recession. Original Determination at A-7.

³⁵ Domestic Producers' Response to Notice of Institution at 13. No substitutes for PC strand have been identified.

³⁶ Over 90 percent of current PC strand sales in the United States are of grade 270K (signifying "ultimate strength" of 270,000 pounds per square inch (psi)) and over 75 percent of total sales are of PC strand measuring 0.5 inches in diameter, although a limited number of other sizes from 0.25 to 0.60 inches in diameter are available. Domestic Producers' Response to Notice of Institution at 13; Domestic Producers' Comments at 23; *see also* Domestic Producers' Response to Notice of Institution, Exh. 2, indicating that most sales allegedly lost to imports involved 0.5 inch product, much of which was grade 270K.

³⁷ *See* Domestic Producers' Response to Notice of Institution, Exhs. 4-5.

³⁸ *See, e.g.,* Original Determination at A-23.

a reasonable basis from which to analyze the effects of revocation.³⁹ We also find that conditions of competition are such that any effects of revocation would be likely to manifest themselves within a relatively short period of time.⁴⁰

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.^{41 42} In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁴³

In a five-year review our focus is on whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping finding is revoked. As discussed below, the limited facts available⁴⁴ indicate that subject import volume is likely to increase significantly and would be significant if the finding is revoked.

Japanese capacity far exceeds domestic demand in Japan.⁴⁵ For 1998, Japanese capacity utilization is estimated to be *** percent.⁴⁶ Part of the reason for this substantial excess capacity is the fact that Japan and other countries in Asia are currently experiencing a severe economic recession.⁴⁷ In contrast, demand for PC strand in the construction industry is strong in the United States and it is likely to remain strong in the reasonably foreseeable future. These contrasting economic conditions suggest that significant volumes of Japanese PC strand that might otherwise be consumed in Japan or shipped to other Asian countries would be diverted to the United States should the antidumping finding be revoked.⁴⁸ Total available capacity for the production of PC strand in Japan is equivalent to *** of the U.S. market, and unused capacity alone would supply *** of U.S. demand for PC strand in 1997.⁴⁹

³⁹ In analyzing whether revocation of a finding or order would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time, Commissioner Crawford takes as her starting point the date on which the revocation would actually take place. In this review, the finding would be revoked in January 2000. 19 U.S.C. § 1675(c)(6)(iv).

⁴⁰ Chairman Bragg does not concur in this statement.

⁴¹ 19 U.S.C. § 1675a(a)(2).

⁴² In examining the likely volume and pricing of subject imports if the finding is revoked, Commissioner Crawford has examined both domestic and global market conditions.

⁴³ 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁴⁴ See 19 U.S.C. § 1677e(a).

⁴⁵ Domestic Producers' Response to Notice of Institution at 15; Domestic Producers' Comments at 7.

⁴⁶ Domestic Producers' Response to Notice of Institution at 15 and Exh. 11; Domestic Producers' Comments at 4-5; Table I-4, CR at I-13, PR at I-11. As in 1998, Japanese capacity utilization at the time of the original investigation was low – approximately 53 percent in 1977. Domestic Producers' Response to Notice of Institution at 15 and Exh. 11; Domestic Producers' Comments at 4-5; Table I-4, CR at I-13, PR at I-11.

⁴⁷ Domestic Producers' Response to Notice of Institution at 15; Domestic Producers' Comments at 7.

⁴⁸ Domestic Producers' Response to Notice of Institution at 15; Domestic Producers' Comments at 6-7. We note that imports of PC strand from Korea in particular, which are not subject to an antidumping finding or order, have increased considerably between the fourth quarter of 1997 and January-June 1998. Domestic Producers' Response to Notice of Institution, Exh. 5; Domestic Producers' Comments at 7.

⁴⁹ Domestic Producers' Comments at 5.

The past behavior of the Japanese producers indicates a likelihood that they would resume significant exports of PC strand to the United States if the antidumping finding is revoked. Prior to the imposition of the finding in 1978, Japanese exports to the United States increased from over 139 million pounds in 1976 to 176 million pounds in 1977, and held over 60 percent of the U.S. market.⁵⁰ In the two years before the antidumping finding was in place, the Japanese producers shipped approximately two-thirds of their total production of this commodity product to the United States.⁵¹ For much of the period for which data were collected in the original investigation, Japanese PC strand accounted for approximately 90 percent of U.S. imports of that product.⁵²

Once the finding was in place, imports decreased sharply, to less than 152 million pounds in 1979 and 126 million pounds in 1980.⁵³ Imports from Japan continued to decline in the early 1980s from 40 million to 60 million pounds per year, to less than four million pounds per year in the late 1980s, and then to levels of less than two million pounds per year throughout the 1990s, such that Japanese PC strand now accounts for less than one percent of total U.S. imports.⁵⁴ Although it is unlikely that subject imports of PC strand would regain the 60 percent market share they once held within a reasonably foreseeable time, given their historical emphasis on the U.S. market and the relative conditions in the U.S. and world markets, we conclude that subject imports would increase to a significant level in the absence of the finding. Accordingly, while the U.S. market share for all Japanese PC strand is less than one percent,⁵⁵ we determine that subject Japanese producers likely would regain significant U.S. market share absent the restraining effect of the finding.^{56 57 58}

⁵⁰ Domestic Producers' Response to Notice of Institution, Exh. 7; Domestic Producers' Comments at 9; CR at I-8, PR at I-7.

⁵¹ Original Determination at A-9.

⁵² Tables I-2 and I-3, CR at I-10 and I-11, PR at I-9 and I-10.

⁵³ Domestic Producers' Response to Notice of Institution, Exh. 3; Domestic Producers' Comments at 9.

⁵⁴ Domestic Producers' Response to Notice of Institution, Exh. 3; Domestic Producers' Comments at 9; CR at I-8, PR at I-7. We note that recent imports from Japan were produced by nonsubject manufacturers. CR at I-8 n.19, PR at I-7 n.19.

⁵⁵ Table I-3, CR at I-11, PR at I-10.

⁵⁶ Following the imposition of a 13.3 percent antidumping duty against Shinko Wire Co.'s exports of PC strand to the United States, the company expanded its operations by establishing a U.S. subsidiary, Shinko Wire America, Inc., to produce PC strand in Houston, Texas. In late 1996, however, Shinko elected to consolidate its PC strand production and sales operations by selling its U.S. production facility. Domestic Producers' Response to Notice of Institution at 15-16; Domestic Producers' Comments at 7-8. While such a decision could reflect a diminished interest in the U.S. market, we note that Shinko was the *** Japanese exporter of PC strand to the United States prior to imposition of the antidumping finding. By foreclosing the option of U.S. production, any sales by Shinko to new customers or to its existing customer base in the United States would have to be in the form of exports. In the absence of any information or argument to the contrary, we find it likely that Shinko would ship significant quantities into the U.S. market if the finding were revoked, despite its decision to sell its U.S. facility.

⁵⁷ Chairman Bragg notes that, pursuant to statute, when relying upon facts available the Commission may take adverse inferences against parties that fail to respond adequately to the Commission's information request. 19 U.S.C. §§ 1675(c)(3)(B), 1677e(b). Chairman Bragg further notes that respondent parties failed to cooperate in this review; indeed, no Japanese producer or exporter, or U.S. importer, of PC strand subject to the antidumping finding provided any information in response to the Commission's notice of institution.

The URAA SAA states that "[i]f the Commission finds that pre-order [or pre-finding] conditions are likely to recur, it is reasonable to conclude that there is likelihood of continuation or recurrence of injury." SAA at 884.

Although it is unlikely that, in the absence of the antidumping finding, Japanese imports of PC strand would regain the 60 percent U.S. market share they once held within a reasonably foreseeable time, Chairman Bragg does infer that, in the absence of the finding, Japanese producers would revert to their historical emphasis on exporting to the United States evidenced in the Commission's original determination. Based upon the record in this review, Chairman Bragg finds that this historical emphasis will likely result in significant volumes of subject imports into the United States

(continued...)

There is no information on the record regarding the potential for product shifting, the level of Japanese inventories, or significant barriers to importation in other countries.⁵⁹ Based on the information in the record, including the un rebutted information provided by the domestic industry, we find it is likely that subject PC strand imports from Japan would increase significantly, resulting in a significant level of imports and significantly decreased demand for the domestic like product if the antidumping finding is revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and if the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.⁶⁰

The record in this expedited review contains very little pricing data because such data are not available from directly submitted or independently published sources.⁶¹ Moreover, there are no current prices of subject imports because there have been no shipments of subject merchandise in the last three years.⁶² Consequently, our conclusions regarding the likely price effects if the finding is revoked are drawn largely from our conclusions on likely subject import volumes and the pertinent conditions of competition.⁶³

As noted above, PC strand is a commodity product and, as such, is traded largely on the basis of price. This is particularly true because the types of product commonly sold have narrowed since the original investigation. Prevailing price levels are declining. Specifically, the average unit value of domestic shipments declined by \$40 per ton between interim 1997 and interim 1998 despite generally high levels of demand.⁶⁴ While the data we have are limited, we conclude that the re-entry of subject Japanese producers

⁵⁷ (...continued)

if the finding is revoked.

⁵⁸ Commissioners Crawford and Koplan note that, in contrast to Korean imports, nonsubject Japanese imports have not increased. It is not clear whether the behavior of nonsubject Japanese imports implies a lack of interest in the U.S. market, an inability to compete fairly in the U.S. market, the type of product they produce, or some other motivation. Nevertheless, given the information on the record, including the un rebutted information provided by the domestic industry, we find that subject producers would increase their exports to the United States to a significant level if the order is revoked.

⁵⁹ In the absence of such record information, and based upon the failure of Japanese producers or exporters, or U.S. importers, of PC strand subject to the antidumping finding to respond adequately to the Commission's information request, Chairman Bragg infers that, if available, such information would further support the conclusion that revocation of the antidumping finding will likely result in significant volumes of subject imports into the United States.

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

⁶¹ The limited data on the record indicate that over 75 percent of PC strand is sold in a single size (0.5 inch diameter) and over 90 percent is sold in a single grade (270K). We therefore find that average unit values are suitable bases for price comparisons in this review. *See* Domestic Producers' Response to Notice of Institution at 8 n.1; Domestic Producers' Comments at 11.

⁶² *See* Table I-2 n.1, CR at I-10, PR at I-9.

⁶³ Based upon the limited pricing data available in the record, as well as the failure of Japanese producers or exporters, or U.S. importers, of PC strand subject to the antidumping finding to respond adequately to the Commission's information request, Chairman Bragg also infers that, if available, any further information would support the conclusion that revocation of the antidumping finding would likely result in subject imports causing significant negative price effects for the U.S. producers of PC strand.

⁶⁴ Domestic Producers' Response to Notice of Institution, Exh. 6; Domestic Producers' Comments at 11-12.

into a diverse market of nearly two dozen domestic and import sources likely would win sales by discounting from prevailing price levels.⁶⁵

Based on the foregoing, we find that if the finding is revoked there is likely to be significant price underselling by the subject imports as compared to the domestic like product, and that subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic PC strand. Thus, we conclude that imports of the subject merchandise would be likely to have significant negative price effects if the finding is revoked.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the finding is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁶⁶ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.^{67 68} As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping finding at issue and whether the industry is vulnerable to material injury if the finding is revoked.⁶⁹

There is limited information in the record that permits an evaluation of whether any improvement in the state of the industry is related to imposition of the antidumping finding. As discussed above, however, imports from Japan have largely exited the U.S. market since imposition of the finding, which has allowed U.S. producers to regain substantial market share. The current conditions of competition in the industry, together with the restraining effect of the antidumping finding on subject import volumes, suggest that the Japanese producers would again become significant competitors in the U.S. market if the finding were revoked.

With respect to vulnerability of the domestic industry, the data are mixed. In 1997, operating income was positive.⁷⁰ In conjunction with marked growth in PC strand consumption in the U.S. market, the domestic industry has increased its capacity to produce PC strand. Production capacity increased 11.1

⁶⁵ In reaching this conclusion, we have taken into account the fact that subject imports consistently undersold the domestic product during the period examined in the Commission's prior injury determination. Original Determination at A-24. Commissioner Crawford does not join this footnote.

⁶⁶ 19 U.S.C. § 1675a(a)(4).

⁶⁷ 19 U.S.C. § 1675a(a)(4).

⁶⁸ Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887.

Commerce's expedited determination in its five-year review provided likely margins ranging from 4.5 to 13.3 percent for three specific PC strand producers. The estimated "all others" margin is 9.76 percent. 64 Fed. Reg. 860.

⁶⁹ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the finding is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

⁷⁰ In 1997, operating income was \$17 million. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6. Operating income relative to sales was 11.2 percent in 1997. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6.

percent between January-June 1997 and January-June 1998.⁷¹ In the first half of 1998, domestic shipments of PC strand increased, but not as rapidly as capacity.

In interim 1998, while net sales increased⁷² along with domestic shipments, gross profits, and operating income decreased sharply.⁷³ ⁷⁴ Operating income declined as a result of much lower unit sales values combined with an increase in the cost of goods sold⁷⁵ and in selling, general and administrative expenses.⁷⁶

In view of the substantial increase in the ratio of the cost of goods sold to sales,⁷⁷ we conclude that the domestic industry is experiencing a cost-price squeeze. Although there is presently no actual competition with subject Japanese suppliers, as noted above, some two dozen other import sources, including nonsubject imports from Japan, compete for sales of a relatively homogeneous commodity, contributing to an environment characterized by declining prices. These nonsubject sources accounted for more than 17 percent of U.S. consumption in interim 1998.⁷⁸ In these circumstances, and based on the current record, we conclude that the domestic industry is vulnerable to material injury.⁷⁹

We have already concluded, on the record in this review, that if the antidumping finding is revoked, the volume of subject imports would be significant and that these volumes would have significant adverse price effects on the domestic industry. Our vulnerability finding supports the conclusion that these imports would likely have significant negative effects, within a reasonably foreseeable time, on the domestic industry's prices, output, profitability, capacity utilization, cash flow, and ability to raise capital and make future investments. Overall, we find that if the antidumping finding is revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

⁷¹ Capacity increased from 261 million pounds in interim 1997 to 290 million pounds in interim 1998. Domestic Producers' Response to Notice of Institution, Exh. 6; Table I-1, CR at I-7, PR at I-6.

⁷² Net sales increased from \$77 million during January-June 1997 to \$79 million during January-June 1998. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6.

⁷³ Gross profit was \$15 million and declined to \$9 million between interim periods. Operating income decreased from \$9 million to \$3 million between interim periods. Domestic Producers' Response to Notice of Institution, Exh. 8; Domestic Producers' Comments at 18, 21-22; Table I-1, CR at I-7, PR at I-6.

⁷⁴ Reported production fell from 255 million pounds in interim 1997 to 240 million pounds in interim 1998. Calculated capacity utilization rates decreased from 97.5 percent to 82.7 percent over the same time period. Domestic Producers' Response to Notice of Institution, Exh. 6; Table I-1, CR at I-7, PR at I-6.

⁷⁵ The cost of goods sold increased from \$62 million during January-June 1997 to \$70 million during January-June 1998. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6. The major cost element for PC strand is steel wire rod, its essential raw material. *See, e.g.,* Domestic Producers' Response to the Notice of Institution at 14. Raw material costs can move sharply higher as a result of a number of events, such as actual or expected outages by major suppliers or uncertainty in the supply chain as a result of trade litigation. *See generally Certain Steel Wire Rod From Canada, Germany, Trinidad & Tobago, and Venezuela*, Invs. Nos. 731-TA-763-766 (Final), USITC Pub. 3087 (Mar. 1998).

⁷⁶ Selling, general and administrative expenses increased from \$6.0 million during January-June 1997 to \$6.2 million during January-June 1998. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6.

⁷⁷ The cost of goods sold relative to sales increased from 80.6 to 88.6 percent between interim periods. Domestic Producers' Response to Notice of Institution, Exh. 8; Table I-1, CR at I-7, PR at I-6.

⁷⁸ Table I-3, CR at I-11, PR at I-10. We note that nonsubject market share was more than 23 percent in interim 1997. *Id.*

⁷⁹ Commissioner Crawford finds that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the industry. She finds that the domestic industry in this review is relatively vulnerable to injury if the finding is revoked, primarily due to overcapacity and competition from nonsubject imports.

For the foregoing reasons, we determine that revocation of the antidumping finding on PC strand from Japan would be likely to lead to continuation or recurrence of material injury to the U.S. PC strand industry within a reasonably foreseeable time.

DISSENTING VIEWS OF COMMISSIONER THELMA J. ASKEY

Section 751(d) requires that Commerce revoke a countervailing duty or an antidumping finding in a “sunset” review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.¹ In this review of the finding on prestressed concrete steel wire strand (PC strand) from Japan, I find that material injury would be likely neither to continue nor to recur in the event of revocation and I therefore find that Commerce should revoke the finding.

I. THE LEGAL STANDARD FOR SUNSET REVIEWS

Under section 752(a) of the Act, the Commission determines “whether revocation of an order [finding] . . . would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”² The Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act indicates that: “under the likelihood standard, the Commission will engage in a counter-factual analysis: it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of a finding] . . . and the elimination of its restraining effects on volumes and prices of imports.”³ The likelihood standard is prospective in nature and therefore differs from the standards for material injury and threat of material injury, which involve assessments of current injury or threat thereof, though some of the same analytical elements are applicable.⁴ The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”⁵ In making its determination, the Commission “shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order [finding] is revoked”⁶ Section 752(a)(1) also sets forth four general factors for the Commission to take into account in a five-year review. The first general factor instructs the Commission to take into account its prior injury determination, including the volume, price effects, and impact of the subject imports on the industry before the finding in question was issued.⁷ The second factor concerns whether any improvement in the state of the industry is related to the finding under review.⁸ The third concerns whether the industry is vulnerable to material injury if the finding is revoked.⁹ The fourth relates to the findings of the administering authority regarding duty absorption under section 751(a)(4) of the Act.¹⁰

¹ 19 U.S.C. §§ 1675(d)(2), 1675a(a)(1).

² 19 U.S.C. § 1675a(a).

³ Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, vol. 1 at 884 (1994).

⁴ *Id.* The Commission “may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the finding is revoked.” *Id.*

⁵ 19 U.S.C. § 1675a(a)(5).

⁶ 19 U.S.C. § 1675a(a)(1). The statute provides that the Commission may consider the margin of dumping when making its determination. 19 U.S.C. § 1675a(a)(6). Commerce provided the margins it would expect in the event of revocation for three Japanese PC strand producers; those margins ranged from 4.5 percent to 13.3 percent. The “all others” margin would be 9.76 percent. Two Japanese producers are not subject to this review because the investigation concerning one company was discontinued and the finding against the second was revoked. 64 Fed. Reg. 857, 860 (Jan. 6, 1999).

⁷ 19 U.S.C. § 1675a(a)(1)(A).

⁸ 19 U.S.C. § 1675a(a)(1)(B).

⁹ 19 U.S.C. § 1675a(a)(1)(C).

¹⁰ Commerce observed in its five-year review determination that it has not issued any duty absorption findings in this matter. 64 Fed. Reg. 859.

Finally, the statute provides that “[t]he presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination. . . .”¹¹ The SAA explains that as in the case of injury and threat determinations, “the Commission must consider all factors, but no one factor is necessarily dispositive.”¹² The SAA further states that “[i]n particular, the Commission need not determine that both the volume and price effects of imports are likely to be significant to determine that material injury is likely within a reasonably foreseeable time.”¹³

II. MATERIAL INJURY WILL NEITHER CONTINUE NOR RECUR AS A RESULT OF REVOCATION

I join the majority of the Commission’s determination regarding domestic like product and domestic industry. Domestic producers representing 100 percent of the domestic industry responded to the Commission’s notice of initiation; no respondent interested parties chose to participate in the review. Publicly available data on the PC strand industry are scarce. We therefore have a limited record, with most current data composed of information provided by domestic producers, to review in determining whether revocation of the finding will likely lead to continuation or recurrence of material injury.¹⁴ On the basis of the record, and considering all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry,”¹⁵ I find that revocation of the finding would not likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.

A. Conditions of Competition

PC strand is fabricated from cleaned (annealed) nonalloy steel wire rod that is cold-drawn to the appropriate wire size. The wire rod is then stranded into a multi-wire configuration and subsequently processed further to improve the load-bearing capability of the steel. PC strand is used to reinforce concrete and is therefore used in concrete construction applications that require load-bearing capability.¹⁶ PC strand is available in two grades ranging from 250,000 to 270,000 psi, and sizes ranging from 0.25 to 0.60 inch in diameter.¹⁷ The domestic industry estimates that more than 90 percent of PC strand sales are of grade 270 and more than 75 percent are in the size of 0.50 inch in diameter.¹⁸

The demand for PC strand is a derived demand influenced by the demand for construction. The domestic industry characterizes demand as strong for construction in general, and in particular, they assert that concrete is increasing in attractiveness as a building material vis-à-vis other materials.¹⁹ The U.S. market for PC strand has increased dramatically since the imposition of the antidumping finding. Apparent U.S.

¹¹ 19 U.S.C. § 1675a(a)(5).

¹² SAA at 886.

¹³ Id.

¹⁴ Congress and the administration anticipated that the record in expedited sunset reviews would likely be more limited than that in full reviews and accordingly provided that the Commission’s determination would be upheld unless it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(b)(ii). Nevertheless, even under a more relaxed standard of review, the Commission must ensure that its decision is based on some evidence in the record. See, Genentech Inc. v. United States Int’l Trade Comm’n, 122 F.3d 1409, 1415 (Fed. Cir. 1997) (discussing the Commission’s decision on sanctions).

¹⁵ 19 U.S.C. § 1675a(a)(4).

¹⁶ Confidential Report (“CR”) at I-5, Public Report (“PR”) at I-4.

¹⁷ CR at I-5, PR at I-4.

¹⁸ Response to the Notice of Institution by the Domestic Industry (RDI) filed Oct. 21, 1998, at 13.

¹⁹ RDI at 16.

consumption of PC strand has increased from 291 million pounds in 1977 to 588 million pounds in 1997 and 586 million pounds in annualized 1998 data.²⁰

The domestic industry supplies over 75 percent of the U.S. market.²¹ Japanese producers, which accounted for approximately 60 percent of the U.S. market prior to imposition of the finding, have seen their market share dwindle to approximately 0.1 percent by quantity in 1997 and in January-June (interim) 1998.²² Nonsubject imports account for the remainder of the market. While the largest volumes of nonsubject imports have historically come from Canada, Mexico, and Brazil, Korean imports have surged in 1998, increasing 537 percent from interim 1997 to interim 1998.²³

The domestic industry states that since no U.S. supplier is an integrated steel company, all domestic producers buy carbon wire rod from both domestic and international sources to produce PC strand.²⁴ Capacity utilization was reported as 90.4 percent in 1997 and 82.7 percent in interim 1998.²⁵ Also, because wire rod is readily available on the global market, barriers to commencing production of PC strand are modest.²⁶

The domestic industry characterizes competition among suppliers as based “almost exclusively on price, given the fungibility of the imported and domestic like product.”²⁷ So long as the strand meets general strength, elongation, and bendability requirements, PC strand is generally interchangeable.²⁸ This implies that domestic and imported PC strand are highly substitutable, commodity products, and that small differences in price could cause consumers to purchase from different suppliers.

B. General Considerations

As directed by the statute, I have taken into account the Commission’s prior injury determination, including the volume, price effects, and impact of the subject imports on the industry before the finding was issued.²⁹ The prior determination concluded that the domestic industry suffered, from 1974 to 1977, a declining rate of capacity utilization (from 89 percent to 51 percent) and a precipitous decline in profitability (from about a 20-percent profit to a 7-percent loss).³⁰ In addition, the industry saw a 24-percent decrease in shipments, a 39-percent increase in inventories, and a 19-percent drop in employment.³¹ The prior determination noted a 26.9-percent increase in imports from 1976 to 1977 and a 40-percent decline in the price of imported PC strand over the period examined.³² It also noted a 31-percent decline in domestic prices of PC strand.³³

The industry, however, has changed dramatically in the twenty years since the original determination. Integrated steel producers no longer make PC strand in the United States. U.S. producers source wire rod from domestic and imported sources to produce PC strand. The domestic industry now supplies a majority of

²⁰ Table I-3, CR at I-11, PR at I-10; RDI at exhibit 6.

²¹ Table I-3, CR at I-11, PR at I-10.

²² Id.

²³ RDI at exhibit 5; Comments of the Domestic Industry filed Jan. 6, 1999, at 7.

²⁴ RDI at 14.

²⁵ Table I-1, CR at I-7, PR at I-6; RDI at exhibits 6 and 8.

²⁶ RDI at 13-14.

²⁷ RDI at 18.

²⁸ RDI at 13.

²⁹ 19 U.S.C. § 1675a(a)(1)(A). According to the SAA, if pre-finding conditions are likely to recur, it is reasonable to conclude that there is a likelihood of continuation or recurrence of injury. SAA at 884.

³⁰ Steel Wire Strand for Prestressed Concrete from Japan, Inv. No. AA1921-188, USITC Pub. 928 at 4-5 (Nov. 1978).

³¹ Id. at 5.

³² Id. at 5-6.

³³ Id. at 6.

the U.S. market, 77.3 percent in 1997 and 82.6 percent in interim 1998.³⁴ Prior to the imposition of the finding, the domestic industry routinely accounted for less than one-third of the market. In addition, Japanese producers accounted for over 60 percent of the U.S. market prior to the finding. At present, nonsubject Japanese producers account for approximately 0.1 percent of the U.S. market, with other foreign producers supplying 22.6 percent of the market in 1997 and 17.3 percent in interim 1998.³⁵ Given the domestic industry's dominance of this market and strong competition from nonsubject imports, it is unlikely that Japanese producers would be able to re-establish their prior market share within a reasonably foreseeable time. I therefore find that pre-finding conditions are unlikely to recur as a result of revocation of the finding.

Though improvement in the industry's current position does not necessarily mean the finding is no longer necessary, because one would expect the imposition of an finding to have some beneficial effect on the industry, I do not find that the condition of the PC strand industry is likely to deteriorate if the finding is revoked. Given the changes in the domestic industry since the imposition of the finding, the absence of subject imports, and the large number of nonsubject imports, I find the current state of the industry largely unrelated to the existence of the finding.

I further find that the domestic industry does not appear to be vulnerable to material injury if the finding is lifted. U.S. producers account for a majority of the market and are currently competing against numerous foreign producers. In addition, the domestic industry remains profitable.³⁶

C. Volume

The Commission is to consider whether the likely volume of subject imports if the finding under review is revoked would be significant either in absolute terms or relative to production or consumption in the United States.³⁷ In so doing, the Commission shall consider "all relevant economic factors," including four enumerated in the statute: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise in countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.³⁸

Japanese imports currently hold a minimal 0.1 percent of the U.S. market, and no subject imports have entered the United States for the last three years.³⁹ Though the record reflects that Japanese producers have unused capacity,⁴⁰ Japanese market share is unlikely to increase significantly in the reasonably foreseeable future given the dominance of domestic producers and the large number of foreign suppliers already competing in the market.

Further, in 1996, one Japanese producer sold its PC strand assets in the United States and relocated to Japan.⁴¹ Though the domestic industry argues that this shift in production means the Japanese producer is likely to sell dumped imports to its U.S. customers from its Japanese facility, this departure may just as reasonably be explained as a lack of interest in the U.S. market by a significant Japanese producer, particularly since foreign producers often maintain a platform in a market that they are supplying.

³⁴ Table I-3, CR at I-11, PR at I-10.

³⁵ Id.

³⁶ Table I-1, CR at I-7, PR at I-6.

³⁷ 19 U.S.C. § 1675a(a)(2).

³⁸ 19 U.S.C. § 1675(a)(2)(A)-(D). The SAA indicates that the statutory factors specified for analysis of volume, price, and impact are a combination of those used to determine both material injury by reason of subject imports and threat of material injury in original antidumping and countervailing duty investigations. See SAA at 886.

³⁹ Table I-3 and n.1, CR at I-11, PR at I-10.

⁴⁰ RDI at 15. Domestic producers estimate that Japanese capacity utilization was *** percent in 1998.

⁴¹ RDI at 15-16.

We have received no information from Japanese producers or exporters, or from U.S. importers. Publicly available data are scarce, and the record therefore does not contain any information on Japanese inventories or the potential for product shifting. The only information in the record as to significant barriers to importation in other countries is the assertion by domestic producers that the Asian economic crisis has caused Asian producers of PC strand to shift their focus to the growing U.S. market. Though this assertion is supported by dramatic increases in imports from Korea and Malaysia, Japanese imports have increased to a lesser extent and, in fact, U.S. producers have gained market share when one compares interim 1997 to interim 1998.⁴²

D. Price

In evaluating the likely price effects of the subject merchandise in the event of revocation, the Commission shall consider whether (1) imports are likely to be sold at a significantly lower price than the domestic like product and (2) imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like product.⁴³

According to the domestic industry, current Japanese imports have an average unit value⁴⁴ (AUV) nearly twice that of domestic producers (\$1,102 per short ton in 1997 as compared to domestic PC strand at \$660 per short ton in 1997).⁴⁵ Domestic producers attribute this difference in price to the dumping finding, though dumping margins range from 4.5 percent to 13.3 percent. Those dumping margins are unlikely to account for a 67 percent difference in value. The price differential may be attributable in part to some unexplained difference in product quality or specifications, though the record contains no relevant information. Given that domestic producers claim that there is a generally high level of substitutability of PC strand from different sources, it is unlikely that Japanese producers would be able to increase their presence in the U.S. market at current pricing levels even with the finding lifted. Moreover, Japanese producers would have to compete with imports from other countries with average unit values ranging from \$443 per short ton (Malaysia) to \$495 per short ton (Austria).⁴⁶ Given Japan's low level of imports and relatively high prices, I find it unlikely that imports from Japan would have suppressing or depressing effects on price in the event the finding is revoked.

E. Impact

When considering the likely impact of subject imports, the Commission is to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise

⁴² Table I-3, CR at I-11, PR at I-10. U.S. producers held 76.6 percent of the market in interim 1997, and increased their share to 82.6 percent in interim 1998.

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

⁴⁴ The domestic industry argues that average unit values are suitable proxies for actual prices of PC strand because one or a few closely related products dominate sales (see above, conditions of competition). RDI at 8. The record contains no current pricing data aside from the AUV data provided by domestic producers and similar data from the Department of Commerce.

⁴⁵ RDI at 7-8 and exhibit 6.

⁴⁶ RDI at exhibit 5.

capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more enhanced version of the domestic like product.⁴⁷

Japanese imports of PC strand are unlikely to have any adverse impact on the domestic industry in the reasonably foreseeable future. Japanese producers currently have a negligible share of the U.S. market (0.1 percent) and imports of such merchandise enter the United States with extremely high average unit values. U.S. producers held 82.6 percent of the market in interim 1998.⁴⁸ Given U.S. market conditions, which include much lower prices and substantial presence by numerous foreign producers, it is highly unlikely that Japanese producers would be able to increase their share of the domestic market in the reasonably foreseeable future.

Based on the information in the record, much of which was supplied by the domestic industry, the domestic industry's sales and market share have increased significantly since the imposition of the finding, and both increased most recently in interim 1998 over interim 1997.⁴⁹ Production was down slightly in interim 1998 as compared to interim 1997, and capacity utilization decreased from 97.5 percent to 82.7 percent, but overall capacity increased by more than 10 percent.⁵⁰ Gross profits decreased from interim 1997 to interim 1998, as did operating income, although the industry remained profitable.⁵¹ These declines occurred despite the continued existence of the finding. Given the negligible share of the U.S. market held by Japanese imports and the fact that I find it unlikely that the volume of Japanese imports will increase significantly in the event of revocation, I do not find that revocation of the finding will exacerbate any recent decline in profitability, production levels, or capacity utilization in the U.S. industry. I further find that revocation is not likely to have a negative effect on cash flow, inventories, employment, wages, growth, ability to raise capital, or investment, and the record contains no information on the likely impact of revocation on the development and production efforts of the industry. Taking into account all of these factors, I find that revocation is unlikely to have a negative impact on the domestic industry in the reasonably foreseeable future.

III. CONCLUSION

Subject imports are unlikely to have adverse volume or price effects in the event of revocation, and are therefore unlikely to have a negative impact on the domestic industry. Thus, I find that material injury is unlikely to continue or recur in the reasonably foreseeable future if the antidumping finding is revoked.

⁴⁷ 19 U.S.C. § 1675a(a)(4).

⁴⁸ Table I-3, CR at I-11, PR at I-10.

⁴⁹ Table I-1, CR at I-7, PR at I-6; RDI at exhibit 8.

⁵⁰ Id.

⁵¹ Id.