

UNITED STATES INTERNATIONAL TRADE COMMISSION

COLOR PICTURE TUBES FROM CANADA, JAPAN, KOREA, AND SINGAPORE

Investigations Nos. 731-TA-367-370 (Review)

DETERMINATIONS AND VIEWS OF THE COMMISSION

(USITC Publication No. 3291, APRIL 2000)

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DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on color picture tubes from Canada, Japan, Korea, and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on March 1, 1999 (64 F.R. 10014) and determined on June 3, 1999 that it would conduct full reviews (64 F.R. 31609, June 11, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on July 19, 1999 (64 F.R. 38690).² The hearing was held in Washington, DC, on February 17, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Pursuant to a request by parties in support of continuation of the orders, the Commission revised and extended its schedule for these reviews on November 30, 1999 (64 F.R. 68116, December 6, 1999).

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders covering color picture tubes (“CPTs”) from Canada, Japan, the Republic of Korea (“Korea”), and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In December 1987, the Commission determined that an industry in the United States was being materially injured by reason of less than fair value (“LTFV”) imports of CPTs from Canada, Japan, Korea, and Singapore.¹ Commerce issued antidumping duty orders with respect to CPTs from these four countries in January 1988.^{2 3}

On March 1, 1999, the Commission instituted reviews pursuant to section 751(c) of the Act, to determine whether revocation of the antidumping duty orders on CPTs from Canada, Japan, Korea, and Singapore would likely lead to continuation or recurrence of material injury.⁴

In five-year reviews, the Commission initially determines whether to conduct a full review (which generally includes a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.⁵ If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it determines to conduct a full review.

¹ Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (Dec. 1987) (“CPT Final”).

² See 53 Fed. Reg. 429 (Jan. 7, 1988) (Canada); 53 Fed. Reg. 430 (Jan. 7, 1988) (Japan); 53 Fed. Reg. 431 (Jan. 7, 1988) (Korea); and 53 Fed. Reg. 432 (Jan. 7, 1988) (Singapore).

³ One of the respondents, Sony Corporation of America (“Sony America”), challenged two aspects of the determination in the U.S. Court of International Trade (“CIT”), arguing that the Commission erred by including Sony’s Trinitron CPTs with other CPTs in a single domestic like product, and that Sony’s Trinitron CPTs should have been excluded from the Commission’s affirmative injury determination because they occupy a “discrete and insular segment of the market” that is not in competition with other CPTs. The CIT sustained the determination on both questions. Sony Corp. of America v. United States, 712 F. Supp. 978, 983-84 (Ct. Int’l Trade 1989).

This opinion also refers to Sony Electronics, Inc., the current U.S. Sony affiliate that produces CPTs, as “Sony America.” See table I-3, confidential version final staff report (“CR”) at I-22 and public version final staff report (“PR”) at I-17. During the original investigations, Sony’s domestic CPT-producing affiliate was Sony Manufacturing Corporation of America. Confidential final staff report in the original investigations (“original staff report”) at A-32.

⁴ 64 Fed. Reg. 10014 (March 1, 1999).

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

In these reviews, the Commission received responses to the notice of institution from: (1) Thomson Americas Tube Operations (“Thomson”) and Philips Display Components Company (“Philips”) (domestic CPT producers); (2) the International Brotherhood of Electrical Workers (“IBEW”) and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers (AFL-CIO/CLC) (“IEU”) (unions whose workers produce CPTs in the United States); (3) the Electronic Industries Association of Japan (“EIAJ”), Matsushita Electronics Corporation (“Matsushita”), Mitsubishi Electric Corporation (“Mitsubishi”), and Toshiba Corporation (“Toshiba”) (the last three being Japanese CPT manufacturers); and (4) the Electronic Industries Association of Korea (“EIAK”). The Commission determined that neither EIAJ nor EIAK were interested parties because producers, exporters, or importers of the subject merchandise do not make up a majority of the members of either association.⁶ The Commission received no response from any producer, importer, or exporter of subject merchandise from Canada or Singapore. On June 3, 1999, the Commission determined that the domestic interested party group response was adequate in all reviews, and that the respondent interested party group response was adequate for the review concerning CPTs from Japan.⁷ Pursuant to section 751(c)(5) of the Act,⁸ the Commission decided to conduct full five-year reviews for all four orders in the group.⁹

After the determination to conduct full reviews, three Korean CPT producers entered appearances: Orion Electric Co., Ltd. (“Orion”); Samsung Display Devices Co., Ltd. (“Samsung”); and LG Electronics, Inc. (“LGE”). On November 22, 1999, domestic producer Philips withdrew from the reviews, indicating that it no longer sought to “extend/renew” the orders on CPTs. On February 17, 2000, the Commission held a hearing in these reviews, at which appeared representatives of Thomson, the IBEW, and the IUE (the “domestic parties”); Matsushita, Mitsubishi, and Toshiba (the “Japanese parties”); and LGE, Orion, and Samsung (the “Korean parties”). The domestic parties filed briefs in support of continuation of the antidumping duty orders, and the Japanese and Korean parties filed briefs urging revocation of the orders.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

1. Background

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”¹⁰ 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

⁶ 19 U.S.C. § 1677(9)(A). See Explanation of Commission Determinations of Adequacy in Color Picture Tubes from Canada, Japan, Korea, and Singapore at 1, nn. 1&2 (June 1999) (“Explanation of Adequacy”). CR and PR at App. A.

⁷ 64 Fed. Reg. 31609 (June 11, 1999). The Commission did not vote on the adequacy of the individual responses of the noninterested parties EIAJ and EIAK. See Explanation of Adequacy at 1 & nn. 1&2.

⁸ 19 U.S.C. § 1975(c)(5).

⁹ See Explanation of Adequacy. The Commission, Commissioner Crawford dissenting, decided to conduct full reviews concerning CPTs from Canada, Korea, and Singapore notwithstanding the inadequate respondent interested party group response in these reviews, to promote administrative efficiency in light of its decision to conduct a full review concerning CPTs from Japan. Id.

¹⁰ 19 U.S.C. § 1677(4)(A).

under this subtitle.”¹¹ In a section 751(c) review, the Commission must also take into account “its prior injury determinations.”¹²

In its final expedited five-year review determination Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Commerce defined the subject merchandise as:

[C]athode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing. Where a CPT is shipped and imported together with all parts necessary for assembly into a complete television receiver (*i.e.*, as a “kit”), the CPT is excluded from the scope of these orders. In other words, a kit and a fully assembled television are a separate class or kind of merchandise from the CPT. Accordingly, the Department determined that, when CPTs are shipped together with other parts as television receiver kits, they are excluded from the scope of the order. With respect to CPTs which are imported for customs purposes as incomplete television assemblies, we determined that these entries are included within the scope of these investigations unless both of the following criteria are met: (1) the CPT is “physically integrated” with other television receiver components in such a manner as to constitute an inseparable amalgam and (2) the CPT does not constitute a significant portion of the cost or value of the items being imported.¹³

The imported products covered by these reviews thus include CPTs shipped individually or as part of incomplete television assemblies, unless the CPT is both physically integrated with the other components of the assembly and the CPT is not a significant portion of the cost or value of the items being imported. The scope excludes CPTs when shipped in complete television receiver kits or in assembled television receivers.¹⁴

The starting point of our like product analysis in a five-year review is the like product definition in the Commission’s original determination.¹⁵ In the original investigations, the Commission defined the like

¹¹ 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, 36 F. Supp. 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). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹² 19 U.S.C. § 1675a(a)(1)(a).

¹³ 64 Fed. Reg. 48354 (Sept. 3, 1999) (footnote omitted).

¹⁴ The scope excludes picture tubes used in projection televisions, which are monochrome picture tubes rather than color picture tubes. See 64 Fed. Reg. 48354 (Sept. 3, 1999) (setting out the scope listed above) and CPT Final at 4 n.8. and original staff report at A-15 n.1 (projection televisions use monochrome picture tubes).

¹⁵ In the like product analysis for an investigation, the Commission generally considers a number of factors, including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. See The Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among

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product to be domestically produced CPTs.¹⁶ In so doing, it rejected arguments that large CPTs (those with a viewable portion of the screen that is 30 inches or more when measured on the diagonal) and Sony Trinitron CPTs should each constitute separate domestic like products.^{17 18}

The domestic and Japanese parties argue that the Commission should adopt the original like product definition in these reviews. The Korean parties contend that the Commission should find separate domestic like products consisting of conventional CPTs and high definition (“HD”) CPTs.¹⁹ Although domestic production of HD CPTs has not yet reached commercial quantities, we find consideration of the product appropriate here because in five-year reviews we must make determinations about events occurring within a reasonably foreseeable time, and because domestic production of *** HD CPT units for commercial sale is projected for 2000.²⁰

2. Analysis and Finding

Although conventional and HD CPTs differ in various particulars, we find the similarities between them more significant. CPTs of both types create an image by scanning a beam of electrons across the inside of the faceplate of the tube, inside which are embedded a perforated mask and thousands or millions of picture elements, which in turn are made up of red, blue, and green phosphor dots or stripes.²¹ The electrons pass through the mask and strike the phosphors, which then emit light.²² Although domestically produced conventional and HD CPTs differ in screen dimension, the electron gun and masks used, and the size and number of phosphor dots, the essential physical characteristics of the two CPT types are the same.²³

Both CPT types are used primarily in color television receivers (“CTVs”).²⁴ They are not always interchangeable, however. Wide screen HD CPTs produced in the United States have an aspect ratio, or

¹⁵ (...continued)

possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington, 747 F. Supp. at 748-49.

¹⁶ CPT Final, at 3-6.

¹⁷ The Commission found that, although larger CPTs are somewhat more technologically advanced, CPTs of all sizes “are made of the same essential materials[,] . . . perform the same function[,] . . . [and] are a product of similar manufacturing processes.” Id. at 5-6. The Commission also found that Sony Trinitron CPTs differ from other domestic and foreign CPTs in some respects, but that they perform the same function as other merchandise subject to the investigations. Id. at 6 n.16.

¹⁸ The Commission’s determination regarding Sony Trinitron CPTs was sustained on appeal. Sony Corp. of America v. United States, 712 F. Supp. 978, 983-84 (Ct. Int’l Trade 1989).

¹⁹ The Korean parties did not raise this argument until their Prehearing Brief. Therefore, the Commission’s questionnaires did not seek all the information that would be required to separately analyze the domestic HD CPT industry if a separate like product were found. However, as discussed below, the facts do not support a separate like product finding for HD CPTs.

²⁰ CR at III-5 and PR at III-4. Only Thomson projects production of HD CPTs in the United States in 2000. Id.

²¹ CR at I-15 to I-18, PR at I-12 to I-14.

²² CR at I-15 to I-18, PR at I-12 to I-14.

²³ CR at I-15 to I-16, PR at I-12 to I-13, and corrected and revised transcript of February 17, 2000 hearing (“tr.”) at 59 (testimony of Thomas M. Carson, Vice President of Thomson).

²⁴ CR at II-35, PR at II-21.

width to height ratio, of 16:9, whereas conventional CPTs produced in the United States have a 4:3 aspect ratio.²⁵ As a result of this shape difference, HD and conventional CPTs cannot be employed in the same CTV. Nearly all CPTs are sold directly to CTV makers.²⁶ About one-quarter of conventional U.S. CPT production is sold to unaffiliated CTV makers in the United States, while *** percent of HD CPT production is projected to be sold to unaffiliated U.S. CTV producers.²⁷ About one-quarter of conventional CPT production is sold to affiliated U.S. CTV makers, *** HD CPT production is projected to be sold to such affiliates.²⁸

Conventional and HD CPTs are made domestically on the same production line, by the same production employees, and in the same facility.²⁹ An investment of approximately \$20 million is required, however, to enable a line to produce HD CPTs, and switching from the production of either conventional or HD CPTs to the other entails a delay of about a day.³⁰ Production of HD CPTs requires more care and time than production of conventional CPTs, but involves the same steps.³¹ Prices for HD CPTs are expected to be much higher than for conventional CPTs (based on the price of imported HD CPTs), a difference expected to diminish but not disappear in the future.³²

Based on the foregoing, we discern no clear dividing line between conventional and HD CPTs, and therefore find a single domestic like product consisting of all CPTs.³³

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³⁴ In accordance with our domestic like product determination, we determine that the domestic industry consists of all producers of CPTs.

²⁵ CR at I-14 and PR at I-11.

²⁶ CR at II-35, PR at II-21.

²⁷ CR at II-6 and III-5, PR at II-4 and III-4, and tr. at 140-41 (Carson).

²⁸ CR at I-19, II-6, III-5, III-8 (table III-5) PR at I-15, II-4 and III-4, III-7 (table III-5) and tr. at 140-41 (Carson). Exports make up the remainder of shipments, accounting for about 50 percent of conventional CPT production and a projected *** percent of HD CPT production. CR at I-20, II-6, III-5, III-8 (table III-5) PR at I-15, II-4, III-4, III-7 (table III-5) and tr. at 140-41 (Carson).

²⁹ CR at I-18, PR at I-14, and tr. at 58-59 (Carson).

³⁰ Tr. at 58-59 (Carson) and Notes from February 23, 2000 field trip to Thomson in Marion, Indiana at page 2.

³¹ CR at I-18, PR at I-14.

³² CR at I-20, PR at I-16.

³³ Commissioner Askey notes that the starting point for her like product analysis is the like product definition contained in the original determination. Because the purpose of a sunset review is, literally, to review an existing order, the like product definition analysis in a review is different from that in an original investigation, where the Commission begins with a fresh record. She is, therefore, inclined to retain the original like product definition unless the existing definition(s) present a substantial impediment to arriving at a likelihood of injury determination.

³⁴ 19 U.S.C. § 1677(4)(A).

C. Related Parties

We must further decide whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B), which 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 that are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.³⁵

In these reviews, five of the seven domestic producers either import the subject merchandise, or are related to an exporter or importer of the subject merchandise.³⁶ We find that appropriate circumstances do not exist to exclude any of these producers from the domestic industry. The primary interest of each company is in domestic production rather than importation. None of these producers imports substantial quantities of subject merchandise in relation to its domestic production.^{37 38} Additionally, nothing in the

³⁵ See Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude such parties include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-à-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793, at I-7 - I-8 (July 1994).

³⁶ *** and *** imported the subject merchandise. Table III-3, CR and PR at III-4. *** and *** are related to importers of the subject merchandise. Table III-3, CR and PR at III-4. American Matsushita Electronics Co. ("American Matsushita"), Hitachi Electronic Devices (USA), Inc. ("Hitachi ED"), Sony America, and Toshiba Display Devices, Inc. ("Toshiba DD") are subsidiaries of Japanese exporters of the subject merchandise. Table I-3, CR at I-22 and PR at I-17. Zenith Electronics Corp. ("Zenith") became a subsidiary of LGE, a Korean producer of the subject merchandise, according to a bankruptcy plan approved on November 5, 1999. CR at III-13 n.10 and PR at III-11 n.10 (bankruptcy plan approved November 5, 1999), and CR at IV-19 and PR at IV-16 (LGE is a Korean producer). Previously, however, Zenith had ceased production of CPTs. CR at III-13 n.10 and PR at III-11 n.10 (Zenith ceased production in March 1999), and CR at IV-19 and PR at IV-16 (Zenith production facilities closed December 1998). Because Zenith was not owned by the foreign producer during the time it produced the domestic like product, we do not consider it to be a related party on this ground. As indicated above, however, ***.

³⁷ Table III-3, CR and PR at III-4 (showing that subject imports did not exceed five percent of any producer's production in 1997, 1998, or January through September of 1999).

³⁸ For the reasons discussed later in this opinion, Vice Chairman Miller, Commissioner Hillman, and Commissioner Koplán also do not find that American Matsushita, Hitachi ED, Sony America, and Toshiba DD are likely to import significant volumes of subject merchandise if the order is revoked. Therefore, they conclude that the primary interest of these companies will continue to be in domestic production. They note that Zenith ceased

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current financial performance of these producers suggests that appropriate circumstances exist to exclude any of these companies from the industry.³⁹

III. CUMULATION⁴⁰

A. Framework

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.⁴¹

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.⁴² Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.⁴³ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.^{44 45}

³⁸ (...continued)

production by March 1999 and, therefore, Zenith is no longer a domestic producer.

³⁹ In general, the ratio of operating income to net sales was lower for these five producers than for the other domestic producers, suggesting that imports of subject merchandise did not skew the results of the five companies in a favorable direction. Table III-11, CR at III-17 and PR at III-13. Although the results of Zenith diverged strongly from those of the other producers, we do not attribute the difference to *** because of ***. Tables III-3 and III-11, CR at III-4 and III-17 and PR at III-4 and III-13.

⁴⁰ Chairman Bragg does not join section III of the opinion. See Separate Views of Chairman Lynn M. Bragg.

⁴¹ 19 U.S.C. § 1675a(a)(7).

⁴² 19 U.S.C. § 1675a(a)(7).

⁴³ SAA, H.R. Rep. No. 103-316, Vol. I (1994).

⁴⁴ For a discussion of Vice Chairman Miller’s and Commissioners Hillman and Koplan’s analytical framework regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings From Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review). For a further discussion of Commissioner Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review) and 731-TA-262, 263, and 265

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The Commission has generally considered four factors intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.⁴⁶ Only a “reasonable overlap” of competition is required.⁴⁷ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are revoked. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.⁴⁸

In these reviews, the statutory requirement that all of the reviews be initiated on the same day is satisfied.

B. No Discernible Adverse Impact

The domestic parties argued that the subject imports from Japan, Korea, and Singapore would each have a discernible adverse impact on the domestic industry, and urged the Commission to cumulate the subject imports from the three countries. The Japanese and Korean parties argued that subject imports from their respective countries would likely have no discernible adverse impact on the domestic industry. They also argued that, even if it were to find a discernible adverse impact, the Commission should decline to cumulate imports from their respective countries with subject imports from any other country.

⁴⁴ (...continued)
(Review) (Views of Commissioner Stephen Koplan Regarding Cumulation).

⁴⁵ Commissioner Askey notes that the Act clearly states that the Commission is precluded from exercising its discretion to cumulate if the imports from a country subject to review are likely to have “no discernible adverse impact on the domestic industry” upon revocation of the order. 19 U.S.C. § 1675a(a)(7). Thus, the Commission must focus on whether the imports will impact the condition of the industry discernibly as a result of revocation, and not solely on whether there will be a small volume of imports after revocation, *i.e.*, by assessing their negligibility after revocation of the order. For a full discussion of her views on this issue, see Additional Views of Commissioner Thelma J. Askey in Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999).

⁴⁶ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: 1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; 2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; 3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and 4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁴⁷ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), *aff’d*, 96 F. 3d 1352 (Fed. Cir. 1996).

⁴⁸ See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

We find that subject imports from Canada are likely to have no discernible adverse impact on the domestic industry if the order is revoked. Production of CPTs in Canada ceased in December of 1996, and the production machinery and equipment were sold or scrapped.⁴⁹ There is no indication that CPT production in Canada is contemplated in the reasonably foreseeable future. The domestic parties conceded that the order on subject imports from Canada should be revoked.⁵⁰

We also find that subject imports from Singapore are likely to have no discernible adverse impact on the domestic industry if the order is revoked.⁵¹ The volume of subject imports from Singapore has been very small in recent years, at 1,024 units in 1997, 504 units in 1998, and 1,093 units in January through September (“interim”) 1999.⁵² Subject imports from Singapore were also small prior to the imposition of the orders, never exceeding 1.3 percent of U.S. apparent consumption during 1984-86.⁵³ Hitachi Electronic Devices (Singapore) Pte., Ltd. (“Hitachi Singapore”) ceased CPT production in Singapore in 1996, leaving Sony Singapore as the only producer in Singapore.⁵⁴ Although Sony Singapore is believed to have significant CPT capacity, quantities exported to the United States have been very small, as indicated above.

The record indicates that the volume of subject imports from Singapore is not likely to increase significantly in the future. The record indicates that all subject CPTs from Singapore are Sony Trinitron CPTs.⁵⁵ Sony Trinitron CPTs differ in certain respects from other CPTs, and are purchased in the United States only by Sony’s affiliated CTV makers, which in turn use only Sony Trinitron CPTs in their CTVs.⁵⁶ As a result, subject CPTs from Singapore compete only with Sony Trinitrons produced in the United States, or in other countries, such as Japan.⁵⁷ Sony America has considerable Trinitron CPT production capacity (approximately *** million units in 1998), including capacity to produce flat screen Trinitron CPTs and Trinitron CPTs with screens measuring 32 and 35 inches.⁵⁸ The record indicates that approximately *** percent of Sony’s CTV production in North America takes place in Mexico, making it likely that any potential future increase in exports from Sony Singapore to North America will go mainly to

⁴⁹ CR and PR at IV-8.

⁵⁰ Domestic parties’ Prehearing Brief at 6 n.1.

⁵¹ Commissioner Okun does not join the finding that subject imports from Singapore are likely to have no discernible adverse impact if the order is revoked. Because Sony Singapore, the sole producer of the subject merchandise in Singapore, has not responded to the Commission’s request for information in this review, Commissioner Okun has chosen not to draw the favorable inferences she believes are necessary to support the conclusion that subject imports from Singapore are likely to have no discernible adverse impact on the domestic CPT industry if the relevant order is revoked.

⁵² Table IV-1, CR and PR at IV-2. CPTs with screens smaller than 19 inches account for about 90 percent of that volume. Table H-1, CR and PR at H-3. As discussed below in the conditions of competition section, the domestic industry has not produced CPTs smaller than 19 inches since before the original orders. CR at I-15, PR at 12. The subject imports from Singapore have not exceeded 0.2 percent of imports in 1997, 1998, interim 1998, or interim 1999. Table IV-1, CR and PR at IV-2.

⁵³ Table I-1, CR and PR at I-3.

⁵⁴ CR at II-22 and IV-24, PR at II-13 and IV-18.

⁵⁵ CR at II-9, II-14 n.41 and PR at II-6, II-9 n.41, tr. at 135 (Carson).

⁵⁶ CR at II-9, II-14 n.41 and PR at II-6, II-9 n.41, tr. at 135 (Carson).

⁵⁷ CR at II-14 n.41 and PR at II-9 n.41.

⁵⁸ Tables III-2 and IV-4, CR and PR at III-3 and IV-7.

Mexico, not the United States.⁵⁹ Because of the corporate affiliation among Sony operations in the United States, Mexico, and Singapore, and the size and diversity of Sony America's production, we believe it unlikely that Sony Singapore would increase subject exports to the United States to the detriment of Sony America, or to the extent of having a discernible adverse impact on the domestic industry as a whole.

For the reasons indicated in following sections of this opinion regarding the likely volume, price effects, and impact of the subject imports from Japan and Korea if the orders are revoked, we do not find that subject imports from those countries, respectively, are likely to have no discernible adverse impact on the domestic industry if the orders are revoked.

C. Reasonable Overlap of Competition

The record indicates that several of the factors on which the Commission relied in finding a reasonable overlap of competition among the subject imports and between the subject imports and the domestic product in the original investigations have changed with respect to subject imports from Japan and Korea. CPTs smaller than 19 inches accounted for the bulk of subject imports from Korea in recent years, and a significant portion of subject imports from Japan as well, particularly in interim 1999.⁶⁰ However, the small CPTs from Japan were primarily ***, at least in interim 1999.⁶¹ *** are not fungible with *** CPTs.⁶²

The profile of present production capacity in Japan and Korea shows limited likely competitive overlap of subject imports upon revocation of the orders. Sony Japan, which produces only Trinitron CPTs, accounts for about *** percent of Japanese capacity, while no Trinitron CPTs are produced in Korea.⁶³ All of the capacity of the two other Japanese producers, Matsushita and Toshiba, is now in flat screen CPTs, while only *** percent of current Korean production capacity is used in the production of flat screens.⁶⁴ Similarly, wide screen CPTs made up *** percent of Japanese production capacity in 1999, but only *** percent of Korean production capacity that year.⁶⁵ Approximately one-third to one-half of Matsushita's and Toshiba's combined capacity is for the production of HD CPTs, while there is no Korean

⁵⁹ Sony America's domestic producer questionnaire response at II-11 (indicating that Sony exported *** percent of its CPTs to Mexico for incorporation into CTVs in 1998, and *** percent in interim 1999).

⁶⁰ CR at II-20, IV-7 (table IV-3), and H-3 (table H-1); and PR at II-12, IV-7 (table IV-3), and H-3 (table H-1).

⁶¹ Compare table III-3, CR and PR at III-4 with table IV-1, CR and PR at IV-2 (showing that imports by *** likely accounted for nearly *** imports from Japan in interim 1999); CR at II-16 and H-3 (table H-1) and PR at II-9 to II-10 and H-3 (table H-1) (high percentage of subject imports from Japan in interim 1999 had screens smaller than 19 inches); and CR and PR at III-1 (***) listed as an importer of CPTs under 19 inches).

⁶² CR at II-9, II-14 n.41 and PR at II-6, II-9 n.41, and tr. at 135 (Carson).

⁶³ Compare CR at IV-12 and PR at IV-11 (estimates of Sony Japan's capacity) with table IV-5, CR and PR at IV-9 (capacity of other Japanese CPT producers). The record indicates that current Sony production consists only of Trinitron CPTs, and indicates that Sony sells them in the United States only to its affiliated CTV makers. CR at II-9, II-14 n.41 and PR at II-6, II-9 n.41; tr. at 135 (Carson). Sony Japan produces an unspecified number of ***. See CR at II-18 n.52 and PR at II-11 n.52. Such CPTs are not fungible with CPTs produced in Korea, which has no capacity to produce ***. CR at IV-22, IV-24 and PR at IV-17 and IV-18.

⁶⁴ CR at IV-14 n.14, IV-16 (table IV-8), IV-21 (table IV-11) and PR at IV-12 n.14, IV-14 (table IV-8), IV-15 (table IV-11).

⁶⁵ Tables IV-8 and IV-11, CR at IV-16 and IV-21 and PR at IV-14 and IV-15.

capacity for HD CPTs.⁶⁶ All of Matsushita's and Toshiba's present production capacity is for CPTs with screen sizes of 25 inches or greater, whereas that size range accounts for about half of Korean production capacity.⁶⁷

For all these reasons, we conclude that there are serious questions as to the likelihood of a reasonable overlap of competition between subject imports from Japan and Korea. Moreover, other factors weigh against a cumulated analysis.⁶⁸

D. Other Considerations

The record indicates that subject imports from Japan and Korea have been competing, and in the future will likely compete, in the U.S. market under different conditions of competition. First, since the imposition of the orders, production capacity in Japan has declined substantially, while Korean production capacity has increased.⁶⁹ Current Korean CPT capacity is five to *** times higher than CPT capacity in Japan.⁷⁰ Second, the Korean producers have no U.S. affiliates that produce CPTs, while domestic producers affiliated with Japanese producers accounted for about a *** of domestic production during 1998.⁷¹ Likewise, each of the Japanese producers have affiliated U.S. CTV producers, while the Korean producers do not.⁷² Consequently, the Korean producers compete, and are likely to continue to compete, to

⁶⁶ CR at IV-17 and PR at IV-14, and compare tables IV-7 and IV-9, CR at IV-15 and IV-18 and PR at IV-13 and IV-14 (on Japanese HD CPT capacity); and CR at IV-22 and IV-24 and PR at IV-17 and IV-18 (on the lack of Korean HD CPT capacity).

⁶⁷ Tables IV-8 and IV-11, CR at IV-16 and IV-21 and PR at IV-14 and IV-15.

⁶⁸ Commissioner Okun finds that, although the record casts doubt on whether there is likely to be a reasonable overlap of competition between subject imports from Japan and Korea, no such doubt exists with respect to the likely existence of a reasonable overlap of competition between subject imports from Japan and Singapore. Because Sony Singapore is the only producer of subject CPTs in Singapore, all subject production in Singapore consists of Sony Trinitron CPTs, which do not compete directly with other CPTs for sales to CTV assemblers. Japanese parties' Prehearing Brief, Exhibit 2 at 3-4, and Exhibit 4 at 5. As noted above, Sony Japan accounts for *** percent of Japanese CPT production capacity and accounted for nearly all subject imports from Japan in interim 1999. Compare CR at IV-12 and PR at IV-11 with table IV-5, CR and PR at IV-9; compare table III-3, CR and PR at III-4 with table IV-1, CR and PR at IV-2. Moreover, there is an overlap in the types and sizes of Trinitron CPTs that Sony Singapore and Sony Japan can produce. See Table H-1, CR and PR at Appendix H (U.S. shipments of imports from Singapore by screen size); Japanese parties' Prehearing Brief, Exhibit 2 at 3 (estimated 1999 production of Sony Japan by screen size); id. at Exhibit 4 at 4 (noting flat screen CPT production at Sony Singapore beginning in 1998). Commissioner Okun therefore finds that there is likely to be a reasonable overlap of competition between subject imports from Singapore and Japan if the orders are revoked. Moreover, in light of these facts and based on Sony Corporation's common ownership and control of Sony Singapore and Sony Japan, she cannot conclude that subject imports from Singapore and Japan face different conditions of competition in the United States sufficient to warrant a decision not to cumulate such imports. Accordingly, she cumulates subject imports from Singapore and Japan in these reviews. Because no Trinitron CPTs are produced in Korea, however, she further finds no likely reasonable overlap of competition between subject imports from Singapore and Korea.

⁶⁹ Table IV-5, CR at IV-10 to IV-11 and PR at IV-9 to IV-10.

⁷⁰ Compare table IV-7, CR at IV-15 and PR at IV-13 with table IV-8, CR at IV-16 and PR at IV-14.

⁷¹ Tables I-3 and III-2, CR at I-22 and III-3 and PR at I-17 and III-3; CR at IV-19 and IV-22 and PR at IV-16.

⁷² CR at II-9, II-36 and PR at II-5 to II-6 and II-21 (U.S. CTV affiliates of Japanese CPT producers) and CR at IV-19 and IV-22 and PR at IV-16 and Korean parties' Prehearing Brief at 2-3, 27 (no U.S. CTV affiliates of

(continued...)

a much greater extent in the U.S. merchant market for CPTs than are the Japanese producers. Third, the average unit values (“AUVs”) of subject imports from Japan in recent years ranged from five to twelve times higher than the AUVs of recent subject imports from Korea.⁷³

Based on the foregoing, we decline to exercise our discretion to cumulate subject imports from Japan and Korea in these reviews.

IV. WHETHER REVOCATION OF THE ORDERS IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME⁷⁴

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷⁵ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports.”⁷⁶ Thus, the likelihood standard is prospective in nature.⁷⁷ 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.”⁷⁸ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{79 80}

⁷² (...continued)
Korean CPT producers).

⁷³ Table IV-2, CR and PR at IV-5. Although footnote 1 to the table indicates that the data captures Korean CPTs not subject to the CPT antidumping duty order, figures for 1997 and 1998 are believed to include only subject merchandise. See Korean parties’ Prehearing Brief at 26-27.

⁷⁴ Chairman Bragg joins the remainder of this opinion.

⁷⁵ 19 U.S.C. § 1675a(a).

⁷⁶ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).” SAA at 883.

⁷⁷ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁷⁸ 19 U.S.C. § 1675a(a)(5).

⁷⁹ 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,
(continued...)

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.”⁸¹ 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 revoked.^{82 83}

We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”⁸⁴

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to the production or consumption in the United States.⁸⁵ 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

⁷⁹ (...continued)

such as planned investment and the shifting of production facilities.” Id.

⁸⁰ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

⁸¹ 19 U.S.C. § 1675a(a)(1).

⁸² 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.

⁸³ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption determinations in the instant reviews.

⁸⁴ SAA at 869.

⁸⁵ 19 U.S.C. § 1675a(a)(2).

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.⁸⁶

In evaluating the likely price effects of subject imports if the order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of the domestic like product.⁸⁷

In evaluating the likely impact of imports of subject merchandise if the order 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.⁸⁸ 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.⁸⁹ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁹⁰

⁸⁶ 19 U.S.C. § 1675a(a)(2)(A)-(D).

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

⁸⁸ 19 U.S.C. § 1675a(a)(4).

⁸⁹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

In its expedited review concerning Korea, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping, at a margin of 1.91 percent both for Samsung Electric Devices Company, Ltd. and for all other Korean producers. 64 Fed. Reg. 48354, 48357 (Sept. 3, 1999). In its expedited review concerning Japan, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping, at margins of 22.29 percent for Hitachi, Ltd.; 27.46 percent for Matsushita Electronics Corporation; 1.05 percent for Mitsubishi Electric Corporation; 33.50 percent for Toshiba Corporation; and 27.93 percent for all other Japanese producers. Id. In its expedited review concerning Singapore, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at a margin of 5.33 percent for Hitachi Electronic Devices, Pte., Ltd. and for all other Singaporean producers as well. Id. In its expedited review concerning Canada, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping, at a margin of 0.63 percent for Mitsubishi Electronics Industries Canada, Inc. and all other Canadian producers. Id.

⁹⁰ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

In these reviews, the domestic parties argued that the Commission must make an affirmative determination as long as any reasonable interpretation of the facts of record will support such a conclusion.⁹¹ As we have stated in prior determinations, to the extent that the domestic producers seek to constrain the Commission's discretion by means of this argument, they misconstrue the cited SAA language, which simply underscores the predictive nature of five-year reviews and recognizes that the Commission's determination will not be deemed erroneous as long as it is reasonable in light of the facts of the case.⁹² The guidance offered by this passage of the SAA thus is not a mandatory instruction for the Commission to rule a certain way, nor is it intended to affect the Commission's obligation to reach a reasonable determination based upon the facts of the case.⁹³

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic CPT industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁹⁴ A number of conditions of competition are pertinent to our analysis, some of which have changed significantly since the original investigations.

Demand for CPTs is derived almost entirely from demand for CTVs.⁹⁵ Apparent consumption in the United States for CPTs is lower now, at around 10 million units in 1997 and 1998, than during the years examined in the original investigations (1984-86), when it fluctuated between 13.1 and 14.4 million units.⁹⁶ The overall reduction in demand masks strong increases and decreases in demand for various types of CPTs. Demand for CPTs with screen sizes of 19 inches and under has fallen, while demand for larger CPTs has increased.⁹⁷ The domestic industry has not produced CPTs with screens smaller than 19 inches since before the original investigations.⁹⁸ Demand for CPTs with these smaller screens is instead met

⁹¹ Domestic parties' Posthearing Brief at 3, *citing* SAA at 883. The referenced language of the SAA states:

The determination called for in these types of reviews is inherently predictive and speculative. There may be more than one likely outcome following revocation or termination. The possibility of other likely outcomes does not mean that a determination that revocation or termination is likely to lead to continuation or recurrence of dumping or countervailable subsidies, or injury is erroneous, as long as the determination of likelihood of continuation or recurrence is reasonable in light of the facts of the case. In such situations, the order or suspended investigation will be continued.

⁹² *See, e.g., Synthetic Methionine from Japan*, Inv. No. AA1921-115 (Review), USITC Pub. 3205 at 8-9 (July 1999).

⁹³ Commissioner Askey notes that the statute requires that the Commission find that revocation is "likely" to lead to the continuation or recurrence of material injury, not that it is "possible" that revocation would have such a result, as counsel for the domestic industry implies. *See* domestic parties' Posthearing Brief at 3.

⁹⁴ 19 U.S.C. § 1675a(a)(4).

⁹⁵ CR at II-7, II-35, and V-1; PR at II-5, II-21, and V-1.

⁹⁶ Table I-1, CR and PR at I-3.

⁹⁷ CR at II-4 and II-24, PR at II-3 and II-14.

⁹⁸ CR at I-15, II-6 n.7, App. H at H-3 and PR at I-12, II-2 n.7, and App. H at H-3.

entirely by imports.⁹⁹ CPTs with screens of 25 and 27 inches are currently very large volume products for the domestic industry, and domestic sales of CPTs with very large screens (over 27 inches) (“VLS”) are already significant, and likely to continue to grow in the reasonably foreseeable future, although they may encounter increasing competition from projection televisions, which do not employ CPTs and are outside the scope of these reviews.¹⁰⁰

Another new CPT product being introduced is CPTs employing flat screens, rather than the standard curved screens. Increased sales of flat screen CPTs are likely in the reasonably foreseeable future, although they presently account for only a small percentage of CPTs and may remain relatively unimportant compared to curved screen CPTs.¹⁰¹ With the recent advent of digital broadcasting, demand for new types of CPTs -- those with a wide screen and/or high definition characteristics -- has appeared, although it remains very small.¹⁰² We discuss below the industry shift from analog to digital television, along with projections for growth in demand for wide screen and high definition CPTs in the reasonably foreseeable future.

CPT production is capital intensive, with construction of a new CPT facility estimated to require two years and \$70-\$332 million, with facilities for larger and more advanced CPTs falling at the high end of that range.¹⁰³ Adding capacity at existing facilities can require six months to two years, and \$70-\$160 million.¹⁰⁴ Because of high fixed costs, domestic producers must achieve high capacity utilization rates in order to be profitable.¹⁰⁵ Although some producers have switched from the production of CPTs to computer display tubes, they describe the change as very expensive and indicate that shifting back to CPTs would be even more expensive due to the larger screen sizes involved.¹⁰⁶

Despite the considerable expense involved, U.S. CPT capacity has increased nearly 50 percent since the original investigations, from 16-17 million units per year in 1984-86 to 23-25 million units in

⁹⁹ CR at I-15, II-6 n.7, App. H at H-3 and PR at I-12, II-2 n.7, and App. H at H-3.

¹⁰⁰ Tr. at 27, 31 (P. Kevin Trompak, General Manager, Marketing, Sales, and New Business Development, Thomson) (25 and 27 inch CPTs make up over 70 percent of Thomson’s U.S. production), 61 (Carson) (25 and 27 inch CPTs are Thomson’s “bread and butter”), CR at I-15 and PR at I-12 (domestic industry moving to larger sizes), CR at II-24 and PR at II-14 (increased demand in larger sizes), CR and PR at App. H (showing domestic production by size range); domestic parties’ Posthearing Brief at Exh. 2.2, page 9 (page numbers for the domestic parties exhibits provided in these views correspond to the number appearing on the page, not to the order in which the page appears in the exhibit) (demand for VLS CTVs expected to grow), and CR at E-6 and E-7 and PR at E-4 and E-6 (pages supplied in INV-X-062 and INV-X-066) (demand for VLS CTVs projected to grow).

¹⁰¹ Tr. at 147 (Neils Bray, Assistant General Manager, American Matsushita), 153 (Thomas Behringer, Business Development Director, Toshiba EC).

¹⁰² Tr. at 147 (Bray) (about 400,000 flat screen CPTs sold in 1999, few of which were wide screen) table E-3 (revised), CR at E-8 and PR at E-7 (HD CTVs estimated to account for 0.02 to 0.8 percent of total direct view CTVs sold in 1999); tr. at 56-57 (Carson) (HD CVT market “very small”). Both flat screen and wide screen CPTs present a superior image to the viewer than conventional curved screen CPTs, particularly in larger sizes. CR at I-16 and PR at I-13 (HD CPT produces a picture with higher definition) and tr. at 147 (Bray) (flat screen CPTs provide a better picture).

¹⁰³ CR at II-11 and PR at II-7. Thomson reported that re-tooling an existing large screen production line to the production of wide-screen HD CPTs required a \$20 million investment. Tr. at 59 (Carson). American Matsushita reported its intention to invest \$80 million to create a production line for flat screen CPTs. Tr. at 148-49 (Bray).

¹⁰⁴ CR at II-11 to II-12 and PR at II-7.

¹⁰⁵ CR at II-10 to II-11 and PR at II-6 to II-7.

¹⁰⁶ CR at II-15 to II-16 and II-19, PR at II-9 and II-11.

1997-98.¹⁰⁷ Domestic production increased from 11.7 million units in 1986 to 20.4 million units in 1998.¹⁰⁸ Domestic producers affiliated with Japanese CPT producers accounted for a vast majority of the growth, as their aggregate production rose from a yearly average of just under *** million units during 1984-86 to more than *** million units in recent years.¹⁰⁹ The U.S. affiliates of the Japanese producers now account for about *** of domestic production.¹¹⁰

Greatly increased export shipments allowed domestic capacity and production to grow despite falling domestic demand. While export shipments accounted for less than 5 percent of all shipments of domestically produced CPTs in the original investigations, they exceeded 50 percent in 1997 and 1998.¹¹¹ Mexico absorbed over 80 percent of domestic CPT exports, as a number of CTV makers have relocated operations to that country.¹¹² Most CTV production in Mexico is in turn directed toward the United States.¹¹³ Mexican CPT capacity has also grown sharply since the original investigations, with further expansion ongoing.¹¹⁴

Investment in CPT production capacity in North America by overseas producers reflects in part a global trend by CPT producers to create production capacity nearer to markets.¹¹⁵ Evidence of regionalization predates the orders under review here, although the imposition of the orders appears to have hastened the process in North America.¹¹⁶ Producers in Japan and Korea have tended to upgrade declining home country capacity to larger and more advanced CPTs, with overseas capacity generally concentrating

¹⁰⁷ Table I-1, CR and PR at I-4.

¹⁰⁸ Id.

¹⁰⁹ Table 4 of the original staff report at A-43 and table III-2, CR and PR at III-3.

¹¹⁰ Tables I-3 and III-2, CR at I-22 and III-3 and PR at I-17 and III-3.

¹¹¹ Table I-1, CR and PR at I-4; CR at II-6 and PR at II-4.

¹¹² Table III-5, CR at III-8 and PR at III-7; CR at IV-19 and IV-22 and PR at IV-16; tr. at 140 (Carson).

¹¹³ CR at II-6, II-23, PR at II-4, II-13; tr. at 114 (Clifton L. Smith, President and CEO of Corning Asahi Video Products Company).

¹¹⁴ CR at II-12, IV-19 and IV-22 and PR at II-7, IV-16, and tr. at 163 (Jin Seung Kim, Sales Manager for Daewoo of Mexico) (increases in Korean-affiliate CPT capacity in Mexico in 1990s); table IV-12, CR at IV-23 and PR at IV-17 (Korean-affiliated CPT production in Mexico growing from *** million units in 1997 to *** million units in 1998, and to a projected *** million units in 1999); CR at III-11, PR at III-6, and tr. at 137 (Carson) (Thomson to produce 31 and 32-inch CPTs in Mexico); tr. at 167-68 (S.W. Lee, Manager, Sales Division of Samsung SDI Company Limited) and 172 (Daniel W. Klett, economic consultant on behalf of LGE) (Samsung projected to switch from production of smaller CPTs to 25 and 27-inch CPTs in Mexico in August of 2000); tr. at 163 (Kim) (Daewoo of Mexico making provisions for production of 25 and 27-inch CPTs); Korean parties' Posthearing Brief at Appendix A, page 5.

¹¹⁵ CR at IV-12 to IV-13, IV-19 and PR at IV-11, IV-12, and IV-16. The Japanese CPT producers now have far less CPT capacity in Japan than during the original investigation, but far greater capacity in other countries closer to markets. CR at II-17 and PR at II-10, tables IV-5 and IV-6, CR and PR at IV-9 and IV-11; and CR at IV-12 to IV-13, and PR at IV-11 and IV-12. The capacity of Korean producers is higher now both in Korea and in their overseas affiliates than during the original investigation, although capacity in Korea has declined in recent years. CR at II-20 and PR at II-12; tables IV-5, IV-6, and IV-12, CR at IV-10, IV-11, and IV-23 and PR at IV-9 to IV-11, and IV-17; CR at IV-19 and IV-22 and PR at IV-16.

¹¹⁶ CR at I-21 and I-22 (table I-3), II-6, IV-19, IV-22 and PR at I-16, I-17 (table I-3), II-4, IV-16; tr. at 163-66 (Kim), 168 (Lee).

on smaller and less advanced CPTs.¹¹⁷ North American investment was also spurred by the North American Free Trade Agreement (“NAFTA”).¹¹⁸ Under that agreement, NAFTA-originating CPTs enter any NAFTA country free of duty, whereas a 15 percent *ad valorem* tariff applies to CPTs over 13.5 inches that are not NAFTA-originating.¹¹⁹ Similarly, NAFTA-originating CTVs enter NAFTA countries free of duty, whereas in general CTVs over 14 inches that are not NAFTA-originating are subject to a 5 percent *ad valorem* duty.¹²⁰ In general, the CPT must be NAFTA-originating in order for CTVs larger than 14 inches to also qualify as NAFTA-originating.¹²¹ These benefits of North American production provide a significant incentive for localized CPT (and CTV) production. Besides the investment in the United States discussed above, Mexico has attracted investment due to NAFTA, favorable labor costs, and proximity to the U.S. market.¹²²

Of the domestic industry’s domestic sales, about half are to CTV makers affiliated with the CPT producers, and half are to unaffiliated CTV makers.¹²³ Although CPT producers may favor affiliated CTV makers in times of shortage, reported prices for sales to affiliates were not consistently different from prices reported for sales to nonaffiliated buyers.¹²⁴ This is consistent with the relatively small profit margins generated by CTV makers, which engenders strong price competition between them for CPTs and other inputs.¹²⁵ CTV makers are increasingly driven to minimize costs due to strong price competition among nationwide electronics retailers.¹²⁶

¹¹⁷ CR at II-17 and II-20 and PR at II-10 and II-12; CR at IV-14 and PR at IV-12; table II-2, CR at II-39 and PR at 24, and CR at II-40 and PR at II-25; compare table IV-11, CR at IV-21 and PR at IV-15 with tr. at 66 (Mary T. Staley, counsel for domestic parties), 163 (Kim), 167 (Lee), 172 (Klett) (showing that CPT capacity in Korea includes larger sizes than current CPT capacity of Korean affiliates in Mexico, although also showing investment in capacity to produce larger sizes in Mexico); and CR at IV-14 and PR at IV-12 and compare table IV-8, CR at IV-16 and PR at IV-14 with CR at III-5 and III-7 and PR at III-4 and III-5 (showing that CPT capacity in Japan includes more flat screen, wide screen, and HD CPT capacity than the CPT capacity of Japanese affiliates in the United States). Japanese affiliates in the United States are upgrading capacity, however. CR at II-37 n.88, III-5, III-7 and PR at II-23 n.88 and III-4, and III-5.

¹¹⁸ CR at IV-13, IV-19, IV-22 and PR at IV-12, IV-16.

¹¹⁹ Non-NAFTA-originating CPTs of 13.5 inches or less enter at a 7.5 percent *ad valorem* duty. Harmonized Tariff Schedule of the United States (“HTS”) (2000), subheadings 8540.11.10 to 8540.11.48. In general, CPTs qualify as NAFTA-originating if either the front panel assembly or the cone is NAFTA-originating, or if neither of these elements originates, the CPT has a NAFTA regional value content of 60 percent using the transaction value method or 50 percent using the net cost method. HTS General Note 12(t)85.125-.129 and CR at I-11 to I-12 and PR at I-10.

¹²⁰ HTSUS at subheading 8528.12. CTVs incorporating a video recording or reproducing apparatus are subject to a 3.9 percent *ad valorem* duty. Id.

¹²¹ HTS General Note 12(t)/85.84-.88. Certain other parts (e.g. many printed circuit boards) must also be NAFTA-originating. Id. and Additional U.S. Note 10 to chapter 85. Moreover, CTVs using most non-originating subassemblies cannot obtain preferential status.

¹²² CR at II-19 to II-20, IV-19, IV-22 and PR at II-11 to II-12, IV-16.

¹²³ CR at I-19, II-6, III-8 (table III-5) and PR at I-15, II-4, III-7 (table III-5).

¹²⁴ CR at II-36, V-9 and PR at II-21, V-6. See CR at II-35 and PR at II-21 (greater substitution of imports for sales between nonaffiliates than for sales between affiliates).

¹²⁵ CR at II-9 and PR at II-6; tr. at 57 (Carson).

¹²⁶ CR at II-2 & n.3, II-36 n.87; PR at II-1 & n.3 and II-23 n.87.

Another factor affecting competition in the United States is that Sony America sells CPTs solely to its affiliated CTV producer, which in turn uses only Sony-produced CPTs.¹²⁷ Sony CPTs imported from Japan and Singapore are also sold only to Sony's affiliated domestic CTV maker.¹²⁸ As a result, Sony CPTs do not compete directly with other CPTs.¹²⁹

Another condition of competition that has changed since the original investigations is the revocation of the antidumping duty orders on CTVs from Korea and Japan, effective January 1, 2000.¹³⁰ The revocation removes Korean and Japanese CTV producers' prior disincentive to export CTVs to the United States. The Commission received contradictory testimony, however, regarding whether CTVs are significantly more expensive to ship than CPTs, and whether transportation costs are a significant factor in a particular producer's decision to export CPTs or CTVs.¹³¹

Other conditions of competition have changed as well. The CPT glass shortage that impeded expansion of domestic CPT production capacity in 1984-86 has since been alleviated, due both to increased production of CPT glass generally, and to the acquisition of captive CPT glass capacity by some domestic producers.¹³²

Moreover, nonsubject imports account for a much larger share of total imports than in the original investigations, although total U.S. import volumes have remained in the same range.¹³³ Nonsubject imports presently account for about five percent of domestic market share.¹³⁴ Malaysia is the largest source of nonsubject imports, accounting for 64.2 percent of total CPT imports from January 1997 through September 1999; Mexico's share is 12.0 percent.¹³⁵ CPTs smaller than 19 inches made up 69.8 percent of units of nonsubject imports during the same time, and 99 percent in interim 1999.¹³⁶

Finally, the CTV industry is currently undergoing the early stages of a shift from analog to digital television broadcasting. The Federal Communications Commission has set 2006 as the target date for the cessation of analog broadcasts, but only if 85 percent of U.S. households are equipped to receive digital

¹²⁷ CR at II-9, II-14 n.41 and PR at II-5 to II-6, II-9 n.41 tr. at 135 (Carson).

¹²⁸ See CR at II-9, II-14 n.41 and PR at II-5 to II-6, II-9 n.41 and tr. at 135 (Carson).

¹²⁹ Nevertheless, downstream competition between CTVs incorporating Sony CPTs and other CTVs probably acts as a restraint on the price of Sony's CPTs relative to prices for other CPTs in comparable sizes. See CR at II-36 to II-37 and PR at II-23.

¹³⁰ CR and PR at I-9 n.10.

¹³¹ Tr. at 30 (Trompak) ("clearly less expensive" to ship a CPT than a CTV), 80-81 (Carson) (CPTs can be packed more densely, and thus shipped less expensively than CTVs), 190-91, 211 (Klett) (transportation costs not a large impediment to CTV imports) and affidavit of Trompak at Exh. 2 of domestic parties' Prehearing Brief (***) See domestic parties' Final Comments at 11-12.

¹³² CR at II-3 & n.7 and PR at II-2 & n.7; tr. at 43 (L.T. Hickey, President Techneglas, Inc.), 143 (Kenneth J. Pierce, counsel to Japanese parties); Prehearing Brief of Japanese parties at 10 & nn.35 & 36. Although the domestic parties posit a risk of a future glass shortage, we find the evidence of a new shortage to be speculative at this time. See tr. at 43 (Hickey), 149 (Bray) and 155 (Behringer).

¹³³ Nonsubject imports accounted for 90.6 to 93.7 percent of all imports in 1997-98, compared to 19.3 to 41.9 percent in 1984-86. Tables I-1 and IV-1, CR and PR at I-3 to I-4 and IV-2 to IV-3.

¹³⁴ Table I-6, CR at I-27 and PR I-22.

¹³⁵ CR at table IV-1, CR and PR at IV-2 and IV-3.

¹³⁶ Tables IV-1 and H-1, CR and PR at IV-2 to IV-3 and H-3.

signals.¹³⁷ Digital broadcasts can take different forms depending on the number of lines of resolution. Digital broadcasts with a vertical display resolution of less than 720P or 1080I are referred to as “standard” digital broadcasts, whereas digital broadcasts with greater vertical resolution are considered “high definition” television.¹³⁸ Currently, only a limited amount of programming is recorded and broadcast in the high definition and the 16:9 wide screen formats.¹³⁹ At present, about 80 percent of digital CTVs are projection televisions, which do not use CPTs.¹⁴⁰ Direct-view digital CTVs use a CPT that in most instances differs little from the CPTs used in analog CTVs.¹⁴¹ Some digital CTVs, however, employ a CPT capable of displaying high definition and wide screen (16:9 aspect ratio) images. These CPTs differ in some important respects from CPTs for the display of analog or standard definition digital broadcasts.¹⁴² In anticipation of demand for high definition wide screen CPTs, a number of domestic CPT producers are investing in capacity to produce that product, or investing in capacity that can be adapted to the production of that product with additional investment.¹⁴³ However, as discussed below in section VII, we find that it is not likely that wide screen or high definition CPTs will become a significant market segment in the reasonably foreseeable future.

We do not expect the foregoing conditions to change appreciably if the antidumping duty orders are revoked.

C. Korea

1. Likely Volume of Subject Imports

In the original investigations, the Commission found that the cumulated volume of subject imports from Canada, Japan, Korea, and Singapore nearly doubled between 1984 and 1986, rising from 1.1 million units to 1.9 million units.¹⁴⁴ There were *** subject imports from Korea in 1984 and 1985, and *** units in 1986.¹⁴⁵

¹³⁷ Domestic parties’ Posthearing Brief at Exh. 2.1, tr. at 67-68 (Patrick J. Magrath, economic consultant on behalf of domestic parties), 156 (Michael Milostan, Senior Manager, Toshiba DD).

¹³⁸ Domestic parties’ Posthearing Brief at Exh. 2.2, page 17. The “I” and “P” in the resolutions refer to the two forms of scanning -- “interlace” (two fields, each consisting of half the lines, are broadcast and then merged) and “progressive” (no interlacing). CR at E-4 and PR E-3.

¹³⁹ See domestic parties’ Posthearing Brief at Exh. 2.2, pages 1, 11-13, 17, and Exh. 2.4 page 8.

¹⁴⁰ Tr. at 12 (Pierce), 154 (Behringer); and CR at II-27 and PR at II-18. See domestic parties’ Posthearing Brief at Exh.2.2, page 4 (most HD CTV models listed are projection televisions).

¹⁴¹ CR at I-17 and PR at I-13. See CR at II-18 n.52 and PR at II-11 n.52 (*** can be used in a CTV equipped to receive either an analog or digital signal)

¹⁴² CR at I-15 to I-16, I-18 and PR at I-12, I-14.

¹⁴³ CR at II-8, III-5 to III-7 and PR at II-5 and III-4 to III-5; tr. at 149 (Bray), 153 (Behringer).

¹⁴⁴ CPT Final at 11.

¹⁴⁵ Table I-1, CR and PR at I-3. Commerce excluded imports of Korean CPTs that were “subsequently combined into televisions by a related party” because it found such CPTs were covered by an April 30, 1984 antidumping duty order on complete and incomplete television receivers from Korea. Table I-1, CR and PR at I-4 n.2. After the revocation of that order, effective January 1, 2000, such CPTs assembled by related parties in the United States would be included in the scope of the CPT order on Korea, unless the CPT is physically integrated with other television receiver components in such a manner as to constitute an inseparable amalgam and the CPT does not

(continued...)

The volume of subject imports from Korea was 26,084 units in 1997, 21,724 units in 1998, 18,206 units in interim 1998, and 44,262 units in interim 1999.¹⁴⁶ U.S. importers reported no inventories of imports of CPTs during the period of these reviews, and the Korean producers reported small inventories in Korea relative to production and shipments.¹⁴⁷

Several factors indicate that, while the volume of subject imports from Korea is likely to increase, particularly in the large screen size (25-27 inches), the volume of such imports is not likely to be significant. Korean CPT production capacity fell from 1997 to 1998, was lower in interim 1999 than in interim 1998, and is projected to fall again in 2000 to a level approximately 40 percent lower than in 1997.¹⁴⁸ ¹⁴⁹ Capacity utilization fluctuated somewhat during those years, but has remained high, at 88.0 percent in interim 1999 and a projected 91.5 percent in 2000.¹⁵⁰ Nearly *** of Korean production capacity in 1999 was in CPTs of 23 inches or less, sizes of comparatively less significance in the U.S. market than larger CPTs.¹⁵¹ Very little capacity is directed to CPTs exceeding 30 inches (*** percent), flat screen CPTs (*** percent), or wide screen CPTs (*** percent), and there is presently no Korean HD CPT capacity.¹⁵² Moreover capacity utilization rates were generally high in these products in 1999, at *** percent for CPTs exceeding 30 inches, *** percent for flat screen CPTs, and *** percent for wide screen CPTs.¹⁵³ Exports to the United States accounted for only a small portion (*** percent) of Korean shipments in 1999, while Korean shipments to the home market (*** percent) and other Asian countries (*** percent) accounted for nearly all the remainder.¹⁵⁴ Demand in those Asian markets appears sufficient

¹⁴⁵ (...continued)

constitute a significant portion of the cost or value of the items being imported. 63 Fed. Reg. 64677 (Nov. 23, 1998) (revocation of CTV order on Korea) and section II.A above (explanation of the scope of these reviews). However, the Korean producers no longer have related CTV makers in the United States, and instead own CTV production facilities in Mexico. CR at IV-19 and IV-22 and PR at IV-16; and Korean parties' Prehearing Brief at 26-27.

¹⁴⁶ Table IV-1, CR and PR at IV-2. The volume of subject imports from Korea for the years between in 1986 and 1997 is not available. Official Commerce statistics record all CPT imports from Korea, including those not covered by the order under review. Compare table IV-2, CR at IV-4 to IV-5 n.1 and PR at IV-4 n.1 with the scope of these investigations, set out in section II.A.1 above.

¹⁴⁷ CR and PR at IV-1 and table IV-10, CR at IV-20 and PR at IV-15. The low inventory levels indicate that inventories would not be the source of significant likely volumes of subject CPTs from Korea if the order is revoked.

¹⁴⁸ Table IV-10, CR at IV-20 and PR at IV-15.

¹⁴⁹ Although the domestic parties have presented alternative estimates of Korean production capacity, we regard the capacity figures reported by the Korean producers as the more reliable in this review. We address the domestic parties' arguments regarding the accuracy of estimates for the production of flat screen CPTs in the following section of these views.

¹⁵⁰ Id.

¹⁵¹ Table IV-11, CR at IV-21 and PR at IV-15; and CR and PR at table H-1.

¹⁵² Table IV-11, CR at IV-21 and PR at IV-15; and CR at IV-22 and IV-24 and PR at IV-17 and IV-18.

¹⁵³ Table IV-11, CR at IV-21 and PR at IV-15.

¹⁵⁴ Id. Mexico accounted for *** percent of Korean shipments in 1999. Id. We are not aware of any confirmed recent or expected changed circumstances regarding barriers to Korean CPT exports to other countries. See CR at IV-25 and PR at IV-18 (listing tariffs on CPTs in other countries). Overall, the Korean producers reported that an increasing share of total sales was exported to countries other than the United States from 1997 to 1998, from

(continued...)

to absorb Korean production, based on current shipments data, declining Korean capacity, and the fact that no great shift in shipments to alternative markets occurred in connection with the recent Asian economic crisis.¹⁵⁵ The potential for product shifting in the reasonably foreseeable future appears small, considering the time and expense required to switch from production of other products (such as computer display tubes) to production of CPTs.¹⁵⁶ These factors indicate that the Korean industry will have relatively little excess capacity to direct at the U.S. market in the reasonably foreseeable future.

Despite that limited excess capacity, some increase in subject imports of large screen CPTs from Korea is likely if the order is revoked. As discussed above, CPTs with screen sizes 25 inches and greater comprise a major and growing segment of domestic CPT demand and the Korean producers' Mexican affiliates do not presently have capacity to produce CPTs of that size.¹⁵⁷ However, only about *** of the Korean producers' capacity is in this size range, and those producers operated at a high capacity utilization rate of *** percent in 1999.¹⁵⁸ Moreover, some of them are presently investing in, or making provision for, capacity to produce 25 and 27 inch CPTs in Mexico.¹⁵⁹ These factors suggest that while there may be an increase in imports of large subject CPTs from Korea if the order is revoked, the amount of the increase would be limited.

Other market and business circumstances would also discourage a large increase in Korean CPT shipments to the United States if the order is revoked. Only about half of U.S. sales by domestic CPT producers are made in the merchant market, and the Korean producers have no affiliated CTV makers in the United States.¹⁶⁰ CPTs from Korea can primarily compete, therefore, for about half of domestic sales.¹⁶¹ Moreover, any increased volumes of subject imports from Korea would compete for sales to

¹⁵⁴ (...continued)

interim 1998 to interim 1999, and in projected figures for 2000. Table IV-10, CR at IV-20 and PR at IV-15. A representative for the domestic parties testified that China has effectively prohibited the importation of small and medium CPTs into that country, due to growing Chinese production of CPTs, and characterized that market as having "dried up." Tr. at 23, 93-96 (Carson). Representatives of Samsung and LGE testified, however, that sales of Korean CPTs to China are strong and projected to grow. Tr. at 168 (Lee), 199 (Warren E. Connelly, on behalf of Samsung, and Michael P. House, on behalf of LGE). See Korean parties' Posthearing Brief at Exhibit 3, showing exports of CPTs from Korea to China increased from 1,073,831 units in 1997 to 2,426,850 units in the first 11 months of 1999. Two U.S. producers also indicated they sell CPTs to China. Tr. at 95 (Carson) (Thomson shipping very large CPTs to China), and 200 (Milostan) (Toshiba DD exporting large CPTs to China). Based on the above, we find that asserted recent changes in China's CPT import practices have not significantly affected the volume of sales of Korean CPTs to countries other than the United States.

¹⁵⁵ Id.; tr. at 175 (Klett) and Korean parties' Prehearing Brief at 29-30 (Korean won sharply devalued in 1997-1998); and table IV-2, CR and PR at IV-4 (showing a small increase relative to total U.S. apparent consumption in 1997, and a decline in 1998).

¹⁵⁶ CR at II-15 to II-16 and II-19, PR at II-9, and II-11.

¹⁵⁷ Tr. at 66 (Staley), 163 (Kim), 167-68 (Lee), 172 (Klett) and Korean parties' Posthearing Brief at Appendix A, page 5.

¹⁵⁸ Table IV-11, CR at IV-21 and PR at IV-15.

¹⁵⁹ Tr. at 66 (Staley), 163 (Kim), 167-68 (Lee), 172 (Klett) and Korean parties' Posthearing Brief at Appendix A, page 5.

¹⁶⁰ CR at I-19, II-6, III-8 (table III-5), IV-19 and IV-22; PR at I-15, II-4, III-7 (table III-5), IV-16, Korean parties' Prehearing Brief at 2-3, 27.

¹⁶¹ The subject imports from Korea could conceivably compete for sales presently made between affiliates as
(continued...)

nonaffiliated CTV makers in the United States with CPTs produced by the Korean producers' Mexican affiliates. In light of the size of their Mexican production operations and the considerable expense the Korean producers undertook in establishing them, we believe that the Korean producers are more likely to supply the U.S. market by maintaining or increasing production from their Mexican operations – which have capacity utilization rates that are lower than the facilities in Korea¹⁶² – than by increasing exports from Korea.¹⁶³ Thus, the only CPTs Korean producers would have an incentive to sell in the United States are those sizes or types not produced by their Mexican affiliates. As noted previously, some Korean affiliates in Mexico are investing in capacity to produce 25 and 27 inch CPTs (in August of 2000), indicating continued commitment to CPT production in Mexico and limited incentive for exports from Korea.¹⁶⁴ The 15 percent U.S. duty on CPTs and 5 percent duty on CTVs that do not originate in NAFTA countries are also likely to discourage a large increase in subject imports from Korea. The significance of this tariff advantage for NAFTA-originating CPTs has grown as price competition in the CTV market -- led by large nationwide electronics retailers -- has increased.¹⁶⁵

Based on the foregoing, we conclude that the likely volume of subject imports from Korea if the antidumping duty order is revoked would not be significant.

2. Likely Price Effects

In the original investigations, the Commission found that weighted-average prices for domestic CPTs declined for all screen sizes during the period of investigation.¹⁶⁶ It also found mixed trends in the prices of the cumulated subject imports, lower prices for subject imports from Korea, and mixed underselling and overselling by the subject imports compared to the domestic product.¹⁶⁷

Prices for domestic CPTs generally fell for both arms' length and affiliate sales during the period 1997-99 in the three products examined, conventional CPTs with screen sizes of 19, 27, and 32 inches.¹⁶⁸ In the absence of significant volumes of subject imports, which held less than one percent market share, we attribute these declines to domestic competition rather than price pressure from subject imports.¹⁶⁹ In the sole available price comparison the Korean subject CPTs undersold the domestic CPTs by a margin of ***

¹⁶¹ (...continued)

well, but at a considerable disadvantage in light of the corporate relationships. See CR at II-35 to II-36 & n.86 and PR at II-21 & n.86.

¹⁶² See tables IV-10, IV-12, CR at IV-20, 23, PR at IV-15 and IV-17.

¹⁶³ In support of this conclusion, we note that exports of Korean CPTs to Mexico have remained at low levels despite high CPT demand in Mexico and the absence of any antidumping duty order. Table IV-10, CR at IV-20 and PR at IV-15.

¹⁶⁴ Tr. at 167-68 (Lee) and 172 (Klett).

¹⁶⁵ See CR at II-2 & n.3, II-36 n.87, IV-19, IV-22 and PR at II-1 & n.3, II-23 n.87, IV-16; and tr. at 57 (Carson).

¹⁶⁶ CPT Final at 12.

¹⁶⁷ Id.

¹⁶⁸ CR at V-17 and PR at V-8 (products described at CR at V-10 and PR at V-7).

¹⁶⁹ Table I-6, CR at I-27 and PR at I-22.

percent.¹⁷⁰ However, the Korean CPTs subject to the comparison were shipped without the yoke attached, while most of the domestic CPTs included an attached yoke, rendering the comparison inconclusive.^{171 172}

Other facts in the record indicate that any adverse price effects by Korean subject imports if the order is revoked will not be significant. The likely price effects of the subject imports from Korea would be limited by their small likely volume, which has not exceeded a market share of 0.6 percent in recent periods and is not likely to increase to significant levels, as discussed above.¹⁷³ Additionally, Korean CPT producers are unlikely to offer steep price reductions, because such Korean CPTs would tend to compete for sales in the United States with CPTs produced by Korean-affiliated producers in Mexico. We do not believe the Korean producers would be likely to undersell U.S. CPT producers in an effort to gain market share when that would drive down prices for their affiliates' own North American production as well. Moreover, the Korean producers' ability to undersell domestic production (and Mexican production) is limited by the 15 percent duty that applies to all CPTs not originating in North America.

In view of the above, we find that subject imports from Korea are not likely to have a significant adverse effect on domestic CPT prices if the order is revoked.

3. Likely Impact

In its original determinations, the Commission found that the increasing volume and market penetration of the cumulated subject imports from Canada, Japan, Korea, and Singapore, combined with declining market share and declining prices for the domestic product, demonstrated that the domestic CPT industry was materially injured by reason of the cumulated less-than-fair-value imports.¹⁷⁴ The Commission noted that the cumulated subject imports captured nearly all the U.S. market for smaller CPTs, with sharp increases in the 18 and 20 inch segment in which the domestic producers had the greatest volume of shipments, and that prices for all sizes had declined, including sales between affiliates.¹⁷⁵

The current state of the industry is strong. The domestic producers dominate the market, with a market share of approximately 94 percent.¹⁷⁶ The domestic industry's financial performance reflects a healthy industry. The domestic industry posted positive operating margins of 1.9 percent in 1997, 5.9

¹⁷⁰ CR at V-18 and PR at V-14.

¹⁷¹ CR at V-18 & n.22 and PR at V-14 & n.22. The purchaser of the subject import, ***. Id.

¹⁷² A witness for Thomson testified that in 1999 Samsung sold Korean-produced CPTs to purchasers in the United States at prices substantially below prices offered by Thomson. Tr. at 26 (Trompak). Samsung denied the allegation. Korean parties' Posthearing Brief at Appendix A, page 9. In the absence of information confirming the sale, or the volume of the sale, we find the testimony an insufficient basis on which to find likely significant price effects if the order is revoked.

¹⁷³ Table C-1, CR and PR at C-3 (market shares).

¹⁷⁴ CPT Final at 11-13.

¹⁷⁵ CPT Final at 12.

¹⁷⁶ Table I-1, CR and PR at I-3.

percent in 1998, and 8.1 percent in interim 1999.¹⁷⁷ Figures for the number of production and related workers, hours worked, hourly wages, and net sales value also reflect a strong domestic industry.¹⁷⁸

It is likely that the state of the domestic industry improved to some extent after the imposition of the orders, based on the sharp decline in subject CPT volumes.¹⁷⁹ During the intervening years, however, there have been other changed circumstances that substantially account for the present strong position of the domestic industry, circumstances which now significantly diminish the present importance of the orders. As discussed above, these changes include the approximately 50 percent increase in CPT production capacity in the United States; the shift in capacity toward larger, more profitable CPTs; greatly increased CTV capacity in Mexico, which provides an export market accounting for about half of the domestic producers' shipments; the implementation of NAFTA, which helped spur CTV and CPT production in Mexico and gave U.S. produced CPTs an advantage in competing against non-NAFTA CPTs for sales to CTV producers in the United States and Mexico; and the domestic producers' acquisition of captive CPT glass capacity. Based on the foregoing, we conclude that the domestic industry is not vulnerable and we attribute the domestic industry's present state largely to factors other than the orders.

We found above that the revocation of the antidumping duty order is not likely to lead either to significant volumes of subject imports from Korea or to significant price effects. We find also that the domestic industry is currently investing in capacity to meet future increased demand for large CPTs, and CPTs with flat screens, wide screens, and high definition capabilities.¹⁸⁰ These findings, combined with the present strong condition of the domestic industry and the reasons for its well-being, indicate that subject imports from Korea are not likely to have a significant adverse impact on the domestic industry within the reasonably foreseeable future if the order is revoked. Accordingly, we conclude that revocation of the antidumping duty order on subject imports from Korea would not be likely to lead to significant declines in output, sales, market share, profits, productivity, or return on investments.

4. Conclusion

For the reasons stated above, we determine that revocation of the antidumping duty order on CPTs from Korea is not likely to lead to continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.

¹⁷⁷ Tables I-1 and III-11, CR at I-4, III-17 and PR at I-4 and III-13. Because our inquiry bears on the domestic industry's current vulnerability, and because Zenith no longer produces CPTs, we also examine the domestic industry's recent financial experience excluding data from that company, in order to better assess the financial state of remaining producers. Excluding Zenith, the domestic industry experienced operating income of *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and 8.1 percent in interim 1999. Table F-5, CR at F-7 and PR at F-4.

¹⁷⁸ Table I-1, CR and PR at I-3.

¹⁷⁹ Table IV-2 and figure IV-1, CR and PR at IV-4 and IV-6.

¹⁸⁰ CR at II-8, III-5 to III-7 and PR at II-5, III-4 to III-5; and tr. at 149 (Bray) and 153 (Behringer).

D. Japan¹⁸¹

1. Likely Volume of Subject Imports

In the original investigations, the Commission found that the cumulated volume of subject imports from Canada, Japan, Korea, and Singapore nearly doubled between 1984 and 1986, rising from 1.1 million units to 1.9 million units.¹⁸² The volume of subject imports from Japan was 397,000 units in 1984, 673,000 units in 1985, and 690,000 units in 1986.¹⁸³ The volume of subject imports from Japan fell sharply after the filing of the petition and the imposition of the order, fluctuating in a range of approximately 100,000 to 150,000 units from 1987 through 1995.¹⁸⁴ Beginning shortly after NAFTA came into effect, the subject volumes from Japan declined by roughly 50 percent per year, in 1996, 1997, and 1998.¹⁸⁵ The volume of subject imports from Japan was 31,405 units in 1997, 13,985 units in 1998, 11,472 units in interim 1998, and 6,384 units in interim 1999.¹⁸⁶ U.S. importers reported no inventories of imports of CPTs during the period of these reviews.¹⁸⁷ The Japanese producers reported moderate inventories in Japan, although they were lower in interim 1999 than in interim 1998, and were projected to fall further in 1999 and 2000.¹⁸⁸

Japanese CPT production capacity was more than 80 percent lower in 1998, at *** to *** million units, than during the original investigations, as Japanese producers invested in CPT capacity in other countries, including the United States, and reduced capacity in Japan.^{189 190} Two former Japanese

¹⁸¹ Commissioner Okun cumulated subject imports from Japan and Singapore in these reviews. For the reasons discussed in sections VII and VIII of these views, she finds that revocation of the antidumping duty orders on CPTs from Japan and Singapore is not likely to lead to continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time, even if the volumes, price effects, and impact of imports from those countries are cumulated.

¹⁸² CPT Final at 11.

¹⁸³ Table I-1, CR and PR at I-3.

¹⁸⁴ Table IV-2, CR and PR at IV-4.

¹⁸⁵ Id.

¹⁸⁶ Table IV-1, CR and PR at IV-2.

¹⁸⁷ CR and PR at IV-1.

¹⁸⁸ Table IV-7, CR at IV-15 and PR at IV-13. The absence of inventories of subject imports from Japan in the United States and the moderate levels of inventory in Japan lead us to conclude that inventories are not likely to be the source of significant volumes of subject imports in the reasonably foreseeable future.

¹⁸⁹ Japanese capacity was approximately 30 million units per year in 1985 and 1986. Table IV-5, CR and PR at IV-9 (estimated Japanese capacity, excluding Sony Japan) and CR at IV-12 and PR at IV-11 (estimated capacity of Sony Japan).

¹⁹⁰ The domestic parties assert that Japanese capacity has fallen not because Japanese producers have shut down production lines, but rather because they have shifted to the production of flat screen CPTs, which require longer production times, and thus reduce output and reported capacity. Domestic parties' Posthearing Brief at 8-11. The record indicates that lower Japanese capacity is due in part to two Japanese producers terminating CPT production in 1998. CR at IV-12 and PR at IV-11. The record also tends to confirm that flat screen CPTs require longer production times. See CR at I-18 and PR at I-14. We find no reason to regard reported flat screen capacity as inaccurate, or to re-cast that capacity into a curved screen equivalent.

producers, Mitsubishi and Hitachi, Ltd., ceased producing CPTs in Japan in 1998.¹⁹¹ The production capacity of the remaining Japanese producers Matsushita, Toshiba, and Sony Japan is less than *** the size of U.S. CPT capacity (about *** million units) and about *** the capacity of the U.S. affiliates of the Japanese producers (about *** million units).¹⁹² Capacity utilization of Matsushita and Toshiba was 90.0 percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999, and was projected to increase to *** and *** percent in 1999 and 2000.¹⁹³ Exports to the United States accounted for a very small portion of shipments by Matsushita and Toshiba (*** percent in 1997, less than *** percent in 1998 and interim 1998, and *** in interim 1999 and projected 1999 and 2000).¹⁹⁴

Sony Japan, whose Sony Trinitron CPTs are used only by Sony CTV producers, accounts for approximately *** percent of Japanese capacity.¹⁹⁵ The subject merchandise made by Sony Japan is not a likely source of significantly increased volumes if the order is revoked: Sony Japan is affiliated with Sony America, Sony America's CPT capacity is *** to *** times greater than that of Sony Japan, and Sony America produces advanced CPTs including 32-inch and 35-inch CPTs, and flat screen CPTs.¹⁹⁶

During 1999, Matsushita and Toshiba converted their last remaining curved screen capacity in Japan to flat screen CPT production.¹⁹⁷ If the order is revoked, there may be some short term increase in the volume of imports from Japan of flat screen CPTs if domestic production of this product expands more slowly than demand. However, we find that any such increase in subject import volume is likely to be small. While U.S. demand for flat-screen CPTs is growing somewhat, it accounts for only a small percentage of total CPTs consumed in the United States and is not likely to increase significantly in the reasonably foreseeable future.¹⁹⁸

Even should U.S. demand for flat screen CPTs substantially increase, it is unlikely that the Japanese producers would increase subject imports significantly. Matsushita's U.S. affiliate is in the process of modifying an existing line and completing a new line in September 2000 for the production of flat screens.¹⁹⁹ Toshiba's U.S. affiliate is also investing in flat screen production and expects to produce

¹⁹¹ CR at IV-12 and PR at IV-11.

¹⁹² Table III-2, CR and PR at III-3.

¹⁹³ The 1997 figure also includes Mitsubishi. Table IV-7, CR at IV-15 and PR at IV-13.

¹⁹⁴ Id. As indicated previously in our analysis of the likely volume of subject imports from Korea, we are not aware of any confirmed recent or expected changed circumstances regarding barriers to Japanese CPT exports to other countries. The Japanese CPT producers, excluding Sony, reported that after a drop from 1997 to 1998, export sales to countries other than the United States accounted for an increasing share of their total sales. Table IV-7, CR at IV-15 and PR at IV-13. The projected share of export sales to countries other than the United States are higher for 1999 and 2000 than actual export sales in 1997. Id. Sales of Japanese CPTs to China increased from 113,844 units in 1997 to 613,075 units in 1999. Japanese parties' Posthearing Brief at Exh. B, page 4. For the reasons discussed with regard to barriers to Korean CPTs, and those given here, we find that asserted recent changes in China's CPT import practices have not significantly affected the volume of sales of Japanese CPTs to countries other than the United States.

¹⁹⁵ Compare table IV-5, CR and PR at IV-9 (capacity of Matsushita and Toshiba) with CR at IV-12 and PR at IV-11 (capacity estimate for Sony Japan).

¹⁹⁶ CR at III-3 (table III-2), IV-7 (table IV-4), and IV-12; PR at III-3 (table III-2), IV-7 (table IV-4), and IV-11.

¹⁹⁷ Table IV-8 & n.2, CR at IV-16 and PR at IV-14.

¹⁹⁸ Tr. at 147 (Bray) (flat screen CTVs about one percent of total U.S. CPT production), 153 (Behringer) (flat screen CPTs have "minimal market share," and their acceptance in the U.S. market is not completely certain).

¹⁹⁹ CR at III-7 and PR at III-5 and tr. at 148 (Bray) (investments totaling \$80 million expected to result in an

(continued...)

flat screens in the second quarter of 2001.²⁰⁰ The investment in this domestic capacity suggests that these Japanese producers intend to meet any increased demand for flat screen CPTs from their U.S. production operations rather than from Japan. Corporate affiliations between the Japanese producers and their U.S. affiliates also diminish the likelihood of significantly increased imports that would be in competition with their domestic production.

Moreover, subject imports from Japan would compete with domestic CPTs at a considerable disadvantage due to the 15 percent duty on CPTs that are not NAFTA-originating.²⁰¹ The NAFTA disadvantage is particularly significant in light of the strong price competition for sales to CTV makers, which in turn is driven by competition among large nationwide electronics retailers.²⁰² Finally, a significant part of any increase in demand for flat and wide screen CPTs will likely be supplied by CTV makers in Mexico, such that at least some flat and wide screen CPTs from Japan would be exported to Mexico rather than the United States.²⁰³

We also disagree with the domestic parties' contention that there will be significant imports of HD CPTs from Japan in the reasonably foreseeable future if the order is revoked. We recognize that there is excess HD CPT production capacity in Japan, and the Japanese affiliates in the United States have not yet developed capacity of that type.²⁰⁴ As a result, imports of HD CPTs from Japan may rise somewhat as demand increases.²⁰⁵

However, none of the several market forecasts in the record predicts that direct view HD CTVs will become a significant market segment in the next several years, especially not in the next one-to-two years as argued by the domestic parties.²⁰⁶ Several factors indicate that demand for HD CTVs (and thus HD CPTs) will remain limited for the reasonably foreseeable future. Given that terrestrial broadcasters must continue to broadcast analog signals in addition to any digital signals until at least 2006, many consumers will likely not purchase any digital equipment at all over the next several years. HD CTVs are currently very expensive, with prices ranging between \$3,000 and \$8,500.²⁰⁷ Although it is likely that those prices will fall to some extent over time, HD CTVs will remain at the very high end of the market for

¹⁹⁹ (...continued)
annual capacity of possibly 300,000 units).

²⁰⁰ Tr. at 153 (Behringer) (investment totaling \$25 million).

²⁰¹ Tr. at 152-53 (Behringer), CR at IV-13, IV-19, IV-22 and PR at IV-12, IV-16. Indeed, we note that imports from Japan of nonsubject picture tubes for projection CTVs have remained at low levels despite rising U.S. demand, no antidumping duty order, and non-NAFTA duties of only 3.3 percent. See Japanese parties Posthearing Brief at Exhibit 5.

²⁰² CR at II-2 & n.3, II-36 n.87; PR at II-1 & n.3 and II-23 n.87.

²⁰³ Mexico's CTV capacity is considerable, as it absorbed 80 percent of the domestic industry's CPT exports, which accounted for over half of domestic production in 1997 and 1998. Tables I-1 and III-5, CR at I-4 and III-8 and PR at I-4 and III-7. Mexico's CTV capacity already includes, or will soon include, ability to produce flat screen, wide screen, and HD CTVs. Tr. at 218 (Bray) (Mexican affiliate of Matsushita "gearing up" to produce flat screen CTVs) and CR at III-5 and PR at III-4 (Thomson projects exporting *** percent of domestic HD CPTs to Mexico for incorporation into HD CTVs).

²⁰⁴ The Japanese affiliates report, however, that, once in place, flat screen capacity can be adapted to wide screen production with additional investment. CR at III-7 and PR at III-5, tr. at 149 (Bray).

²⁰⁵ Tr. at 150-51 (Bray) and CR and PR at D-5.

²⁰⁶ CR and PR at Appendix E.

²⁰⁷ Tr. at 29 (Trompak), domestic parties' Posthearing Brief at Exh. 2.2, page 4.

the foreseeable future. Moreover, consumers' ability to receive digital signals may be met less expensively through the use of set-top converter boxes, which allow consumers to view HD programming on their existing analog CTVs.²⁰⁸ Some consumers will also likely opt for projection televisions; currently about 80 percent of the limited number of digital televisions sold in the United States have been projection televisions.²⁰⁹

Certain technical issues will also limit demand for HD CTVs in the reasonably foreseeable future. Cable broadcasters (which supply television signals to two-thirds of U.S. households) and CTV makers have yet to reach agreement on copy protection or certain labeling conventions.²¹⁰ These two outstanding issues are described as significant impediments to digital cable broadcasts in recent statements by Commissioners of the Federal Communications Commission.²¹¹ Another deterrent is the limited amount of programming available in wide screen or HD format.²¹²

Finally, even increased U.S. demand for wide screen, high definition CTVs will not necessarily spur greater demand for wide screen, high definition CPTs in the United States as opposed to Mexico. As indicated previously, Mexican CTV production capacity is very large, and Thomson recently closed its U.S. CTV production facility (then the largest in the world) in favor of CTV capacity in Mexico.²¹³ Thomson projects exporting to Mexico *** percent of its 2000 U.S. production of wide screen, high definition CPTs.²¹⁴

Based on the foregoing, we conclude that the volume of subject imports from Japan is not likely to be significant if the antidumping duty order is revoked.

2. Likely Price Effects

In the original investigations, the Commission found that weighted-average prices for domestic CPTs declined for all screen sizes during the period of review, and found mixed trends in the prices of the

²⁰⁸ Tr. at 64-65 (Carson), 222 (Milostan). A number of digital television set-top boxes are priced at \$500 to \$1,000, although some are much more expensive. Domestic parties' Posthearing Brief at Exh. 2.2, page 5.

²⁰⁹ Tr. at 12 (Pierce), 154 (Behringer), CR at II-27 and PR at II-18. See domestic parties' Posthearing Brief at Exh. 2.2, page 4 (most HD CTV models listed are projection televisions).

²¹⁰ Domestic parties' Posthearing Brief at Exh. 2.5 (cable supplies two-thirds of households), and Exhs. 2.6, 8.1, 8.2, and 8.3 (agreement not yet reached on two issues). Cable broadcasters and CTV makers recently reached agreement on two other significant issues -- technical standards allowing the direct connection of digital television receivers to cable television systems, and a protocol to support on-screen guide functions in digital receivers. Id. at Exh. 2.6.

²¹¹ Domestic parties' Posthearing Brief at Exhs. 8.2 and 8.3. See id. at Exh. 2.2, page 13 (copy protection "not the least" of outstanding issues impeding the spread of digital cable broadcasts).

²¹² Domestic parties' Posthearing Brief at Exh. 2.2, page 11 ("dearth of compelling HDTV programming has limited the early adoption rate of digital television products this far . . . true HDTV programming has been scarce") and Exh. 2.4, page 8 (digital TV reliant on programming, and broadcasters reluctant to make necessary investments).

²¹³ Mexico currently absorbs the bulk of domestic CPT production that is exported; total exports account for over half of domestic production. Table III-5, CR at III-8 and PR II-7. See tr. at 140 (Carson) (Thomson relocated its CTV plant to Mexico).

²¹⁴ CR at III-5 and PR at III-4.

cumulated subject imports.²¹⁵ The Commission also found generally higher prices for subject imports from Japan from 1984 to 1986, but a sharp drop in interim 1987, and mixed underselling and overselling by the subject imports compared to the domestic product.²¹⁶

As indicated above, prices for domestic CPTs generally fell during the period 1997-99, which we attribute to domestic competition rather than price pressure from subject imports.²¹⁷ No price comparisons between subject Japanese CPTs and the domestic product were available, although the AUVs of the subject imports from Japan were several times higher than the subject imports from other countries.²¹⁸

Other facts in the record indicate that any adverse price effects by Japanese subject imports if the order is revoked will not be significant. The likely price effects of the subject imports from Japan are limited by their small likely volume, which has not exceeded a market share of 0.3 percent in recent periods and is not likely to increase to significant levels, as discussed above.²¹⁹ Additionally, Japanese CPT producers are unlikely to enact steep price reductions, because Japanese CPTs would compete for sales by affiliated CPT producers in the United States. Moreover, the Japanese producers' ability to undersell domestic production (and Mexican production) is limited by the 15 percent duty that applies to imports of all CPTs not originating in North America.

In view of the above, we find that the subject imports from Japan are not likely to have a significant adverse effect on domestic CPT prices.

3. Likely Impact

We found above that revocation of the antidumping duty order is not likely to lead either to significant volumes of subject imports from Japan or to significant price effects. As discussed above, we do not consider the domestic industry to be vulnerable, nor do we attribute the current health of the domestic industry to the existence of the orders. We also found that the domestic industry is currently investing in capacity to meet any future increased demand for large CPTs, as well as possible increased demand for CPTs with flat screens, wide screens, and/or high definition capability. These findings, combined with the current strong condition of the domestic industry, indicate that subject imports from Japan are not likely to have a significant adverse impact on the domestic industry within the reasonably foreseeable future if the order is revoked. Accordingly, we conclude that revocation of the antidumping duty order on subject imports from Japan would not be likely to lead to significant declines in output, sales, market share, profits, productivity, or return on investments.

4. Conclusion

For the reasons stated above, we determine that revocation of the antidumping duty order on CPTs from Japan is not likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

²¹⁵ CPT Final at 12.

²¹⁶ Id.

²¹⁷ Table I-6, CR at I-27 and PR at I-22.

²¹⁸ Table IV-2, CR and PR at IV-5.

²¹⁹ Table C-1, CR and PR at C-3 (market shares).

E. Singapore

As discussed above, we find that subject imports from Singapore are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order is revoked.²²⁰ We have considered the small volume of subject imports from that country, both in recent years and in the years prior to the original investigation. We have also considered that Hitachi Singapore ceased CPT production in Singapore in 1996, leaving Sony Singapore as the only remaining producer in that country. The record indicates that the volume of subject imports from Singapore is not likely to increase significantly in the future if the order is revoked. All subject Singaporean CPTs appear to be Sony Trinitron CPTs, which are used only by Sony's affiliated CTV makers and, therefore, compete directly only with Sony Trinitrons produced in the United States, or in other countries, such as Japan. Because of the corporate affiliation among Sony operations in these countries, and Sony America's considerable capacity and range of product offerings, we believe it unlikely that Sony Singapore would increase subject volumes imported to the United States to the detriment of Sony America.²²¹ In light of the low likely volumes of subject imports from Singapore, and the disincentive for Sony Singapore to compete with its U.S. affiliate, we find that subject imports from Singapore are not likely to have significant price effects on the domestic like product. As discussed previously, the domestic industry is not in a vulnerable state, nor do we attribute the current health of the domestic industry to the existence of the orders. The combination of these factors leads us to conclude that subject imports from Singapore would not have a significant adverse impact on the domestic industry if the order is revoked. Accordingly, we determine that revocation of the antidumping duty order on imports from Singapore would not be likely to lead to the continuation or recurrence of material injury to the domestic industry in the reasonably foreseeable future.

F. Canada

As discussed above, we find that imports from Canada are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order is revoked.²²² There has been no production of CPTs in Canada since 1996, and the production line in use then was subsequently dismantled. Import volumes from Canada totaled less than 30 units in 1998 and interim 1999, and there are no known plans to resume CPT production in that country. We therefore conclude that significant CPT imports from Canada to the United States are not likely within a reasonably foreseeable time. Nor is there any information in the record indicating that any subject imports from Canada would be likely to have significant price effects or a significant adverse impact on the domestic industry with the reasonably foreseeable future.²²³ Finally, the domestic parties concede that the order on CPTs from Canada should be revoked.²²⁴ Thus, we determine that revocation of the antidumping duty order on subject imports from Canada would not be likely to lead

²²⁰ As discussed above, Commissioner Okun does not join the finding of no discernible adverse impact with respect to Singapore and has determined to cumulate imports from Singapore and Japan. She joins the factual discussion in this section for purposes of her finding of no likelihood of continuation or recurrence of material injury by reason of cumulated imports from Japan and Singapore.

²²¹ Tables III-2 and IV-4, CR and PR at III-3 and IV-7.

²²² Chairman Bragg determines that there is not likely to be a reasonable overlap of competition with regard to subject imports from Canada in the event of revocation. See Separate Views of Chairman Lynn M. Bragg.

²²³ As discussed previously, the domestic industry is not in a vulnerable state, nor do we attribute the current health of the domestic industry to the existence of the orders.

²²⁴ Domestic parties' Prehearing Brief at 6 n.1.

to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on imports of CPTs from Canada, Japan, Korea, and Singapore would not be likely to lead to continuation or recurrence of material injury to the U.S. CPT industry within a reasonably foreseeable time.

SEPARATE VIEWS OF CHAIRMAN LYNN M. BRAGG

Based upon the record in these reviews, I join the Commission majority in finding that, under section 751(c) of the Tariff Act of 1930, as amended, revocation of the antidumping duty orders on color picture tubes (“CPTs”) from Canada, Japan, the Republic of Korea (“Korea”), and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I provide the following separate views to detail my cumulation analysis for these grouped sunset reviews.

I. CUMULATION

A. Analytical Framework

As set forth in previous views,²²⁵ in considering whether to cumulate subject imports in a sunset review, I first assess: (1) whether the reviews were initiated on the same day; and (2) the likely reasonable overlap of competition among subject imports and between subject imports and the domestic like product, in the event the orders are revoked.

If, as a result of the foregoing assessment, I determine that subject imports are amenable to cumulation, I then proceed to examine whether the statutory exception precludes cumulation of such imports that are otherwise amenable to cumulation—i.e., I examine whether such imports, when considered individually, are likely to have no discernible adverse impact on the domestic industry. In instances where I find that subject imports from more than one subject country are likely to have no discernible adverse impact, I then consider whether these individual countries for which I have made a likely no discernible adverse impact finding are, in the aggregate, likely to have no discernible adverse impact on the domestic industry.

Upon review of the record in these reviews, I find, as discussed below, that in the event of revocation, there is not likely to be a reasonable overlap of competition with regard to subject imports from Canada, and that there is likely to be no discernible adverse impact on the domestic industry with regard to subject imports from Japan, Korea, and Singapore.

B. Reasonable Overlap of Competition

In the original investigations, the Commission found that subject imports from Canada, Japan, Korea, and Singapore competed with each other and with the domestic like product.²²⁶ In these grouped reviews, the record indicates that several factors on which the Commission relied in finding a reasonable overlap of competition in the original investigations have changed. As a result, the analysis of whether there is likely to be a reasonable overlap of competition among subject imports from Canada, Japan, Korea, and Singapore in these grouped reviews differs somewhat from the original investigations.

²²⁵ See Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 at 27-30 (October 1999); Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-380 (Review) (April 2000).

²²⁶ Color Picture Tubes from Canada, Japan, Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 at 9-10 (December 1987).

With respect to subject imports from Canada, the record indicates that there is currently no CPT production in Canada and no evidence that Canadian CPT production is likely to resume in the reasonably foreseeable future. Accordingly, I find that there is likely to be no competition, let alone a reasonable overlap of competition, between CPTs from Canada on the one hand and imports from the other subject countries, as well as the domestic like product, on the other hand.²²⁷

The record indicates that the subject imports from Korea and Japan and the domestic like product are fungible.²²⁸ The record also indicates that U.S. sales of Korean and Japanese subject imports and the domestic like product are made through similar channels of distribution.²²⁹ In addition, Korean and Japanese subject imports and the domestic like product are sold by U.S. producers and importers in all areas of the United States. Thus, I find there is likely to be a reasonable overlap of competition with regard to Korea and Japan if the orders on these countries were revoked.

With respect to subject imports from Singapore, I find that, in the event of revocation, there is not likely to be a reasonable overlap of competition between subject imports from Singapore and Korea, but that there is likely to be a reasonable overlap of competition between subject imports from Singapore and Japan. The basis for my finding of no likely reasonable overlap of competition between Singapore and Korea is twofold: (1) Sony currently is the only CPT producer in Singapore; and (2) Sony produces only Trinitron CPTs in Singapore.²³⁰ Based upon the fact that Sony CTV affiliates are the only reported consumers of Trinitron CPTs and Sony does not produce Trinitron CPTs in Korea, the Korean production of non-Trinitron CPTs does not compete directly with Sony's production of Trinitron CPTs in Singapore.²³¹ However, Sony CPTs produced in Singapore would still compete in the U.S. market with Sony Trinitron CPTs produced in both Japan and the United States.²³² Thus, I further find there is likely to be a reasonable overlap of competition with regard to Japan and Singapore if the orders on these countries were revoked.

In summary, and based upon all the foregoing, I find a likely reasonable overlap of competition among subject imports from Korea and Japan, and the domestic like product, in the event of revocation. I also find a likely reasonable overlap of competition among subject imports from Japan and Singapore, and the domestic like product, in the event of revocation.

C. No Discernible Adverse Impact

As set forth below, I find that revocation of the orders on subject imports from Japan, Korea, and Singapore would individually be likely to have no discernible adverse impact on the U.S. industry. In

²²⁷ As a result, I need not reach the question of whether there is likely to be no discernible adverse impact if the order on Canada is revoked, because Canada is not amenable to cumulation.

²²⁸ While the record indicates that Japanese producers focus their CPT production on very large screen, flat screen, and wide screen CPTs, while Korean producers focus on the production of CPTs under 30 inches, the record also indicates that subject producers in both countries manufacture directly fungible products, including very large screen, flat screen, and wide screen CPTs. I note that only a "reasonable overlap" of competition is required. *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 915 (Ct. Int'l Trade 1996); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994).

²²⁹ Korean Parties Prehearing Brief at 17-19; CR at II-9, PR at II-6.

²³⁰ CR at IV-24, PR at IV-18.

²³¹ Tr. at 135 (Carson), CR at II-37, PR at II-23. There is no evidence in the record which indicates that Trinitron CPTs are produced in Korea.

²³² CR at IV-12, PR at IV-11.

addition, I determine that in the aggregate subject imports from these subject countries would also be likely to have no discernible adverse impact, in the event of revocation. I therefore do not cumulate subject imports from any of the subject countries in performing my analysis in these grouped reviews.

1. Individual Country Analysis

a. Japan

I begin my analysis of Japanese subject imports by noting that Japanese CPT production capacity was more than 80 percent lower in 1998, at *** to *** million units, than during the original investigation, because Japanese producers invested in CPT capacity in other countries, including the United States, and reduced capacity in Japan, following imposition of the order.²³³ Importantly, the current production capacity of the Japanese CPT producers is now approximately *** the capacity of their U.S. affiliates.²³⁴

The record also indicates that these U.S. affiliates currently produce, or will soon begin to produce, more advanced CPTs produced by the Japanese parent corporations, including very large screen and flat screen CPTs.²³⁵ And even if, as a result of revocation, there is a some increase in the volume of subject imports from Japan, such imports would likely be limited to HD CPTs and wide screen CPTs, which currently comprise, and in the reasonably foreseeable future are expected to comprise, only a very small percentage of domestic apparent consumption.²³⁶ In addition, subject imports from Japan would compete in the U.S. market subject to the 15 percent U.S. duty on CPTs that do not originate in NAFTA countries.²³⁷

Based upon the foregoing, the record indicates that subject Japanese producers would, in the event of revocation, have no incentive to significantly increase subject imports into the United States, which would then directly compete with the production of their U.S. affiliates.²³⁸ Accordingly, I determine that revocation of the order on subject imports from Japan is likely to have no discernible adverse impact upon the domestic industry, individually.

b. Korea

Approximately half of Korean CPT production capacity is directed toward 25 to 27 inch CPTs, which is currently the largest volume segment of the U.S. market. However, the magnitude of recent investments by Korean producers in their Mexican subsidiaries indicates that it is unlikely that Korean producers will significantly increase exports of CPTs in the 25-27 inch size range in the event of revocation; any such imports from Korea would then compete in the U.S. market with imports from the Korean producers' Mexican CPT affiliates. In addition, as noted above, there is a 15 percent U.S. duty on CPTs that do not originate in NAFTA countries.

²³³ Table IV-5, CR and PR at IV-9 (estimated Japanese capacity excluding Sony Japan) and CR at IV-12, PR at IV-11 (estimated capacity of Sony Japan).

²³⁴ Table III-2, CR and PR at III-3.

²³⁵ CR at II-37, PR at II-23.

²³⁶ CR and PR at Appendix E.

²³⁷ CR at I-11 and I-12, PR at I-10.

²³⁸ The record indicates that two of the American subsidiaries of Japanese CPT producers either currently produce or will soon have the ability to produce flat screen CPTs, thus indicating a disincentive for Japanese producers to ship flat screen CPTs to the United States. CR at III-7, PR at III-5 and Tr. at 148 (Bray).

With respect to more advanced CPT units, these products, including very large, flat screen, and wide screen CPTs, the record further indicates that Korean producers' capacity utilization rates were quite high for these advanced products in 1999, at *** percent for CPTs exceeding 30 inches, *** percent for flat screen CPTs, and *** percent for wide screen CPTs, thus indicating that Korean producers have little excess advanced CPT capacity to direct to the U.S. market in the reasonably foreseeable future.²³⁹

Based upon the foregoing, I determine that revocation of the order on subject imports from Korea is likely to have no discernible adverse impact upon the domestic industry, individually.

c. Singapore

During the period reviewed, the volume of subject imports from Singapore was quite modest, at 1,024 units in 1997, 504 units in 1998, and 1,093 units in interim 1999.²⁴⁰ In addition, the record indicates that all subject Singaporean CPTs are Sony Trinitron CPTs.²⁴¹ And although Sony Trinitron CPTs are considered subject merchandise, as noted earlier, Trinitron CPTs are only used in the production of Sony Trinitron CTVs and therefore purchased only by a Sony-affiliated CTV producer.²⁴² Trinitron CPTs produced in Singapore, thus, would only directly compete in the U.S. market with Trinitron CPTs produced in the United States, or in other countries, such as Japan.

In light of the corporate affiliation among Sony CPT and CTV operations around the world, and Sony America's considerable capacity and range of CPT product offerings, it is unlikely that Sony would significantly increase subject imports into the United States to the detriment of its U.S.-based, subsidiary operations.²⁴³ I also note that, as with imports from Japan and Korea, subject imports from Singapore are subject to a 15 percent U.S. duty on CPTs that do not originate in NAFTA countries.

Based upon the foregoing, I determine that revocation of the order on subject imports from Singapore is likely to have no discernible adverse impact upon the domestic industry.

2. Aggregate Analyses

Because I find that revocation of each of the orders on Korea, Japan, and Singapore, will likely have no discernible adverse impact on the domestic industry, individually, I next consider whether revocation of the orders on these countries in the aggregate is likely to have no discernible adverse impact.

First, with regard to Singapore and Japan, I find that based upon my foregoing discussion, there is likely to be minimal, if any, increase in the currently minuscule volume of subject imports from Singapore. In addition, I determine that even if there were some increase in the volume of subject imports from Japan, the likely volume of such increased imports would also be minuscule; moreover, as noted above, any increase in subject imports from Japan would be limited to a very small percentage of domestic consumption. Accordingly, I find that in the event the orders on Singapore and Japan were revoked, the minuscule increase in aggregate subject import volume likely to occur within a reasonably foreseeable time would have no discernible adverse impact on the domestic industry.

²³⁹ Table IV-10, CR at IV-20, PR and IV-15.

²⁴⁰ Table IV-1, CR and PR at IV-2.

²⁴¹ CR at II-9, II-14 n.41, PR at II-6, II-9 n.41, tr. at 135 (Carson).

²⁴² CR at II-9, II-14 n.41, PR at II-6, II-9 n.41, tr. at 135 (Carson).

²⁴³ Tables III-2 and IV-4, CR and PR at III-3 and IV-7.

Second, with regard to Korea and Japan, I determine that even if there were some increase in the volume of subject imports from Korea, the likely volume of such increased imports would be minuscule; as noted above, any increase in Korean subject imports would be limited to the largest volume and most price competitive segment of the domestic market, where Korean producers would be subject to U.S. duties on CPTs of non-NAFTA origin. Again, with regard to Japan, any increase in subject imports would be limited to a very small percentage of domestic consumption and would likely be quite small. Accordingly, I find that in the event the orders on Korea and Japan were revoked, the minuscule increase in aggregate subject import volume likely to occur within a reasonably foreseeable time would have no discernible adverse impact on the domestic industry.

II. CONCLUSION

Based upon the foregoing analysis, I find that revocation of the antidumping duty orders covering color picture tubes from Japan, Korea, and Singapore would likely have no discernible adverse impact on the domestic industry. I also determine that there is not likely to be a reasonable overlap of competition if the order on Canada is revoked, and that as a result, Canada is not amenable to cumulation in these grouped reviews. I therefore do not cumulate subject imports from any of the subject countries in performing my analysis in these grouped reviews.