

Certain Bearings From China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom

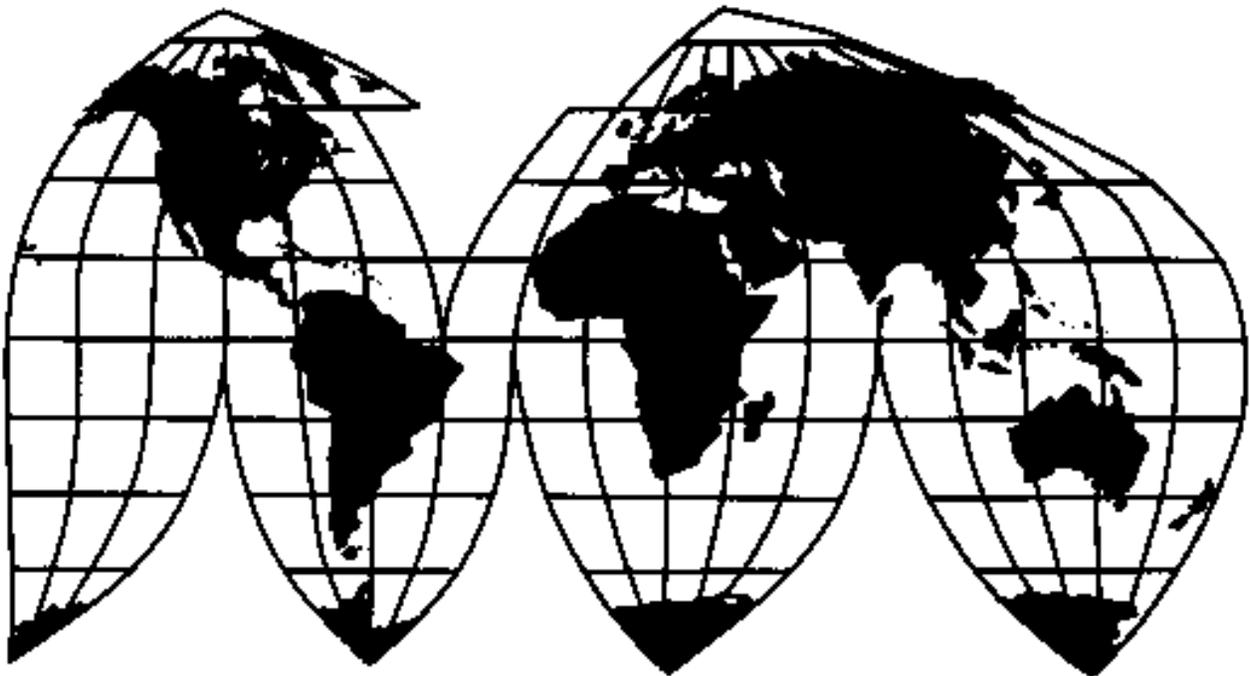
Investigations Nos. AA1921-143, 731-TA-341,
731-TA-343-345, 731-TA-391-397,
and 731-TA-399 (Review)

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Contains Business Proprietary Information

Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. AA-1921-143, 731-TA-341, 731-TA-343-345,
731-TA-391-397, and 731-TA-399 (Review)

**CERTAIN BEARINGS FROM CHINA, FRANCE, GERMANY, HUNGARY, ITALY,
JAPAN, ROMANIA, SINGAPORE, SWEDEN, AND THE UNITED KINGDOM**

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission determines,² pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on the following types of bearings from China, France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

<u>Product</u>	<u>Country</u>	<u>Investigation No.</u>
Tapered roller bearings	China ³	731-TA-344
Ball bearings	France	731-TA-392
Ball bearings	Germany ³	731-TA-391
Ball bearings	Italy ³	731-TA-393
Ball bearings	Japan ³	731-TA-394
Ball bearings	Singapore ⁴	731-TA-396
Ball bearings	United Kingdom ³	731-TA-399
Spherical plain bearings	France ⁴	731-TA-392

The Commission also determines that revocation of the antidumping finding and antidumping duty orders on the following types of bearings from France, Germany, Hungary, Italy, Japan, Romania, Sweden, and the United Kingdom 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.

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

² Vice Chairman Deanna Tanner Okun not participating.

³ Commissioner Thelma J. Askey dissenting.

⁴ Commissioners Jennifer A. Hillman and Thelma J. Askey dissenting.

<u>Product</u>	<u>Country</u>	<u>Investigation No.</u>
Tapered roller bearings	Hungary	731-TA-341
Tapered roller bearings	Japan ⁵	AA-1921-143
Tapered roller bearings	Japan ⁵	731-TA-343
Tapered roller bearings	Romania ⁶	731-TA-345
Ball bearings	Romania ⁶	731-TA-395
Ball bearings	Sweden ⁷	731-TA-397
Cylindrical roller bearings	France ⁶	731-TA-392
Cylindrical roller bearings	Germany ⁶	731-TA-391
Cylindrical roller bearings	Italy ⁶	731-TA-393
Cylindrical roller bearings	Japan ⁶	731-TA-394
Cylindrical roller bearings	Sweden	731-TA-397
Cylindrical roller bearings	United Kingdom ⁵	731-TA-399
Spherical plain bearings	Germany ⁶	731-TA-391
Spherical plain bearings	Japan ⁶	731-TA-394

BACKGROUND

The Commission instituted these reviews on April 1, 1999 (64 F.R. 15783) and determined on July 2, 1999 that it would conduct full reviews (64 F.R. 38471, July 16, 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 August 27, 1999 (64 F.R. 46949). The hearing was held in Washington, DC, on March 21, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

⁵ Commissioner Marcia E. Miller dissenting.

⁶ Commissioners Lynn M. Bragg and Marcia E. Miller dissenting.

⁷ Commissioner Lynn M. Bragg dissenting.

VIEWS OF THE COMMISSION¹

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 order on tapered roller bearings (“TRBs”) from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time; and that revocation of the antidumping finding and orders on TRBs from Hungary, Japan, and Romania 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.^{2 3}

Based on the record in these five-year reviews, we also determine under section 751(c) of the Act that revocation of the antidumping duty orders on ball bearings (“BBs”) from France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time;⁴ and that revocation of the antidumping duty orders on BBs from Romania and Sweden 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.^{5 6}

Based on the record in these five-year reviews, we further determine under section 751(c) of the Act that revocation of the antidumping duty orders on cylindrical roller bearings (“CRBs”) from France, Germany, Italy, Japan, Sweden, and the United Kingdom 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.^{7 8}

¹ Vice Chairman Okun did not participate in these reviews.

² Commissioner Bragg dissenting with respect to TRBs from Romania. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to TRBs from Japan and Romania. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

³ Commissioner Askey concurring with respect to TRBs from Hungary, Japan, and Romania, and dissenting with respect to TRBs from China. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

⁴ Commissioner Hillman dissenting with respect to BBs from Singapore. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

⁵ Commissioner Bragg dissenting with respect to BBs from Romania and Sweden. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to BBs from Romania. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

⁶ Commissioner Askey concurring with respect to BBs from France, Romania, and Sweden and dissenting with respect to BBs from Germany, Italy, Japan, Singapore, and the United Kingdom. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

⁷ Commissioner Bragg dissenting with respect to CRBs from France, Germany, Italy, and Japan. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in

Based on the record in these five-year reviews, we also determine under section 751(c) of the Act that revocation of the antidumping duty order on spherical plain bearings (“SPBs”) from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time;⁹ and that revocation of the antidumping duty orders on SPBs from Germany and Japan 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.^{10 11}

I. BACKGROUND

On January 23, 1975, the Commission determined that an industry in the United States was likely to be injured by reason of imports of TRBs, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately, from Japan, that were or were likely to be sold at less than fair value (“LTFV”) within the meaning of the Antidumping Act, 1921, as amended.¹² The Treasury Department (“Treasury”) published a dumping finding with respect to TRBs and certain components thereof from Japan on August 18, 1976,¹³ and on August 10, 1981, Commerce clarified that Treasury’s finding was limited to TRBs four inches or less in outside diameter and components thereof, excluding unfinished components.¹⁴ On June 15, 1982, Commerce revoked its antidumping finding on TRBs four inches or less in outside diameter from Japan that were produced and sold by NTN.¹⁵

Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B., and V.C of this opinion.

Commissioner Miller dissenting with respect to CRBs from France, Germany, Italy, Japan, and the United Kingdom. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

⁸ Commissioner Askey concurring with respect to CRBs from all countries. However, she writes separately to explain her views in this proceeding. She joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

⁹ Commissioner Hillman dissenting with respect to SPBs from France. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

¹⁰ Commissioner Bragg dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II and III of this opinion.

¹¹ Commissioner Askey concurring with respect to SPBs from Germany and Japan and dissenting with respect to SPBs from France. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

¹² Tapered Roller Bearings and Certain Components Thereof From Japan, Inv. No. AA1921-143, USITC Pub. 714 at 2 (Jan. 1975).

¹³ 41 Fed. Reg. 34975 (Aug. 18, 1976).

¹⁴ 46 Fed. Reg. 40550 (Aug. 10, 1981).

¹⁵ 47 Fed. Reg. 25757 (June 15, 1982).

In June 1987 the Commission determined that an industry in the United States was being materially injured by reason of LTFV imports of TRBs and parts thereof from China, Hungary, and Romania.¹⁶ In September 1987, the Commission determined, pursuant to a petition that covered TRB imports from Japan not subject to the 1976 finding (i.e., TRBs over four inches in outside diameter and parts thereof, and all TRBs produced and sold by NTN), that an industry in the United States was being materially injured by reason of imports of LTFV TRBs and parts thereof from Japan.¹⁷ Commerce published antidumping duty orders with respect to China on June 15, 1987, Hungary and Romania on June 19, 1987, and Japan on October 6, 1987.

In May 1989, the Commission determined that an industry in the United States was being materially injured by reason of LTFV imports of BBs from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; that a domestic industry was being materially injured by reason of LTFV imports of CRBs from France, Germany, Italy, Japan, Sweden, and the United Kingdom; and that a domestic industry was being materially injured by reason of LTFV imports of SPBs from France, Germany, and Japan.¹⁸ Commerce published the antidumping duty orders on these bearings on May 15, 1989.

On April 1, 1999, the Commission instituted reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on certain bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom would likely lead to continuation or recurrence of material injury.¹⁹

In five-year reviews, the Commission initially determines whether to conduct a full review (which would generally include 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.²⁰ If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it will determine to conduct a full review.

In these reviews, the Commission received responses to the notice of institution from domestic producers representing a substantial proportion of domestic production of each of the four general types of bearings: TRBs, BBs, CRBs, and SPBs. The Commission also received responses from respondent

¹⁶ Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Hungary, The People's Republic of China, and Romania, Invs. Nos. 731-TA-341, 344, 345 (Final), USITC Pub. 1983 (June 1987).

¹⁷ Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Japan, Inv. No. 731-TA-343 (Final), USITC Pub. 2020 (Sept. 1987).

¹⁸ Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Invs. Nos. 303-TA-19 and 20 (Final) and 731-TA-391 through 399 (Final), USITC Pub. 2185 (May 1989).

¹⁹ 64 Fed. Reg. 15783 (April 1, 1999).

²⁰ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

interested parties who are importers, producers, and/or exporters of the subject merchandise with respect to each subject country, with the exception of CRBs from France and Sweden.

On July 2, 1999, the Commission determined that all individual interested party responses to its notice of institution were adequate, that the domestic interested party group responses were adequate for each of the four types of bearings, and that the respondent interested party group responses were adequate for each type of bearing and each country, with the exception of CRBs from France and Sweden.²¹ The Commission decided to conduct full reviews for all orders in these grouped reviews to promote administrative efficiency.²²

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Products

1. Background

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”²³ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”²⁴ In a section 751(c) review, the Commission must also take into account “its prior injury determinations.”²⁵

Commerce in its sunset reviews defined the scope of merchandise covered by the orders on TRBs from China, Hungary, and Romania as including

TRBs and parts thereof, finished and unfinished . . . ; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use.²⁶

²¹ 64 Fed. Reg. 46949 (Aug. 27, 1999).

²² See Explanation of Commission Determinations on Adequacy, Confidential Report (“CR”)/Public Report (“PR”) at Appendix A. Commissioner Bragg found the Romanian interested party group responses for TRBs and for BBs to be inadequate but voted to conduct full reviews. With respect to SPBs, Commissioner Crawford found the interested party group responses from France and Japan to be adequate and the interested party group responses from the domestic industry and from Germany to be inadequate and voted to conduct expedited reviews. With respect to CRBs, Commissioner Crawford found the interested party group responses from Germany, Italy, Japan, and the United Kingdom to be inadequate and voted to conduct expedited reviews. For BBs, Commissioner Crawford found the interested party group responses from France and Germany to be inadequate but voted to conduct full reviews.

²³ 19 U.S.C. § 1677(4)(A).

²⁴ 19 U.S.C. § 1677(10). See *NEC Corp. v. Department of Commerce*, Slip Op. 98-164 at 8 (CIT, Dec. 15, 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (CIT 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

²⁵ 19 U.S.C. § 1675a(a)(1)(a).

²⁶ See 65 Fed. Reg. 11550, 11551 (March 3, 2000).

Because of the separate original investigations on TRBS from Japan, Commerce defined the scope of merchandise covered by its review of the 1987 order as essentially the same as for the orders on TRBs from China, Hungary, and Romania, with the following exception: “Products subject to the finding on TRBs, four inches or less in outside diameter (A-588-054) are not included in the scope of this order, except for those manufactured by NTN Corporation.”²⁷ Commerce defined the scope of merchandise covered by its review of the 1976 finding on TRBs from Japan as follows:

[T]apered roller bearings (“TRBs”), four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately, from Japan.²⁸

Commerce noted that the scope of the 1976 finding had been clarified in 1981 to exclude TRBs from Japan that were over four inches and to exclude unfinished TRB components (cups, cones, and retainers) that had been forged and rough machined but not finished.²⁹ Subsequent scope rulings with respect to the 1987 order on TRBs from Japan resulted in minor variations from the scope language of the orders on TRBs from the other subject countries. In general, however, the scope of Commerce’s reviews of the 1976 finding and 1987 order on Japan, taken together, is essentially the same as the scope of its reviews with respect to China, Hungary, and Romania.

For its reviews of the 1989 orders on BBs, Commerce defined the scope of subject merchandise for each subject country as all antifriction bearings (other than tapered roller bearings) that employ balls as the roller element, including antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.³⁰

For its reviews of the 1989 orders on CRBs, Commerce defined the scope of subject merchandise for each subject country as all antifriction bearings (other than tapered roller bearings) that employ cylindrical rollers as the rolling element, including antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, housed or mounted cylindrical roller bearing units and parts thereof.³¹

For its reviews of the 1989 orders on SPBs, Commerce defined the scope of subject merchandise for each subject country as all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends.³²

For its reviews of all the 1989 orders on BBs, CRBs, and SPBs, Commerce noted that:

These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of these orders. For unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is

²⁷ 64 Fed. Reg. 60266 (Nov. 4, 1999).

²⁸ 64 Fed. Reg. 60317 (Nov. 4, 1999).

²⁹ 64 Fed. Reg. 60317 (Nov. 4, 1999).

³⁰ 64 Fed. Reg. 60275 (Nov. 4, 1999); 64 Fed. Reg. 60309 (Nov. 4, 1999).

³¹ 64 Fed. Reg. 60275, 60276 (Nov. 4, 1999); 64 Fed. Reg. 60309 (Nov. 4, 1999).

³² 64 Fed. Reg. 60275, 60276 (Nov. 4, 1999); 64 Fed. Reg. 60309 (Nov. 4, 1999).

not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those that will be subject to heat treatment after importation.³³

The starting point of the Commission's like product analysis in a five-year review is the like product definition in the Commission's original determination.³⁴ In the 1987 investigations on TRBs from all the subject countries, the Commission determined that TRBs, as well as TRB parts and components, comprise a single domestic like product, and rejected arguments that the various types and sizes of TRBs constitute discrete like products.³⁵ The Commission in its 1989 determination on antifriction bearings other than TRBs found six separate like products according to the type of rolling element employed.³⁶ In addition to BBs, CRBs, and SPBs, it determined that spherical roller bearings, needle roller bearings, and slewing rings constitute separate like products, but made negative determinations with respect to the latter three types of bearings.³⁷ The Commission considered, but rejected, a number of arguments to subdivide these six categories of bearings, including that wheel hub units and aerospace bearings constitute separate like products.³⁸

2. Like Product Arguments

No party has argued that the four types of bearings subject to these reviews -- TRBs, BBs, CRBs, and SPBs -- should comprise fewer than four separate domestic like products. Nor does any party urge the Commission to find that the TRBs covered by the finding and orders under review should comprise more than one domestic like product.³⁹ Furthermore, no party argues for treatment of SPBs as more than one domestic like product.

NTN Corporation, a Japanese producer of all four types of bearings under review, and its U.S. affiliates (collectively, "NTN"), which also produce and/or import subject bearings, advocated in response to the notice of institution and in their prehearing brief that the Commission treat wheel hub units as a separate like product but did not pursue this argument at the hearing or afterwards.⁴⁰ The Commission in

³³ See 64 Fed. Reg. 60275, 60276 (Nov. 4, 1999); 64 Fed. Reg. 60309 (Nov. 4, 1999).

³⁴ 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 and 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 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.

³⁵ USITC Pub. 1983 at 7-9.

³⁶ USITC Pub. 2185 at 33.

³⁷ USITC Pub. 2185 at 33.

³⁸ USITC Pub. 2185 at 20-25.

³⁹ See Japan Bearing Industry Association ("JBIA") Companies' Prehearing Brief at 6; Response of Timken Company and Torrington Company to Notice of Institution at 61.

⁴⁰ Response of NTN to Notice of Institution at 22-24; NTN Prehearing Brief at 10-12.

its 1989 determination on antifriction bearings other than TRBs considered and rejected arguments that wheel hub units should be carved out as a separate like product from the general category of BBs.⁴¹

Several parties argue throughout these reviews that aerospace drive path (“ADP”) ball bearings and ADP cylindrical roller bearings comprise separate like products. The domestic producers in support of continuation of the orders argue against treating ADP bearings as a separate like product or products. The Commission in the original investigations considered whether aerospace bearings, a larger product category that includes ADPs (as defined in the Commission’s questionnaires in these reviews), constituted separate like products. It found that limitations in end use were not sufficient for drawing like product distinctions in “investigations involving intermediate products such as bearings, in which there are literally thousands of separate products, none of which can be substituted for another in their specific applications.”⁴² The Commission further noted that the high quality raw materials and technologically advanced production methods used in the manufacture of aerospace bearings did not distinguish such bearings from other superprecision bearings covered by the investigations.⁴³

Domestic producers opposing a separate ADP like product argue that the Commission considered this like product argument in its original determination, and there have been no significant changes meriting a reconsideration;⁴⁴ any changes that have occurred are more a matter of degree than of real substance.⁴⁵ The parties that advocate separate like product treatment for ADP bearings emphasize that the Commission in its original investigations did not consider the like product issue with respect to the narrow category of ADP bearings as defined in the Commission’s questionnaires and that the prevalent use today of specialty steels to make ADP bearings is a major development since the orders were imposed.⁴⁶ We therefore consider whether ADP bearings constitute a separate like product.

3. Whether ADP Bearings Constitute A Separate Like Product

a. Physical Characteristics and End Uses

According to respondents advocating a separate like product, the use of special steels in fabricating ADP bearings provides a bright-line test separating ADP bearings from all other bearings, as the product definition offered by respondents excludes other aerospace bearings made of typical bearing steel.⁴⁷ Respondents state that, while these specialty steels existed at the time of the original ball and cylindrical roller bearings investigations, they were not yet widely in use; now they are standard for these applications.⁴⁸ Respondents also point to other physical differences separating ADP bearings from all

⁴¹ USITC Pub. 2185 at 20-22.

⁴² USITC Pub. 2185 at 24-25.

⁴³ USITC Pub. 2185 at 24-25.

⁴⁴ Torrington, MPB, and RBC Prehearing Brief at 41 (hereinafter, “Torrington Prehearing Brief”).

⁴⁵ Torrington, MPB, and RBC Posthearing Brief at Chairman Koplán Answers, p. 9 (hereinafter, “Torrington Posthearing Brief”).

⁴⁶ See GE Posthearing Brief at 3.

⁴⁷ NTN ADP Prehearing Brief at 4.

⁴⁸ GE Posthearing Brief at 3.

other bearings, such as unique lubricating systems,⁴⁹ silver-plated cages,⁵⁰ and custom-designed housings that would prevent them from being installed in any other location.⁵¹ Respondents argue that these special features are necessary because ADP bearings must operate in extreme conditions without failure.⁵²

Domestic producers opposing a separate like product argue that the specialty steels discussed by respondents, such as M50 NiL, are used in other applications, such as chainsaw and outboard motor applications ***,⁵³ and that silver-plated cages are also used in other antifriction bearings destined for motor applications.⁵⁴ More generally, these domestic producers assert that the like products in these investigations cover many products with specialized or advanced materials or characteristics.⁵⁵ Finally, they state that all bearings have requirements for strength, speed, movement, and durability, and many bearings have rigorous performance requirements.⁵⁶

b. Interchangeability

Respondents in favor of a separate ADP bearing like product claim that these bearings are not interchangeable with other bearings, but are so highly specialized, and custom designed for a particular application, that they are not even interchangeable within the same application.⁵⁷ They argue that custom housings make the bearings unfit for other applications,⁵⁸ and that once a particular bearing has been approved by the Federal Aviation Administration (FAA) for use in a particular engine, a substitute bearing cannot be used without permission.⁵⁹ Thus, respondents argue that replacing an ADP bearing with a non-ADP bearing would be inviting equipment failure and serious legal liability.⁶⁰ Domestic producers opposing a separate like product claim that all bearings are only interchangeable with other bearings on a parts number basis.⁶¹

c. Channels of distribution

According to respondents advocating a separate like product, ADP bearings move in a separate and distinct channel of distribution; specifically, while non-ADP bearings are sold both to original equipment manufacturers (OEMs) and distributors, ADP bearings are sold only to engine

⁴⁹ GE Posthearing Brief at 3.

⁵⁰ Tr. at 360 (Mr. Ogden).

⁵¹ NTN ADP Prehearing Brief at 6.

⁵² UT Prehearing Brief at 7.

⁵³ Torrington Posthearing Brief at 6 and at Commissioner Hillman Answers, p. 14.

⁵⁴ Torrington Posthearing Brief at 5-6.

⁵⁵ Torrington Posthearing Brief at Commissioner Miller Answers, p. 3.

⁵⁶ Torrington Posthearing Brief at Commissioner Hillman Answers, pp. 15-16.

⁵⁷ FAG Prehearing Brief at 10.

⁵⁸ UT Prehearing Brief at 8.

⁵⁹ FAG Prehearing Brief at 11.

⁶⁰ NSK-RHP Prehearing Brief at 6.

⁶¹ Torrington Posthearing Brief at Commissioner Hillman Answers, p. 16.

manufacturers.⁶² Respondents further argue that ADP bearings are the only bearings designed in close consultation with the purchasers, and the purchasers own the rights to the ensuing designs.⁶³ Finally, respondents assert that producers typically have an entirely separate sales or marketing division devoted to ADP sales and support,⁶⁴ and that there is no true aftermarket for ADP bearings.⁶⁵

According to producers arguing against a separate ADP like product classification, ***.⁶⁶

d. Production processes

Respondents arguing for a separate like product claim that ADP bearings must be made on dedicated equipment.⁶⁷ According to respondents, separate facilities are needed because of heightened record-keeping requirements and the need for cleaner raw materials and tighter tolerances.⁶⁸ They also state that, because of the specialty steels used, the fabrication of ADP bearings requires special heat-treating and grinding machinery, including ultra-hot furnaces.⁶⁹ In addition, respondents argue that once a production process has been approved, it is frozen and cannot be changed without the approval of the purchaser.⁷⁰ Finally, while most bearing manufacturers can produce a superprecision bearing, respondents claim that only a handful can produce ADP bearings.⁷¹

According to a domestic ADP producer, ADP bearings can be, and in fact are, made on the same equipment, with the same steel, on the same machines, using the same employees, as non-ADP bearings.⁷² ***.⁷³ Domestic producers opposing a separate like product claim that even those producers in favor of a separate ADP like product use at least some common facilities for both ADP and non-ADP bearings.⁷⁴

e. Consumer or producer perceptions

Respondents advocating a separate like product argue that the ADP industry is recognized by both producers and customers as a separate industry, rather than as a niche.⁷⁵ Respondents claim that

⁶² GE Posthearing Brief at 4.

⁶³ GE Posthearing Brief at 4.

⁶⁴ UT Prehearing Brief at 10.

⁶⁵ NSK-RHP Prehearing Brief at 11.

⁶⁶ Torrington Posthearing Brief at Commissioner Hillman Answers, p. 16.

⁶⁷ ADP Group Posthearing Brief at 4.

⁶⁸ GE Prehearing Brief at 7-8.

⁶⁹ NTN Prehearing Brief at 5-6.

⁷⁰ FAG Prehearing Brief at 15.

⁷¹ NSK-RHP Prehearing Brief at 4-5, 12-13.

⁷² Torrington Posthearing Brief at 6; Tr. at 139 (Ms. Demerling).

⁷³ Torrington Posthearing Brief at Commissioner Hillman Answers, p. 18.

⁷⁴ Torrington Posthearing Brief at 6.

⁷⁵ ADP Group Posthearing Brief at 7.

the number of producers is very limited and entering the industry would require years of investment in design and implementation, along with a great deal of training.⁷⁶ According to respondents, customers have extremely high and specific expectations,⁷⁷ and ADP bearings are more likely to be considered as drivepath parts than as conventional bearings.⁷⁸

While conceding that customers may perceive ADP bearings to be separate products, domestic producers opposing a separate like product note that purchasers typically buy bearings by part numbers and purchasers are familiar only with the specifications of the particular products they purchase.⁷⁹

f. Price

Respondents advocating a separate like product claim that prices prove the significant differences between ADP and non-ADP bearings. They state that one producer's non-ADP bearings ranged in price from \$*** to \$*** per unit, while its ADP bearings ranged from \$*** to \$*** per unit, and that the price of ADP bearings can run as high as \$*** per unit.⁸⁰

Domestic producers opposing a separate like product point out that, while the price range for ADP bearings is towards the upper end of the price range for bearings in general, there are many other high-valued and even higher-valued bearings that have nothing in common with ADP bearings.⁸¹

4. Like Product Finding

We find that TRBs, BBs, CRBs, and SPBs are separate domestic like products, consistent with Commerce's scope definitions.⁸² We do not find that ADP bearings comprise a separate domestic like product. While the record indicates some differences in physical characteristics, end uses, interchangeability, price, and facilities between ADP bearings and other BBs and CRBs, we find that the similarities outweigh these differences. The record shows that the special materials and special machinery and facilities used to produce ADP bearings are also used in the production of other highly specialized bearings⁸³ and that other types of precision and non-precision bearings may command prices

⁷⁶ ADP Group Posthearing Brief at 7.

⁷⁷ FAG Prehearing Brief at 12.

⁷⁸ UT Prehearing Brief at 10.

⁷⁹ Torrington Posthearing Brief at Commissioner Hillman Answers, p.16.

⁸⁰ FAG Prehearing Brief at 16.

⁸¹ Torrington Posthearing Brief at Commissioner Hillman Answers, p. 18.

⁸² Commissioner Askey joins the Commission's discussion with respect to ADP bearings primarily because it responds to a major argument made by the parties in these sunset reviews. However, as she has noted previously, the starting point for her domestic like product analysis is the like product definition set forth in the original Title VII determination. Because the purpose of a sunset review is, literally, to review an existing order, the domestic 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 significant obstacle to arriving at a likelihood of injury determination in the review.

⁸³ CR at BB-I-29, BB-I-31, PR at BB-I-25-26.

as high as those for ADP bearings.⁸⁴ With respect to interchangeability, all bearings, and not ADP bearings in particular, are only interchangeable with other bearings on a parts number basis.⁸⁵ Customer perception is of limited use in distinguishing ADP bearings as a separate product category, given that purchasers typically buy all types of bearings by part number and are familiar only with the specifications of the particular products they purchase.⁸⁶ In addition, while ADP bearings are sold only to OEMs, so is the majority of U.S. producers' sales of non-ADP ball and cylindrical roller bearings, with U.S. producers shipping 79.1 percent of their U.S. BB shipments and 96.7 percent of their U.S. CRB shipments in 1998 to OEMs.⁸⁷ In cases such as the present one, where the domestically manufactured merchandise is made up of a continuum of similar products, we normally do not consider each item of merchandise to be a separate domestic like product that is only "like" its counterpart in the scope, but consider the continuum itself to constitute the domestic like product.⁸⁸ Given the "continuum" nature of bearings, then, we conclude that there is no clear dividing line between ADP bearings and all other types of bearings.

B. Domestic Industries

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."⁸⁹ In accordance with our domestic like product determinations in the instant five-year reviews, we determine that there are four domestic industries, composed of the domestic producers of each of the four like products: TRBs, BBs, CRBs, and SPBs.

C. Related Parties

Section 771(4)(B) of the Act 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.⁹⁰

⁸⁴ CR at BB-I-35, PR at BB-I-29.

⁸⁵ CR at BB-I-33, PR at BB-I-27.

⁸⁶ CR at BB-I-33, PR at BB-I-27-28.

⁸⁷ CR at BB-I-33, CRB-I-23, PR at BB-I-28, CRB-I-19.

⁸⁸ Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 701-TA-368-371 (Final), USITC Pub. 3075 (November 1997) at 7.

⁸⁹ 19 U.S.C. § 1677(4)(A).

⁹⁰ See Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 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

Four domestic producers of TRBs are related parties because they are owned by, or are affiliated with, subject country producers/exporters of the subject merchandise, or are importers of the subject merchandise: Koyo Corporation of USA is owned by Koyo Seiko, Japan, a Japanese TRB producer, which also owns Koyo Romania, a Romanian TRB producer; Nakanishi Manufacturing Corporation is owned by Nakanishi Metal Works, Japan; NTN Bearing Corporation of America is owned by NTN Corporation, Japan; and Timken Company owns Timken Romania and Yantai Timken, China.⁹¹ In addition, the U.S. producers *** imported subject merchandise during the period of review.⁹²

Several domestic producers of BBs are related parties because they are owned by, or are affiliated with, subject country producers/exporters of the subject merchandise, including: Barden and FAG Holding Bearings Corp., affiliated with FAG Holding Corp., which has affiliates in Italy, Germany, and the United Kingdom; INA USA Corp., affiliated with INA, which also has an affiliate in Germany; Koyo Corp. of USA, affiliated with Koyo Seiko Co., which also has affiliates in Japan and Romania; MPB Corp.-Timken Aerospace, affiliated with Timken Co., which also has an affiliate in the United Kingdom; Nakanishi, affiliated with Nakanishi Metal Works Co., Ltd., of Japan; New Hampshire Ball Bearings, Inc., affiliated with NMB (USA), Inc., which also has an affiliate in Singapore; NSK Corp. and NSK-AKS Precision Ball Co., affiliated with NSK Americas, owned by NSK Ltd., with affiliates in Japan and the United Kingdom; NTN Bearing Corp. of America, affiliated with NTN USA, with affiliates in Japan; SKF, affiliated with AB SKF, with affiliates in France, Italy, and Sweden; and Torrington, affiliated with Ingersoll-Rand, with an affiliate in the United Kingdom.⁹³ In addition, the U.S. producers *** imported subject merchandise during the period of review.⁹⁴

Several domestic producers of CRBs are affiliated with subject foreign producers or exporters, including: FAG Bearings Corp., affiliated with FAG Holding Corp., with affiliates in Italy and Germany; INA USA, affiliated with INA, with affiliates in France and Germany; MPB Corp.-Timken Aerospace, affiliated with Timken Co., with affiliates in the United Kingdom; NTN Bearing Corp. of America, affiliated with NTN USA, with an affiliate in Japan; SKF, affiliated with AB SKF, with an affiliate in Germany; Timken Co., with an affiliate in the United Kingdom; and Torrington, affiliated with Ingersoll-Rand, with affiliates in France, Germany, Japan, and the United Kingdom.⁹⁵ *** imported CRBs from subject countries during the review period.⁹⁶

(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 (CIT 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).

⁹¹ CR/PR at Overview Table 4, Table TRB-I-9.

⁹² CR/PR at Table TRB-III-4.

⁹³ CR/PR at Overview Table 4, Table BB-I-11.

⁹⁴ CR/PR at Table BB-III-4.

⁹⁵ CR/PR at Overview Table 4, Table CRB-I-9.

⁹⁶ CR/PR at Table CRB-III-4.

Two domestic producers of SPBs are related parties because they are owned by, or are affiliated with, subject country producers/exporters of the subject merchandise: SKF USA Inc. is owned by SKF Sweden, which also owns SKF France, also known as SARMA France, and SKF Germany; and New Hampshire Ball Bearings, Inc. (“NHBB”) is owned by Minebea Co. Ltd. of Japan.⁹⁷ The U.S. producer *** also imported subject merchandise from *** during the period of review.⁹⁸

In the original investigations, the Commission did not exclude any related parties, given that the related parties either accounted for relatively small percentages of total U.S. bearings shipments by value or their performance indicators were consistent with those of the industry as a whole. The Commission therefore found that including the related producers within the domestic industry would not significantly distort the economic data or fail to provide an accurate picture of the domestic industry as a whole.⁹⁹

No party argues for the exclusion of any related parties from these reviews. We find that appropriate circumstances do not exist to exclude any related parties from the domestic industries in these reviews.^{100 101} First, we note that the market for bearings is global in nature and dominated by several multinational companies. These companies, which include Timken and Torrington, operate production facilities in several countries, including the United States. Production in each country is, to some extent, rationalized to meet the needs of that country’s market. Because such companies do not find it efficient to produce in the United States each and every type of bearing sold here, they import certain bearings or bearing parts from their foreign manufacturing facilities.

The related parties generally have a longstanding presence as U.S. producers. SKF has owned U.S. production facilities for over 80 years and NTN and FAG have each operated U.S. production facilities for over 25 years. In addition, several of the related parties that are foreign-owned, such as Koyo Corporation of USA, NTN Bearing Corporation of America, and SKF USA, have continued to make significant investments in bearings production in the United States, an indication that their primary interests lie in domestic production, not importation. Koyo, NTN, and SKF all state that their expansion of and investment in U.S. bearings production since the orders were imposed indicates that their U.S.

⁹⁷ CR/PR at Overview Table 4, Table SPB-I-6.

⁹⁸ CR/PR at Table SPB-III-4.

⁹⁹ USITC Pub. 1983 at 9, n.24; see also USITC Pub. 2020 at 8; USITC Pub. 2185 at 44.

¹⁰⁰ We note that the Commission’s decision not to exclude any related parties from the domestic ball bearings industry has been upheld by the CIT. See Torrington Co. v. United States, 790 F. Supp. 1160, 1168 (CIT 1992) (in affirming Commission’s negative preliminary determination on ball bearings from several countries, including Commission decision not to exclude any related parties, CIT noted that related parties had rationalized their production to meet the particular needs of each country’s market and imported to complement their U.S. production, not to benefit from unfair trade practices; court also found reasonable Commission’s conclusion that excluding related parties that account for significant shares of the domestic industry could present a distorted view of the industry), aff’d, 991 F.2d 809 (Fed. Cir. 1993).

¹⁰¹ Commissioner Miller agrees that appropriate circumstances do not exist to exclude the related parties from the domestic industries. She finds that the record does not indicate that the related parties currently are benefitting significantly from their relationships or are substantially shielded from the effects of import competition. Also, given the likely conditions of competition in the bearings industries, she does not find that the related parties are likely to be significantly insulated from import competition if the orders are revoked. Accordingly, inclusion of the related parties would not present a distorted picture of the effects of revocation on the domestic industries as a whole. Commissioner Miller does not join the remainder of this section of the opinion.

production is well established and will not be abandoned in favor of imports should the orders be revoked.¹⁰² Koyo and NTN characterize imports from subject country affiliates ***.¹⁰³

The record indicates that the primary interest of the related parties that account for the largest proportion of U.S. production of each like product currently lies in domestic production rather than importation, as the majority of their U.S. shipments in 1998 were from U.S. production, not imports.¹⁰⁴ The only related party that shipped the majority of its U.S. shipments from imports rather than domestic production in 1998 accounted for a very small percentage of U.S. shipments.¹⁰⁵

The related parties collectively account for a substantial proportion of U.S. sales in each of the four industries and include some of the largest producers of each type of bearing in the United States. In light of their substantial presence in the market and their generally small ratios of subject imports to domestic shipments, we find that exclusion of the related parties would present a distorted picture of the state of each industry.

The foregoing considerations concerning industry-wide production patterns and the nature of the related parties' U.S. production operations indicate that appropriate circumstances do not exist to exclude any related parties from any of the four industries.

III. LEGAL STANDARDS¹⁰⁶

The legal standards discussed below apply to our determinations with respect to the four domestic industries in this proceeding: the TRB industry; the BB industry; the CRB industry; and the SPB industry. Our determinations for each industry are found in Sections IV through VII.

A. Cumulation

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

¹⁰² JBI Economic Report at III-24; Response of SKF Group to Notice of Institution at 6-7.

¹⁰³ JBI Economic Report at III-22-23.

¹⁰⁴ See CR/PR at Table TRB-III-4, Table BB-III-4, Table CRB-III-4, Table SPB-III-4.

¹⁰⁵ See CR/PR at Table BB-III-4, Table BB-I-11.

¹⁰⁶ Commissioner Bragg joins only in Section III.B of this section. Commissioner Bragg provides a separate analysis of cumulation in these grouped reviews. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. For a complete statement of Commissioner Bragg's analytical framework regarding cumulation in sunset reviews, see Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, found in Potassium Permanganate From China and Spain, Invs. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999); see also Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, found in Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Invs. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290 (April 2000).

subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.¹⁰⁷

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.¹⁰⁸ We note that 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.¹⁰⁹ 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.^{110 111}

The Commission has generally considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.¹¹² Only a “reasonable overlap” of competition is required.¹¹³ In five-year reviews, the relevant inquiry is whether

¹⁰⁷ 19 U.S.C. § 1675a(a)(7).

¹⁰⁸ 19 U.S.C. § 1675a(a)(7).

¹⁰⁹ SAA, H.R. Rep. No. 103-316, vol. I (1994).

¹¹⁰ For a discussion of the analytical framework of Chairman Koplan and Commissioners Miller and Hillman 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 Chairman 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. 803-TA-13 (Review); 701-TA-249 (Review) and 731-TA-262, 263, and 265 (Review) (Views of Commissioner Stephen Koplan Regarding Cumulation).

¹¹¹ 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).

¹¹² 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 (CIT 1989).

¹¹³ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 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 (CIT 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996)).

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.¹¹⁴

B. Likelihood of Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time If the Orders Are Revoked

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 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.”¹¹⁵ 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.”¹¹⁶ Thus, the likelihood standard is prospective in nature.¹¹⁷ 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.”¹¹⁸ 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].”^{119 120}

¹¹⁴ 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); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

¹¹⁵ 19 U.S.C. § 1675a(a).

¹¹⁶ 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.

¹¹⁷ 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.

¹¹⁸ 19 U.S.C. § 1675a(a)(5).

¹¹⁹ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

¹²⁰ In analyzing what constitutes a reasonably foreseeable time, Chairman 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

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.”¹²¹ 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, whether the industry is vulnerable to material injury if the order is revoked, and any findings by Commerce regarding duty absorption under section 1675(a)(4) of the Act.¹²²

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.”¹²³ In this case, a number of respondent interested parties did not provide questionnaire responses and/or participate in these reviews. Accordingly, we have relied on the facts available in these reviews, which consist primarily of the evidence in the record from the Commission’s original investigations, the information collected by the Commission since the institution of these reviews, and information submitted by the domestic producers and other parties in these reviews.

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States.¹²⁴ 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

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.

¹²¹ 19 U.S.C. § 1675a(a)(1).

¹²² 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.

¹²³ SAA at 869.

¹²⁴ 19 U.S.C. §1675a(a)(2).

United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.¹²⁵

In evaluating the likely price effects of subject imports if the orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products 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 domestic like products.¹²⁶

In evaluating the likely impact of imports of subject merchandise if the orders are 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.¹²⁷ 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.¹²⁸ 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 orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.¹²⁹

¹²⁵ 19 U.S.C. § 1675(a)(2)(A)-(D).

¹²⁶ 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.

¹²⁷ 19 U.S.C. § 1675a(a)(4).

¹²⁸ 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 investigation. 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 review investigations as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce found the following dumping margins: TRBs -- China, 0 to 29.40 percent; Hungary, 7.42 percent; Japan, 0.71 to 20.56 percent (TRBs four inches and under), 36.21 to 36.52 percent (TRBs over four inches), 36.53 percent for all TRBs from NTN Bearing; and Romania, 8.70 percent; BBs – France, 56.50 to 66.42 percent; Germany, 31.29 to 132.25 percent; Italy, 68.29 to 155.57 percent; Japan, 2.55 to 106.61 percent; Romania, 39.61 percent; Singapore, 25.08 percent; Sweden, 105.92 percent; and United Kingdom, 44.02 to 54.27 percent; CRBs – France, 11.03 to 18.37 percent; Germany, 52.43 to 76.27 percent; Italy, 212.45 percent; Japan, 4.00 to 51.21 percent; Sweden, 13.69 to 27.38 percent; and United Kingdom, 43.36 to 72.65 percent; SPBs – France, 39 percent; Germany, 74.88 to 118.98 percent; and Japan, 84.26 to 92.00 percent. 65 Fed. Reg. 11550 (March 3, 2000); 64 Fed. Reg. 66891 (Nov. 30, 1999); 64 Fed. Reg. 60266-60301, 60309-60332 (Nov. 4, 1999).

¹²⁹ 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 evaluating the likely impact of the subject imports on the domestic 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.”¹³⁰

IV. TAPERED ROLLER BEARINGS¹³¹

A. Cumulation

In these reviews, the statutory requirement for cumulation that all of the TRB reviews be initiated on the same day is satisfied. We find that subject imports from Hungary and Romania would not be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. We also do not cumulate subject imports from China and Japan due to a limited overlap of competition and other considerations.

1. Likelihood of No Discernible Adverse Impact

We find that revocation of the orders with respect to TRBs from Hungary and Romania would be likely to have no discernible adverse impact on the domestic industry and, therefore, do not cumulate subject imports from Hungary and Romania with each other or with those from any of the other subject countries.

Imports from Hungary were low at the time of the original investigation and have decreased since then. Hungarian TRB imports represented less than 0.05 percent by value of total TRB imports, and less than 0.05 percent of U.S. TRB consumption by value in 1998, as compared to 2 percent by value of total TRB imports and *** percent of U.S. TRB consumption by value in 1986.¹³² Hungary currently exports virtually no TRBs to the United States, despite an antidumping margin that is lower than those of countries with significantly more exports to the United States. While the record shows that its TRB industry is export-oriented, with exports representing *** percent and *** percent of its total TRB shipments in 1997 and 1998, respectively,¹³³ and that its TRB production and capacity utilization decreased from 1997 to 1998,¹³⁴ the record also shows that Hungary’s focus is on increasing its sales in European markets and ***, where it already has an established presence and faces no import barriers.¹³⁵ The total capacity of Hungarian producers is small relative to the U.S. market, and these producers have no existing marketing, sales, or distribution network in the United States.

¹³⁰ 19 U.S.C. § 1675a(a)(4).

¹³¹ Commissioner Bragg joins only in Sections IV.B, IV.C, IV.D, and IV.E of this section, to the extent noted. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

Commissioner Miller does not join in Section IV. See Separate and Dissenting Views of Commissioner Marcia E. Miller.

Commissioner Askey does not join in Section IV. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

¹³² CR/PR at Table TRB-I-1, Table TRB-IV-1.

¹³³ CR/PR at Table TRB-IV-4.

¹³⁴ CR/PR at Table TRB-IV-4.

¹³⁵ CR at TRB-IV-8, 10, PR at TRB-IV-7.

The record also shows that OEM purchasers, which dominate the TRB market, generally tend to rely on their traditional suppliers.¹³⁶ Because no Hungarian producers are qualified by major OEM purchasers,¹³⁷ imports from Hungary are not likely to compete in the important OEM segment of the U.S. market requiring certification. Finally, the quality of Hungarian TRBs would likely continue to limit Hungarian producers' ability to re-enter the U.S. market with significant quantities of TRBs should the order be revoked.

Similarly, Romanian TRB imports represented 0.7 percent by value of total TRB imports, and 0.1 percent of U.S. TRB consumption by value in 1998, as compared to 2.6 percent by value of total TRB imports and *** percent of U.S. TRB consumption by value in 1986.¹³⁸ While Romania, like Hungary, is export-oriented, with exports representing *** percent and *** percent of its total TRB shipments in 1997 and 1998, respectively,¹³⁹ its exports are mainly to customers in Europe. Romanian producers state that product shifting is not likely¹⁴⁰ and that they had virtually no exports to the United States during the review period despite low or de minimis margins.¹⁴¹ While Romania's TRB capacity increased from 1997 to 1998, so did its production, and its capacity utilization increased from *** percent in 1997 to *** percent in 1998.¹⁴² Romania's total capacity, however, is small relative to the U.S. market.

Based on the available information regarding the capacity and export orientation of the industries in China and Japan, and their current exports to the United States, we find that subject imports from both countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. Subject imports from China and Japan have remained in the U.S. market in the years since the orders were imposed, and the market shares of subject imports from China were higher during the review period than those found in the original investigation.¹⁴³ TRB producers in both countries export significant proportions of their total TRB shipments.¹⁴⁴ Finally, the data collected by the Commission show some available capacity in each country.¹⁴⁵

2. Reasonable Overlap of Competition

In the original determinations on TRB imports, the Commission found that subject imports from all the countries competed with each other and with the domestic like product and cumulated the volume and

¹³⁶ CR at Overview-21, TRB-I-26, II-8-9, PR at Overview-16, TRB-I-22, II-5.

¹³⁷ CR at TRB-I-27, PR at TRB-I-22.

¹³⁸ CR/PR at Table TRB-I-1, Table TRB-IV-1.

¹³⁹ CR/PR at Table TRB-IV-6.

¹⁴⁰ Given that Koyo Romania, the largest TRB producer in Romania, is owned by the same Japanese parent, Koyo Seiko, as is the U.S. producer Koyo Corporation of USA, Koyo Romania has a reduced incentive to ship to the United States. Similarly, the Romanian producer Timken Romania would likely not export TRBs to the United States that would have an adverse impact on its U.S. parent. Timken Romania reported that it ***. CR at TRB-IV-15, PR at TRB-IV-10.

¹⁴¹ CR at TRB-II-4-5, PR at TRB-II-3.

¹⁴² CR/PR at Table TRB-IV-6.

¹⁴³ CR/PR at Table TRB-I-1, Table TRB-IV-1.

¹⁴⁴ CR/PR at Table TRB-IV-3, Table TRB-IV-5.

¹⁴⁵ CR/PR at Table TRB-IV-3, Table TRB-IV-5.

price effects of those imports. The record in these reviews indicates a likely limited overlap of competition with respect to China and Japan if the orders were revoked. The record indicates no likely differences with respect to simultaneous presence in the U.S. market and geographic overlap. With respect to fungibility, the record of these reviews indicates that U.S.-produced TRBs are generally interchangeable with TRBs from both China and Japan.¹⁴⁶ The record also indicates, however, some significant product differences between the imports. Chinese subject TRBs appear to be lower quality.¹⁴⁷ Whereas most of the Japanese TRB imports are sold to OEMs with qualification requirements, no Chinese subject bearings exported to the United States have been pre-certified by major OEMs.¹⁴⁸ It thus appears that the lower quality subject imports from China are often sold primarily to the aftermarket and distributors in the non-automotive sectors and do not currently compete in the primary market for Japanese imports, the OEM automotive sector. Sales of subject Chinese imports to OEMs are to manufacturers that serve low-end markets (for example, boat and utility trailers, garden transaxles, and roller conveyors) and do not require certification.¹⁴⁹ The record therefore indicates some limits to the likely overlap of competition with respect to fungibility and channels of distribution.

3. Other Considerations

In addition to the likely limited overlap of competition between subject imports from China and Japan, other factors lead us not to exercise our discretion to cumulate subject imports from the two countries in these reviews. Subject country imports from China and Japan, as a share of total imports, have exhibited divergent trends during the period since the orders were imposed. Whereas Chinese subject imports increased, from 0.58 percent by value of total TRB imports in 1986 to 8.5 percent in 1998, Japanese imports decreased.¹⁵⁰

In addition, the limited pricing data collected in these reviews also reveal wide variations in price among subject imports for the same product. For example, on sales to distributors in the first quarter of 1999, Product 3 from Japan sold for \$*** per bearing, but for \$*** per bearing from China.¹⁵¹ Whereas Chinese subject imports undersold the domestic like product in every quarter for which price comparisons were available, Japanese subject imports oversold the domestic product in 109 out of 143 quarterly comparisons.¹⁵²

We further find that subject country imports from the two countries would likely face different conditions of competition in the U.S. market. The major Japanese producers have all increased their investment in and expanded U.S. production through U.S. subsidiaries since the orders were imposed. The vast majority of the Japanese-owned U.S. producers' U.S. shipments are from U.S. production, not from imports from affiliated companies in Japan or other subject countries.¹⁵³ By contrast, no subject

¹⁴⁶ CR at TRB-II-10, PR at TRB-II-6.

¹⁴⁷ CR at TRB-II-9, PR at TRB-II-5.

¹⁴⁸ CR at TRB-I-26-27, TRB-II-12, PR at TRB-I-22, TRB-II-7.

¹⁴⁹ CR at TRB-I-26-27, PR at TRB-I-22.

¹⁵⁰ CR/PR at Table TRB-I-1, Table TRB-IV-1.

¹⁵¹ CR/PR at Table TRB-V-5.

¹⁵² CR/PR at Table TRB-V-19.

¹⁵³ CR/PR at Table TRB-III-4.

Chinese producers own a U.S. production facility. In addition, subject Chinese producers currently export about half of their total shipments and direct a large majority of current TRB exports, over 30 percent of their total shipments, to the U.S. market.¹⁵⁴ The Japanese producers directed 62.4 percent of their shipments in 1998 to the home market, 31.5 percent to third-country markets, and only 4.6 percent to the U.S. market.¹⁵⁵

On the basis of the limited overlap of competition between subject imports from China and Japan and significant differences in import trends and conditions of competition between the two countries, we do not cumulate subject imports from China and Japan for purposes of these reviews.

B. Conditions of Competition

Demand for TRBs, which is driven by the demand for end-use products, has grown considerably since the original investigations. U.S. apparent consumption of TRBs, measured by value, was \$1,418,791,000 in 1998, nearly double its 1986 level of \$***.¹⁵⁶ Demand in the automotive sector, which represents about 20 to 25 percent of TRB consumption, appears to have increased since the original investigations.¹⁵⁷

U.S. producers' U.S. shipments, by value, increased from \$*** in 1986 to \$1,137,895,000 in 1998. The value of U.S. producers' U.S. export shipments more than tripled during the period since the original 1987 investigations, rising from \$*** in 1986 to \$*** in 1998.¹⁵⁸

U.S. producers' U.S. market share, by value, has remained at or slightly above the 1986 level of *** percent, reaching a level of 82.1 percent in interim 1999. The U.S. market share, by value, held by imports is likewise at a level comparable to that of the original investigations, ***. As the market share held by subject imports declined during the period, however, from *** percent by value in 1986 to 6.5 percent by value in 1998, nonsubject imports' U.S. market share, by value, grew from *** percent in 1986 to 13.3 percent in 1998.¹⁵⁹

The period since the original investigations has been marked by increased investment by Japanese TRB producers in their U.S. facilities.¹⁶⁰ NTN Bearing Corporation of America, which is owned by NTN

¹⁵⁴ CR/PR at Table TRB-IV-3.

¹⁵⁵ CR/PR at Table TRB-IV-5.

¹⁵⁶ CR/PR at Table TRB-I-1. U.S. apparent consumption of TRBs in 1973, at the time of the original investigation on TRBs four inches and under from Japan, was ***.

¹⁵⁷ CR at TRB-I-23, TRB-II-6, PR at TRB-I-20, TRB-II-3-4.

¹⁵⁸ CR/PR at Table TRB-I-1. The value of U.S. producers' U.S. shipments in 1973, at the time of the original investigation on TRBs four inches and under from Japan, was \$*** and the value of their export shipments was \$***.

¹⁵⁹ CR/PR at Table TRB-I-1. U.S. producers' U.S. market share, by value, in 1973, at the time of the original investigation of TRBs four inches and under from Japan, was *** percent and the share held by subject imports was *** percent, and by nonsubject imports, *** percent.

¹⁶⁰ The expansion of overseas facilities reflects in part a trend by large bearings manufacturers to localize production facilities in response to customers' needs. Nevertheless, we disagree with respondents' arguments that other factors lead purchasers to prefer domestically produced bearings over subject imports to a significant degree. Given the relatively small cost share of bearings in the final cost of the end product in which they are used, we do not find much of an effect from the North American Free Trade Agreement's local content rules, Corporate Average Fuel Economy regulations, or the American Automotive Labeling Act. The Defense Federal Acquisition Regulations affect only a very small part of the overall market. Finally, foreign producers can and do supply purchasers with just-

Corporation in Japan and accounted for approximately *** percent of the value of U.S. TRB shipments in 1997, reportedly increased TRB production at various facilities throughout the United States in 1988, 1990, 1992, 1994, 1998, and 1999.¹⁶¹ The value of NTN's capital expenditures in its U.S. production facilities increased from *** in fiscal year 1997 to *** in fiscal year 1998.¹⁶² Koyo Corporation of USA accounted for approximately *** percent of the value of U.S. TRB shipments in 1998,¹⁶³ compared with *** percent of the value of U.S. shipments in 1986.¹⁶⁴ Koyo's investments in its U.S. facilities increased from *** in 1997 to *** in 1998.¹⁶⁵ Koyo reported that it ***.¹⁶⁶ Koyo reportedly plans ***.¹⁶⁷

The TRB industry is the most concentrated of all the bearings industries. A single producer, Timken Company, accounts for nearly *** of U.S. TRB production. The record shows that Timken has increased capacity since the antidumping orders were imposed but that on occasion ***.¹⁶⁸

The U.S. TRB industry is capital intensive.¹⁶⁹ Because of the industry's high fixed costs, production facilities must operate at high capacity utilization rates in order to maximize return on investment. The domestic industry's capacity utilization grew considerably from 51.3 percent in 1986 to 94.5 percent in 1997 and 90.3 percent in 1998. The domestic industry's capacity utilization in the January-September 1998 interim period was 93.7 percent and 90.5 percent in the January-September 1999 interim period.¹⁷⁰ TRB facilities cannot generally be used to make other types of bearings because retooling is required, which adds to costs. TRB producers thus cannot switch easily from producing one type of bearing to another.¹⁷¹

TRBs consist of literally thousands of part numbers, and even within part numbers, specialization or customization, sometimes in the form of minor variations, can occur. Producers seek to expand their offering of specialized bearings in order to meet demand for those products. Once a producer has developed a particular customized bearing, it can produce that bearing in larger quantities, and the bearing becomes a standard bearing for the producer. Timken, the dominant U.S. producer, has an extensive inventory of some *** standard bearings.¹⁷² In the OEM segment of the market, factors such as quality, availability, existence of pre-arranged contracts, and service are as important as price in purchasing

in-time delivery requirements. See CR at TRB-II-7, TRB-II-14, PR at TRB-II-4, TRB-II-9.

¹⁶¹ JBI Prehearing Brief at 7.

¹⁶² CR/PR at Table TRB-III-10.

¹⁶³ CR/PR at Table TRB-I-9.

¹⁶⁴ Original CR at A-20, Table 2.

¹⁶⁵ CR/PR at Table TRB-III-10.

¹⁶⁶ JBI Prehearing Brief at 7.

¹⁶⁷ JBI Economic Report at III-26.

¹⁶⁸ CR at TRB-II-1, PR at TRB-II-1. In addition, U.S.-owned U.S. producer Timken has established affiliates that produce TRBs in Romania and China. CR/PR at Table TRB-I-9.

¹⁶⁹ CR at TRB-II-2, PR at TRB-II-1.

¹⁷⁰ CR/PR at Table TRB-I-1.

¹⁷¹ CR at TRB-I-24, TRB-II-2, PR at TRB-I-20, TRB-II-1.

¹⁷² CR at TRB-I-25, PR at TRB-I-21.

decisions. TRBs of a similar type, size, and configuration, however, are generally interchangeable regardless of country of origin.¹⁷³

Large OEM customers, particularly in the automotive and construction sectors, are few in number but represent a substantial proportion of TRB consumption and often command market power.¹⁷⁴ Sales to OEMs are generally via three-to-five year contracts, with prices fixed annually.¹⁷⁵ OEMs often require certification of facilities and product and are not likely to change suppliers merely on the basis of price.¹⁷⁶ Sales to distributors and the aftermarket, by contrast, are in the spot market through the use of bidding and price lists.¹⁷⁷

We find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

¹⁷³ CR at TRB-II-7-8, 10, PR at TRB-II-4-6.

¹⁷⁴ CR at Overview-21, TRB-I-23, PR at Overview-16, TRB-I-20.

¹⁷⁵ CR at TRB-V-3, PR at TRB-V-3.

¹⁷⁶ CR at Overview-21, TRB-II-8-9, 12, PR at Overview-16, TRB-II-4-5.

¹⁷⁷ CR at TRB-V-3, PR at TRB-V-3.

C. Revocation of the Order on Subject TRB Imports From China Is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time¹⁷⁸

1. Likely Volume of Subject Imports

In the original investigations, the Commission found a large and stable volume and penetration of cumulated subject imports at a time of declining shipments by the domestic industry.¹⁷⁹ It found that the market penetration of cumulated subject imports was about 20 percent throughout the period of investigation, and that the value of subject imports' U.S. market share increased from 8 percent in 1983 to 11 percent in 1986.¹⁸⁰

The record in these reviews shows a steady increase in subject TRB imports from China since the time of the original investigations. China's TRB imports represented 8.5 percent by value of total TRB imports, and 1.7 percent of U.S. TRB consumption by value in 1998, as compared to 0.58 percent by value of total imports and *** percent of U.S. TRB consumption by value in 1986, at the time of the original investigations. The total value of subject Chinese imports in 1998 was \$23,837,000, as compared to \$830,000 in 1986.¹⁸¹

The record in these reviews further indicates some excess capacity in China. The data received by the Commission from seven Chinese TRB producers, estimated to account for substantially less than half of all TRB production in China, show that Chinese TRB capacity utilization for those producers ranged from about 84 to 88 percent during the review period.¹⁸² Timken, which has a presence in China through Yantai Timken China, a TRB producer, estimates that excess TRB capacity in China ranges from \$*** million to \$*** million worth of TRBs.¹⁸³ The China TRB Sunset Coalition and its participating members estimate unused TRB capacity in China to be between \$*** million and \$*** million.¹⁸⁴ Given that both figures are estimates only, we view the actual available Chinese capacity as likely to be somewhere between those ranges.¹⁸⁵

We find, moreover, evidence that a significant portion of the excess Chinese capacity would be directed to the U.S. market should the order be revoked. Chinese TRB producers currently export about half of their total TRB shipments, and roughly two-thirds of those exports are to the United States; U.S.

¹⁷⁸ Commissioner Askey dissenting. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

¹⁷⁹ USITC Pub. 1983 at 15-16. For its 1987 determination on TRBs from China, the Commission cumulatively assessed the volume and price effects of subject imports from six countries: Hungary, China, Romania, Yugoslavia, Japan, and Italy. The orders on TRB imports from Italy and Yugoslavia were revoked in 1996 and 1995, respectively. See 61 Fed. Reg. 52920 (Oct. 9, 1996); 60 Fed. Reg. 58046 (Nov. 24, 1995).

¹⁸⁰ USITC Pub. 1983 at 16.

¹⁸¹ CR/PR at Table TRB-I-1.

¹⁸² CR/PR at Table TRB-IV-3.

¹⁸³ Timken Final Comments at 6.

¹⁸⁴ China TRB Sunset Coalition Posthearing Brief at 9-10; Letter Response of China TRB Sunset Coalition to Timken Company Filing at 2 (May 2, 2000).

¹⁸⁵ Commissioner Bragg does not join in this conclusion.

exports accounted for 27.7 to 34.1 percent of Chinese producers' total shipments during the review period.¹⁸⁶

Moreover, as stated above, Chinese producers of subject TRBs currently compete at the low-end, commodity segment of the U.S. TRB market where price is a particularly important factor in purchasing decisions. Thus, lower prices would have the effect of increasing market share. Lifting the order would provide further incentive to Chinese TRB producers to increase shipments of their price-sensitive product to the U.S. market.

We therefore conclude, based on the record in these reviews, that the volume of subject TRB imports from China would likely be significant in the reasonably foreseeable future if the order is revoked.¹⁸⁷

2. Likely Price Effects of Subject Imports

In the original investigations, the Commission found general price decreases from 1983 to 1986 and nearly universal underselling by the cumulated subject imports. The record further revealed that subject imports were purchased because of lower prices and that prices were trending downward and had been insufficient to cover domestic producers' operating costs.¹⁸⁸

The limited pricing data collected in these reviews likewise reveal uniform underselling by Chinese subject imports, even with the order in place. Chinese subject imports undersold the U.S. product in every quarter for which price comparisons were available, at average underselling margins of 65.4 percent in 1997, 57.4 percent in 1998, and 64.7 percent in the January-September 1999 interim period.¹⁸⁹

Because Chinese subject imports currently compete in the price-competitive, commodity segment of the TRB market and consistently undersell the U.S. product, we find that, if the order is revoked, they would likely be priced aggressively to gain additional market share. As noted above, we find that subject imports from China are likely to increase significantly in the reasonably foreseeable future if the order is revoked; we conclude that the increased volume of TRB imports would be likely to have significant depressing and suppressing effects on the prices of the domestic like product.¹⁹⁰

¹⁸⁶ CR/PR at Table TRB-IV-3.

¹⁸⁷ Commissioner Bragg engaged in a cumulative analysis of the likely effects of imports if the orders on TRBs from China and Romania were revoked. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg concludes that the foregoing discussion regarding excess foreign production capacity and the likelihood of a significant volume of TRB imports in the event of revocation applies to an even greater extent if additional imports from Romania are considered. With regard to likely imports from Romania in the event of revocation, Commissioner Bragg acknowledges that an individual Romanian TRB producer with an affiliated physical presence in the United States is unlikely to engage in export behavior to the detriment of its affiliated U.S. production operations. In her view, however, such rationalization of production within a family of affiliated companies, in and of itself, says nothing about the likely behavior of Romanian imports as a whole in the event of revocation, nor does it provide an indication of the likely impact of Romanian imports on unaffiliated producers (whether U.S. or foreign owned) within the domestic industry.

¹⁸⁸ USITC Pub. 1983 at 16.

¹⁸⁹ CR/PR at Table TRB-V-19.

¹⁹⁰ Commissioner Bragg engaged in a cumulative analysis of the likely effects of imports if the orders on TRBs from China and Romania were revoked. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg concludes that the foregoing discussion regarding uniform underselling by subject imports

3. Likely Impact of Subject Imports

In the original investigation, the Commission found that the large and stable volume and penetration of cumulated subject imports at a time of declining shipments by the domestic industry, together with evidence of fairly consistent underselling by imports at a time of declining prices, demonstrated that the subject imports were a cause of material injury to the domestic industry.¹⁹¹

We find that the condition of the industry has improved since the 1987 orders were imposed. Its operating margin to sales ratio showed a loss of *** percent in 1986, as compared to profits of *** percent in 1997, *** percent in 1998, *** percent in the January-September 1998 interim period, and *** percent in the 1999 interim period.¹⁹² Overall, U.S. producers' operating income increased by *** between January-September 1998 and the same period in 1999.¹⁹³ Timken, the dominant U.S. producer, showed *** during the review period and a ***.¹⁹⁴ Domestic producers' capacity to produce TRBs, as well as their production, increased from 1997 to 1998.¹⁹⁵ Based on the industry's recent overall performance, we do not find that the domestic industry is currently in a vulnerable state.¹⁹⁶

As discussed above, we conclude that revocation of the antidumping duty order on TRBs from China would likely lead to a significant increase in the volume of subject imports from China that would undersell the domestic like product and significantly suppress or depress U.S. prices. We also find that the volume and price effects of the Chinese subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. This reduction in the industry's production, shipments, sales, market share, and revenues would adversely impact the industry's profitability and ability to raise capital and maintain necessary capital investments.

In the original investigations, the Commission found that the increasing volume of imports that were underselling the domestic like product caused declines in the domestic industry's market share and material injury to the domestic industry.¹⁹⁷ Based on the facts available in these reviews, we conclude that if the order on imports from China were revoked, these circumstances would recur and the domestic industry's financial performance would be adversely affected to a significant degree.¹⁹⁸

during the period of review and the concentration of subject imports in the lower end of the TRB market applies equally to subject merchandise from China and from Romania. Accordingly, Commissioner Bragg finds that revocation of the orders on TRBs from China and Romania would be likely to result in significant negative price effects in the U.S. market.

¹⁹¹ USITC Pub. 1983 at 15.

¹⁹² CR/PR at Table TRB-I-1.

¹⁹³ CR at TRB-III-11, PR at TRB-III-5.

¹⁹⁴ CR/PR at Table-TRB-III-8, CR at TRB-III-11, PR at TRB-III-5.

¹⁹⁵ CR/PR at Table TRB-I-1.

¹⁹⁶ Given Timken's ***, we do not find persuasive Timken's argument that the industry is vulnerable and that it has failed to earn an adequate return on its investment during the period since the orders were imposed. See Timken Posthearing Brief at 10-11.

¹⁹⁷ USITC Pub. 1983 at 15-16.

¹⁹⁸ Commissioner Bragg engaged in a cumulative analysis of the likely effects of imports if the orders on TRBs from China and Romania were revoked. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg concludes that the foregoing discussion regarding the significant adverse impact on the domestic industry that is likely to occur if the order on TRBs from China were revoked applies to an even greater

extent if additional imports from Romania are considered.

D. Revocation of the Finding/Order on Subject TRB Imports From Japan Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time¹⁹⁹

1. Likely Volume of Subject Imports

In the original investigation that led to the 1976 finding, the Commission found that the value of TRB imports from Japan increased from *** in 1970 to *** in 1973; in the 1987 investigation, the value of TRB imports from Japan showed an overall increase from \$69,724,000 in 1983 to \$104,659,000 in 1986. The value of Japanese subject imports as a percentage of U.S. consumption grew from *** percent in 1970 to *** percent in 1973, and from *** percent in 1983 to *** percent in 1986.²⁰⁰

Japanese subject imports have decreased markedly since the 1987 antidumping duty order was imposed. Japanese TRB imports represented 23.7 percent by value of total TRB imports, and 4.7 percent of U.S. TRB consumption by value in 1998, as compared to 73.4 percent by value of total TRB imports and *** percent of U.S. TRB consumption by value in 1986.²⁰¹ We attribute the decrease, in large part, to the Japanese producers' expansion of their U.S. production facilities following imposition of the orders.²⁰² Koyo, which began producing TRBs in the United States in 1973, increased its investment in U.S. TRB production from \$*** in 1986 to \$*** in 1998, an increase of over *** percent. NTN, which began producing TRBs in the United States in 1975, has increased its investment in its U.S. facilities producing TRBs and other types of bearings from \$*** in 1971 to \$*** in 1999.²⁰³

The Japanese producers' substantial increase in investment in their U.S. TRB production facilities since the orders were imposed indicates that they are committed to their U.S. operations and import to complement, rather than displace, their U.S. production. Thus, the ratio of imports to shipments of U.S. production by the related U.S. parties is low and is not likely to increase significantly if the finding and order are revoked.²⁰⁴ The record does not indicate that the Japanese producers are likely to alter their current focus on U.S. TRB production in the reasonably foreseeable future.

Data collected by the Commission, which account for nearly all TRB production in Japan, show extremely high capacity utilization rates in Japan: 104.2 percent in 1997; 95.5 percent in 1998; 96.5 percent in the January-September 1998 interim period; and 92.3 percent in the same 1999 interim period.²⁰⁵ We further note that, given that the machinery and equipment needed for TRB production are highly specialized and generally dedicated to TRBs, there is little potential that Japanese producers would

¹⁹⁹ Commissioner Miller dissenting. See Separate and Dissenting Views of Commissioner Marcia E. Miller.

²⁰⁰ CR/PR at Table TRB-I-1.

²⁰¹ CR/PR at Table TRB-I-1, Table TRB-IV-1.

²⁰² CR at TRB-I-1, PR at TRB-I-1.

²⁰³ JBI Economic Report at III-7-10; JBI Posthearing Brief at Commissioner Miller Answers, p. A-4.

²⁰⁴ Commissioner Bragg acknowledges that an individual Japanese TRB producer with an established physical presence in the United States is unlikely to engage in export behavior to the detriment of its affiliated U.S. production operations. In her view, however, such rationalization of production within a family of affiliated companies, in and of itself, says nothing about the likely behavior of Japanese imports as a whole in the event of revocation, nor does it provide an indication of the likely impact of Japanese imports on unaffiliated producers (whether U.S. or foreign-owned) within the domestic industry.

²⁰⁵ CR/PR at Table TRB-IV-5.

shift production in Japan from other types of bearings to TRBs. The Japanese TRB producers are not predominantly export-oriented, but ship over 60 percent of their TRB shipments to the home market. Exports to the United States represented only 3.1 percent and 4.6 percent of their total TRB shipments in 1997 and 1998, respectively. There are no known import barriers to Japanese TRB shipments to third countries. Japan's inventory-to-shipment ratios were low, at 5.3 percent in 1997 and 5.7 percent in 1998.²⁰⁶

We therefore find, given the Japanese producers' increased investment in U.S. production facilities, high capacity utilization rates, orientation to home and third-country markets, and low inventory to shipment ratios, as well as the difficulty and expense of product shifting, that the volume of TRB imports from Japan is not likely to increase significantly if the finding and order are revoked.²⁰⁷

2. Likely Price Effects of Subject Imports

The Commission in its 1975 determination on TRBs four inches and under from Japan found that the unit prices of LTFV bearings from Japan were generally lower than U.S. prices for comparable bearings and that the LTFV margins were a material factor in the margins of underselling by the Japanese producers.²⁰⁸ In the 1987 determination, the Commission found that the value of cumulated subject imports was increasing at a time of decreasing shipments by domestic producers and that underselling by cumulated subject imports at a time of declining U.S. prices was fairly consistent.²⁰⁹

The limited pricing data collected in these reviews show infrequent underselling by Japanese TRB imports and only for the lower volume sales. The more significant pricing data, for high-volume sales, show consistent overselling by Japanese imports, at significant margins of overselling. Japanese TRBs oversold the U.S. product in 109 quarters, as compared to 34 quarters of underselling. The average overselling margins ranged from 27.0 percent to 122.3 percent, whereas the underselling margins ranged from 10.4 to 27.8 percent.²¹⁰

We find, based on the above factors, that Japanese TRB imports are not likely to undersell significantly the U.S. product if the finding and order are revoked.²¹¹ Moreover, given our conclusion that the volume of TRB imports from Japan is not likely to change significantly in the event of revocation, we

²⁰⁶ CR/PR at Table TRB-IV-5.

²⁰⁷ Commissioner Bragg notes that her determination, *i.e.*, that revocation of the finding and order on TRBs from Japan would not be likely to result in a significant increase in import volumes from Japan, stems naturally from her determination that revocation of the finding and order would be likely to result in no discernible adverse impact on the domestic industry. *See Separate and Dissenting Views of Commissioner Lynn M. Bragg.*

²⁰⁸ USITC Pub. 714 at 5.

²⁰⁹ USITC Pub. 2020 at 11-12.

²¹⁰ CR/PR at Table TRB-V-19.

²¹¹ In reaching our conclusion on likely price effects, we have weighed all the pertinent evidence on price and taken into account Commerce's duty absorption finding on Japan (64 Fed. Reg. 60317, 64 Fed. Reg. 60266 (Nov. 4, 1999), *as amended*, 64 Fed. Reg. 66891 (Nov. 30, 1999)), although we note the respondents' argument that a recent CIT decision (*SKF USA Inc., et al. v. United States*, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to certain transition orders. *See* JBIA Posthearing Brief at 6-7. However, since Commerce's findings do not, in our view, outweigh other evidence indicating the unlikelihood of significant effects on price, we do not need to resolve respondents' objections to considering Commerce's duty absorption findings.

conclude that subject imports from Japan would not be likely to depress or suppress U.S. prices to any significant degree. In particular, with high capacity utilization and commitments to third-country markets, the Japanese producers do not have an incentive to price aggressively to gain additional U.S. market share. Moreover, the bulk of the subject imports is sold to transplant Japanese industries.^{212 213} The fact that the pricing data cover only 2.78 percent of Japanese imports²¹⁴ also suggests some attenuated competition between subject Japanese imports and the domestic product.²¹⁵ We therefore find that subject imports from Japan would not be likely to suppress or depress domestic prices to a significant degree if the finding and order are revoked.²¹⁶

3. Likely Impact of Subject Imports

In the original 1975 determination, the Commission found that the financial condition of the U.S. TRB industry had deteriorated since the LTFV import sales began, and, given the market penetration and underselling by Japanese imports, that the U.S. TRB industry would likely be injured by reason of LTFV imports from Japan.²¹⁷

As previously noted, we find that the condition of the U.S. TRB industry has generally improved since the 1987 investigation and that the U.S. industry is not currently in a vulnerable state. The TRB market is expanding; apparent consumption increased by 7.3 percent from 1997 to 1998 and was up about 1.6 percent in interim 1999 compared to interim 1998.²¹⁸ The industry is highly concentrated and profitable. The domestic industry's market share has increased to the level held during the original 1987 investigation as capacity and capacity utilization increased substantially. Because of the absence of significant likely volume and price effects, we find that revocation of the antidumping finding and order on TRB imports from Japan would not be likely to impact significantly the domestic industry's output, sales, market share, profits, or return on investment. We therefore find that revocation of the antidumping finding and order on TRB imports from Japan is not likely to lead to continuation or recurrence of material injury to the U.S. TRB industry within a reasonably foreseeable time.²¹⁹

²¹² CR at TRB-I-31, PR at TRB-I-26.

²¹³ Commissioner Bragg did not rely on this fact in evaluating the likely effects of revocation of the finding and order on TRBs from Japan. See supra n.204.

²¹⁴ CR at TRB-V-4, PR at TRB-V-3.

²¹⁵ Commissioner Bragg does not join in this conclusion. Commissioner Bragg notes that the limited coverage of the pricing data is not surprising given the large variety of TRBs available.

²¹⁶ Commissioner Bragg notes that her determination, i.e., that revocation of the finding and order on TRBs from Japan would not be likely to result in significant negative price effects in the U.S. market, stems naturally from her determination that revocation of the finding and order would be likely to result in no discernible adverse impact on the domestic industry. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

²¹⁷ USITC Pub. 714 at 5-6.

²¹⁸ CR/PR at Table TRB-I-1.

²¹⁹ Commissioner Bragg notes that her determination, i.e., that revocation of the finding and order on TRBs from Japan would not be likely to result in significant adverse impact on the domestic industry, stems naturally from her determination that revocation of the finding and order would be likely to result in no discernible adverse impact on the domestic industry. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

E. Revocation of the Order on Subject TRB Imports From Hungary Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

In the original investigation, the value of TRB imports from Hungary increased somewhat from \$1,803,000 in 1983 to \$2,909,000 in 1986. Hungarian TRB imports represented less than 0.05 percent by value of total TRB imports, and less than 0.05 percent of U.S. TRB consumption by value in 1998, as compared to 2 percent by value of total TRB imports and *** percent of U.S. TRB consumption by value in 1986.²²⁰

In our no discernible adverse impact finding concerning Hungary we noted that, while its TRB industry is export-oriented and its TRB production and capacity utilization decreased from 1997 to 1998,²²¹ the record also shows that Hungary's focus is on increasing its sales in European markets, where it already has an established presence and faces no import barriers. We note that it has no existing marketing, sales, or distribution network in the United States, and the record shows that purchasers in the TRB market generally tend to rely on their traditional suppliers. We also find that the Hungarian producer's ability to supply TRBs to the United States in significant quantities would likely continue to be limited by the types of bearings it primarily supplies and the fact that the sole Hungarian producer is not qualified to supply the major OEM and other market segments requiring qualification.^{222 223}

Consistent with those findings, we find that the volume of subject imports from Hungary would not likely be significant within a reasonably foreseeable time if the order were revoked. We also find, therefore, that significant price effects would not be likely and that subject imports from Hungary would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment if the order were revoked. We therefore find that revocation of the antidumping duty order on TRB imports from Hungary would not likely lead to the continuation or recurrence of material injury to the U.S. TRB industry within a reasonably foreseeable time.²²⁴

F. Revocation of the Order on Subject TRB Imports From Romania Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time²²⁵

²²⁰ CR/PR at Table TRB-I-1, Table TRB-IV-1.

²²¹ CR/PR at Table TRB-IV-4.

²²² CR at TRB-I-27, PR at TRB-I-22.

²²³ Commissioner Bragg concurs that revocation of the order on Hungary is likely to have no discernible adverse impact on the domestic industry. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

²²⁴ Commissioner Bragg notes that her determination, i.e., that revocation of the order on TRBs from Hungary would not be likely to result in significant volumes or significant negative price effects, or to have a significant adverse impact on the domestic industry, stems naturally from her determination that revocation of the order would be likely to result in no discernible adverse impact on the domestic industry. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

²²⁵ Commissioners Bragg and Miller dissenting with respect to Romania. See Separate and Dissenting Views of Commissioner Lynn M. Bragg and Separate and Dissenting Views of Commissioner Marcia E. Miller.

While the value of Romanian TRB exports to the United States increased during the original investigation, from \$4,702,000 in 1983 to \$7,598,000 in 1985, and then decreased in 1986 when the petition was filed to \$3,741,000, Romanian TRB imports represented only 2.6 percent by value of total TRB imports and *** percent of U.S. TRB consumption by value in 1986.²²⁶ Romanian TRB imports then decreased after the order was imposed, and accounted for 0.7 percent by value of total TRB imports, and 0.1 percent of U.S. TRB consumption by value in 1998.²²⁷

In our no discernible adverse impact finding concerning Romania we noted that, while Romania, like Hungary, is export-oriented, its exports are mainly to customers in Europe, and Romanian producers indicate product shifting is not likely. Romania's TRB production and capacity both increased from 1997 to 1998, and its capacity utilization increased from *** percent in 1997 to *** percent in 1998.²²⁸ Given the minuscule share of U.S. consumption currently accounted for by Romanian imports, we note that, even if subject imports from Romania tripled, they still would not exceed *** percent of consumption.

Consistent with those findings, we find that the volume of subject imports from Romania would not likely be significant within a reasonably foreseeable time if the order were revoked. We also find, therefore, that significant price effects would not be likely and that subject imports from Romania would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment if the order were revoked. We therefore find that revocation of the antidumping duty order on TRB imports from Romania would not likely lead to the continuation or recurrence of material injury to the U.S. TRB industry within a reasonably foreseeable time.

V. BALL BEARINGS^{229 230}

A. Cumulation

In these reviews, the statutory requirement that all ball bearing reviews be initiated on the same day is satisfied. We find that subject imports from Romania and Sweden would not be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. Based on the available information regarding the capacity and export orientation of the industries in France, Germany, Italy, Japan, Singapore and the United Kingdom and their current exports to the United States, we find that subject imports from all six countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. We also find that a reasonable overlap of competition between the subject imports and the domestic like product is likely to exist if the orders were revoked. We do not find any significant differences in the conditions of competition among the subject countries. We therefore

²²⁶ CR/PR at Table TRB-I-1.

²²⁷ CR/PR at Table TRB-I-1, Table TRB-IV-1.

²²⁸ CR/PR at Table TRB-IV-6.

²²⁹ Commissioner Bragg joins only in Sections V.B and V.C, to the extent noted. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

²³⁰ Commissioner Miller does not join in this section. See Separate and Dissenting Views of Commissioner Marcia E. Miller.

have exercised our discretion to cumulate subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom.²³¹

²³¹ Commissioner Hillman does not cumulate subject imports from Singapore with those from France, Germany, Italy, Japan, and the United Kingdom. See Separate and Dissenting Views of Commissioner Hillman.

1. Likelihood of No Discernible Adverse Impact

Despite having very low dumping duties since 1990, subject imports from Romania have remained very low and were significantly lower, by value, in the years 1997-1998 than in 1985-1987, the years of the original investigation.²³² By value, Romanian subject imports accounted for 0.6-0.7 percent of total domestic consumption in 1985-1987, but by 1998 that share was down to 0.1 percent.²³³ While the Romanian BB industry is export-oriented, exports to the U.S. market account for less than one percent of Romanian shipments.²³⁴ While the capacity utilization rate for the Romanian industry ranged between 67.6 and 78.0 percent between 1997 and interim 1999, and the ratio of inventories to shipments is somewhat high, the remaining excess capacity and all inventories still represent a very small share of total U.S. consumption.²³⁵ None of the subject imports from Romania are pre-certified for sales to major OEMs.²³⁶

Similarly, subject imports from Sweden have declined both relatively and absolutely. By value, subject imports from Sweden accounted for between 0.4 and 0.7 percent of total domestic consumption in the years 1985-1987, but that share was 0.1 percent in 1997-1998.²³⁷ These declines occurred even though antidumping margins on subject imports from Sweden dropped as low as 2.22 percent.²³⁸ Total production capacity in Sweden is very small, considerably smaller than capacity in any other subject country, and is less than one percent of total U.S. consumption.²³⁹ Capacity utilization was at *** percent in 1998 and *** percent in interim 1999. Although the ball bearing industry in Sweden is export-oriented, shipments to the U.S. market have recently accounted for only about *** percent of total shipments.²⁴⁰

In light of the relatively small amounts of unused production capacity in each of these countries and the extremely low levels of subject imports despite low dumping margins, we do not find that subject imports from these countries likely would have a discernible adverse impact on the domestic industry in the event of revocation.

Subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom have remained in the U.S. market in the years since the orders were imposed.²⁴¹ The continuing presence of these subject imports in the domestic market indicates that subject foreign producers continue to have the contacts and channels of distribution necessary to compete in the U.S. market.

²³² CR/PR at Table BB-I-1.

²³³ CR/PR at Table BB-I-1.

²³⁴ CR/PR at Table BB-IV-7.

²³⁵ CR/PR at Table BB-IV-7.

²³⁶ CR at BB-II-14, PR at BB-II-7.

²³⁷ CR/PR at Table BB-I-1.

²³⁸ CR/PR at Table BB-I-8.

²³⁹ CR/PR at Tables BB-IV-9 and III-1. *** are no longer produced in Sweden. CR at BB-IV-21, PR at BB-IV-11.

²⁴⁰ CR/PR at Table BB-IV-9.

²⁴¹ CR/PR at Table BB-I-1.

The BB industry in each of the six countries is export-oriented. In four of the six countries, exports account for *** percent or more of total shipments.²⁴² While capacity utilization rates in the six countries have generally exceeded *** percent in 1997-1998 and interim 1999, there is available capacity in each of the six countries.²⁴³ Four of the six countries are among the top five nations for total bearing production.²⁴⁴ We therefore find that there is likelihood of a discernible adverse impact on the domestic industry if the orders on any of these six countries were lifted.

2. Reasonable Overlap of Competition²⁴⁵

In the original determination, the Commission found that subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom competed with each other and with the domestic like product and cumulated the volume and price effects of those subject imports.²⁴⁶ At that time the Commission noted that competition among bearings of different sizes and ratings might be limited, but still found that competition existed among all imports and the domestic like product for “each type, size, and rating.”²⁴⁷ The record in these reviews provides no reason to depart from the prior overlap of competition findings concerning subject imports of BBs from France, Germany, Italy, Japan, Singapore, and the United Kingdom.

Parties in favor of continuation of the order and parties favoring revocation agree that BBs are the most commodity-like product of the four products in these reviews.²⁴⁸ Purchasers find domestically produced BBs to be interchangeable with subject imports from each of the six countries, despite the existence of specialty products and qualification requirements.²⁴⁹ This is true even for subject imports from countries such as Singapore and Japan, with parties from each raising arguments regarding the lack of domestic competition for their subject imports.²⁵⁰ Purchasers rarely make purchasing decisions based on the country of origin of a bearing.²⁵¹

Bearings are sold both to OEMs and to distributors and other aftermarket customers. Data gathered in the course of these reviews indicate that subject imports compete for OEM sales; in fact, a higher share of imports are sold to OEMs (over 96 percent) than are domestically produced BBs (79.1 percent).²⁵²

²⁴² CR/PR at Tables BB-IV-3, IV-5, IV-8, and IV-10.

²⁴³ CR/PR at Tables BB-IV-3, IV-5, IV-8, and IV-10.

²⁴⁴ CR at BB-IV-7, IV-9, IV-12, and IV-15; PR at BB-IV-4, IV-6-7, and IV-11.

²⁴⁵ Commissioner Hillman joins in this discussion with respect to France, Germany, Italy, Japan, and the United Kingdom, but not with respect to Singapore. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

²⁴⁶ USITC Pub. 2185 at 62-65.

²⁴⁷ USITC Pub. 2185 at 65.

²⁴⁸ Torrington Posthearing Brief at 8: Tr. at 345-46 (Mr. Malmstrom).

²⁴⁹ CR/PR at Table BB-II-3.

²⁵⁰ CR/PR at Table BB-II-3.

²⁵¹ CR/PR at Table BB-II-2.

²⁵² CR at BB-I-33, PR at BB-I-28.

Subject imports from each of the six countries have been present continuously in the U.S. market and have been sold throughout the U.S. market.²⁵³

We therefore find that there would likely be a reasonable overlap of competition between the subject imports and the domestic like product, and among the subject imports themselves, if the orders were revoked.

3. Other Considerations²⁵⁴

The volume and price trends varied for subject imports from all six countries and none was distinct from all others. Subject producers from Japan have argued that conditions of competition facing subject imports from Japan are different from those facing other subject imports, most notably in the significant investment in U.S. production facilities made by Japanese-owned producers.²⁵⁵ However, we do not find that any of the conditions of competition differ significantly among the six countries. Notably, producers in each of the six subject countries also have investments in U.S. production or are related to domestic producers.²⁵⁶

We therefore find that subject imports from these countries would compete in the U.S. market under similar conditions of competition. Based on the foregoing, we therefore exercise our discretion to cumulate subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom in these reviews.²⁵⁷

B. Conditions of Competition

Measured by value, demand for BBs approximately doubled between 1987 and 1998.²⁵⁸ In the more recent time period, consumption has been relatively flat, increasing by only 1.4 percent between 1997 and 1998. Consumption of BBs declined between interim 1998 and interim 1999.²⁵⁹

The automotive industry is a significant consumer of BBs, and the revitalized U.S. automobile market has helped spur demand growth.²⁶⁰ Other growth markets include computer disc drives, computer peripherals, and fractional motors.²⁶¹ BBs are used in many manufacturing applications and few substitutes exist.²⁶²

²⁵³ CR at BB-I-42 and Table BB-I-1, PR at BB-I-36 and Table BB-I-1; Torrington Prehearing Brief at 11-12.

²⁵⁴ Commissioner Hillman joins in this discussion with respect to France, Germany, Italy, Japan, and the United Kingdom, but not with respect to Singapore. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

²⁵⁵ JBIA BB Prehearing Brief at 22.

²⁵⁶ CR/PR at Table BB-I-11.

²⁵⁷ Commissioner Hillman does not cumulate subject imports from Singapore with those from France, Germany, Italy, Japan, and the United Kingdom. See Separate and Dissenting Views of Commissioner Hillman.

²⁵⁸ CR/PR at Table BB-I-1.

²⁵⁹ CR/PR at Table BB-I-1.

²⁶⁰ CR at BB-II-5, PR at BB-II-3.

²⁶¹ CR at BB-I-29, PR at BB-I-25.

²⁶² CR at BB-II-6-7, PR at BB-II-3-4.

Shipments by domestic producers rose from \$1.169 billion in 1987 to \$2.273 billion in 1998,²⁶³ but growth in the most recent periods has been sluggish. The value of domestic shipments increased only 0.6 percent between 1997 and 1998. The value of domestic shipments was essentially unchanged in interim 1999 compared to the same time period in 1998.²⁶⁴

Subject imports have continued to play a significant role in supplying domestic demand. Although the value of subject imports was higher in 1997-1998 than in 1985-1987, their share of total domestic consumption declined. Subject imports totaled \$377.6 million in 1987 and accounted for 23.8 percent of total domestic consumption by value. In 1998, the value of subject imports had risen to \$506.4 million, but accounted for only 15.6 percent of domestic consumption.²⁶⁵ At the same time, the market share of nonsubject imports has risen since the years of the original investigations. Nonsubject imports totaled \$44.3 million in 1987 and accounted for less than three percent of total domestic consumption. In 1998, nonsubject imports had risen to \$473.2 million and accounted for 14.5 percent of total domestic consumption.²⁶⁶

BBs are typically sold either to OEMs or to aftermarket distributors. Original equipment manufacturers are significant users of BBs, although domestically produced BBs are more likely to be sold into the aftermarket than are imported BBs.²⁶⁷ Sales to OEMs are particularly important because of the large production volumes associated with such sales.²⁶⁸ OEMs typically have some type of certification process.²⁶⁹ For major international bearing producers, however, the certification process does not present a significant obstacle.

Sales to OEMs are usually by contract. Typically, these contracts are for three to five years and establish initial prices but allow for annual price variation. Prices for customized bearings are set on a sale-by-sale basis. Price lists are more typically used in sales to aftermarket customers. Large volume discounts for both types of purchasers are not uncommon.²⁷⁰

BBs are more like a commodity product than are other antifriction bearings.²⁷¹ There is a significant degree of perceived substitutability between domestically produced BBs and subject imports.²⁷² Purchasers cite price as an important factor in making purchasing decisions, although they also look for quality and delivery dependability.²⁷³ Given a fair degree of substitutability and the commodity-like nature of the product, BBs are more price-competitive than other antifriction bearings.

²⁶³ CR/PR at Table BB-I-1.

²⁶⁴ CR/PR at Table BB-I-1.

²⁶⁵ CR/PR at Table BB-I-1.

²⁶⁶ CR/PR at Table BB-I-1.

²⁶⁷ CR at BB-I-33, PR at BB-I-28.

²⁶⁸ Torrington Posthearing Brief at 13.

²⁶⁹ CR at BB-II-14, PR at BB-II-7.

²⁷⁰ CR at BB-V-4, PR at BB-V-2.

²⁷¹ Torrington Prehearing Brief at 8; Tr. at 345-346 (Mr. Malmstrom).

²⁷² CR/PR at Table BB-II-3.

²⁷³ CR/PR at Table BB-II-2.

Unlike the other antifriction bearing industries, there are many small producers in the BB industry, and there is no single dominant producer. There are at least 35 domestic BB producers.²⁷⁴ The largest domestic producer is ***, which accounted for *** percent of U.S. shipments by value in 1998.²⁷⁵

The industry includes production facilities owned by large multinational producers that have facilities in several nations.²⁷⁶ These large producers typically produce for the local market, but also engage in some degree of global rationalization.²⁷⁷ Japanese-owned firms in particular have increased U.S. production capacity. By 1998, nearly half of all U.S.-produced BBs were produced by foreign-owned firms.^{278 279} Domestically owned producers such as Torrington also own or are affiliated with producers in other markets.²⁸⁰

The years 1985-1987 were marked by a noticeable decline in domestic BB production capacity, which fell from 295.6 million units in 1985 to 258.9 million by 1987. However, by 1997 capacity was approximately double what it had been in 1987. Capacity rose again in 1998 but declined in interim 1999 compared to interim 1998.²⁸¹ In quantity terms, domestic production declined from 1997 to 1998 and showed a decline in interim 1999 compared to the same time period in 1998.²⁸² The BB industry is mature and capital-intensive and must operate at high capacity utilization rates to be profitable.²⁸³ BBs are typically produced on dedicated machinery, and firms cannot easily switch production from one type of bearing to another.²⁸⁴ Likewise, it is difficult for domestic producers to shift sales of BBs from domestic purchasers to overseas purchasers.²⁸⁵

We find that these conditions are likely to prevail in the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

²⁷⁴ CR/PR at Table BB-I-11.

²⁷⁵ CR/PR at Table BB-I-11.

²⁷⁶ CR/PR at Table BB-I-11.

²⁷⁷ See, e.g., Tr. at 351 (Mr. Malmstrom).

²⁷⁸ CR at BB-I-41, PR at BB-I-35.

²⁷⁹ The expansion of overseas facilities reflects in part a trend by large bearings manufacturers to localize production facilities in response to customers' needs. Nevertheless, we disagree with respondents' arguments that other factors lead purchasers to prefer domestically produced bearings over subject imports to a significant degree. Given the relatively small cost share of bearings in the final cost of the end product in which they are used, we do not find much of an effect from the North American Free Trade Agreement's local content rules, Corporate Average Fuel Economy regulations, or the American Automotive Labeling Act. The Defense Federal Acquisition Regulations affect only a very small part of the overall market. Finally, foreign producers can and do supply purchasers with just-in-time delivery requirements. See CR at BB-II-16-17, PR at BB-II-11.

²⁸⁰ CR/PR at Table BB-I-11.

²⁸¹ CR/PR at Table BB-I-1.

²⁸² CR/PR at Table BB-I-1.

²⁸³ CR at BB-II-2, PR at BB-II-1.

²⁸⁴ CR at BB-I-30, PR at BB-I-25.

²⁸⁵ CR at BB-II-1-2, PR at BB-II-1.

C. Revocation of the Orders on Subject BB Imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom Is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time^{286 287}

1. Likely Volume of Subject Imports

In its original determinations, the Commission found the volume of subject imports to be both increasing and significant.²⁸⁸ Subject imports are now significantly higher by total value than during the original investigations. Capacity utilization rates in most subject countries are already high, and product shifting (from other types of antifriction bearings to BBs) is difficult.²⁸⁹ There are no other formal barriers to imports from these countries in other markets.²⁹⁰ On their face, these factors could indicate that significant additional subject import volumes upon revocation would be unlikely.²⁹¹

In this market, however, a relatively small increase in the volume of cumulated subject imports would be significant. Subject imports are already entrenched in the highest volume portion of the market, with a higher percentage of subject imports being sold to OEM customers than are domestically produced bearings.²⁹² Demand for BBs is weak, with apparent consumption barely increasing from 1997 to 1998 and then declining by 3.2 percent between interim 1998 and interim 1999.²⁹³ Any increases in subject import volumes are unlikely to spur increased demand and, as discussed below, are likely to cause negative pricing effects. As each of the individual small producers increases slightly its imports to complement its U.S. production, the aggregate effect likely would be significant under these conditions.

We therefore find that the volume of subject imports upon revocation of the orders is likely to be significant in the context of the particular conditions of competition in this industry and in light of likely effects on price as discussed below.²⁹⁴

²⁸⁶ Commissioner Bragg engaged in a cumulative analysis of the likely effects of imports if the orders on ball bearings from all eight subject countries were revoked. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg concludes that the likely significant volume of subject import from all eight subject countries would likely result in significant negative price effects in the event of revocation.

²⁸⁷ Commissioner Hillman joins in this discussion with respect to France, Germany, Italy, Japan, and the United Kingdom, but not with respect to Singapore. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

²⁸⁸ USITC Pub. 2185 at 68-69.

²⁸⁹ CR at BB-I-30 and Tables IV-3- IV-6, IV-7, and IV-9, PR at BB-I-25 and Tables IV-3- IV-6, IV-7.

²⁹⁰ CR at BB-IV-9, IV-12, IV-15, IV-19, and IV-23, PR at IV-1, IV-6-8, and IV-11-12.

²⁹¹ Commissioner Bragg does not join in this sentence. Commissioner Bragg finds that based upon the ample unused capacity in the eight countries under review (equivalent to over *** percent of apparent U.S. consumption in interim 1999), coupled with a marked export orientation for the BB industries in several of the subject countries, revocation of the orders under review would be likely to result in a significant increase in subject import volumes. See Staff Summary of Foreign Producer Data (June 1, 2000).

²⁹² CR at BB-I-33, PR at BB-I-28; Torrington Posthearing Brief at 12-13.

²⁹³ CR/PR at Table BB-I-1.

²⁹⁴ Commissioner Bragg does not join in this sentence. Commissioner Bragg finds that based upon the ample unused capacity in the eight countries under review (equivalent to over *** percent of apparent U.S. consumption in interim 1999), coupled with a marked export orientation for the BB industries in several of the subject countries,

2. Likely Price Effects of Subject Imports

In its original determinations, the Commission found evidence of underselling and found that subject imports were suppressing prices for the domestic product.²⁹⁵ As in the original investigations, we find that demand for BBs is relatively price inelastic and is marked by a fair degree of price competition. BBs are the most “commodity-like” of the antifriction bearings. Given the combination of slackening demand and the high degree of substitutability between the domestic product and subject imports, any increases in subject imports are likely to result in price declines.

The likelihood of significant price effects is heightened by the fragmented nature of the domestic BB industry.²⁹⁶ There are many suppliers able to meet purchasers’ non-price concerns, such as engineering support and customization, leaving price as the primary remaining area for competition.²⁹⁷

The limited pricing data collected in the course of these investigations does not give clear evidence of patterns of underselling or overselling, though the data do indicate that underselling occurred in more than half of the transactions covered.²⁹⁸ When overselling by subject imports did occur, there were significant volume discrepancies that may explain the degree of overselling.²⁹⁹ ³⁰⁰ Nonetheless, we find that there is sufficient evidence available to indicate that the price effects of revocation would likely be significant, especially in light of the conditions of competition existing in the domestic BB industry. We therefore find that even modest additional volumes of subject imports would have significant price suppressing and depressing effects within a reasonably foreseeable time.³⁰¹ ³⁰²

revocation of the orders under review would be likely to result in a significant increase in subject import volumes. See Staff Summary of Foreign Producer Data (June 1, 2000).

²⁹⁵ USITC Pub. 2185 at 68-69.

²⁹⁶ Commissioner Bragg does not find the domestic ball bearing industry to be particularly fragmented, as the record indicates that the domestic BB industry is comprised of some 36 firms. Moreover, even to the extent that the domestic BB industry may be considered “fragmented,” Commissioner Bragg finds that such fragmentation, in and of itself, does not provide a meaningful indication of likely price competition (whether heightened or lessened) in the event of revocation.

²⁹⁷ Tr. at 303 (Mr. Dykstra).

²⁹⁸ CR/PR at Table BB-IV-19.

²⁹⁹ See, e.g., CR/PR at Table BB-V-2.

³⁰⁰ We are mindful of the limitations of AUV data in investigations covering such a wide variety of products. Parties in favor of continuation have submitted data indicating that prices are lower in other markets, and revocation will force U.S. prices into conformity with those other markets. See, e.g., Torrington Prehearing Brief at 66-67. We find the evidence regarding third-country pricing indeterminate.

³⁰¹ In reaching our conclusion on likely price effects, we have weighed all the pertinent evidence on price and taken into account Commerce’s duty absorption findings on France, Germany, Japan, and the United Kingdom (65 Fed. Reg. at 35591 (July 1, 1999)), although we note the respondents’ argument that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce’s duty absorption findings with respect to transition orders. See SKF Prehearing Brief at 6-12; SKF Posthearing Brief at xviii. However, we do not rely on the duty absorption findings in making our determination that significant effects are likely upon revocation of the orders.

³⁰² Commissioner Bragg engaged in a cumulative analysis of the likely effects of imports if the orders on ball bearings from all eight subject countries were revoked. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg concludes that the likely significant volume of subject import from all eight subject

3. Likely Impact of Subject Imports

In its original determinations, the Commission found that the volume and price effects of subject imports were significant and had an adverse impact on the domestic industry, as shown by the consistent decline in the profitability of the domestic industry.³⁰³ Parties in favor of continuing the orders have argued that the domestic industry has continued to suffer injury from subject imports in the years since the orders were imposed, or, in the alternative, that the industry is vulnerable.³⁰⁴ We do not agree with either characterization. But we do find that, given the particular conditions of competition in this industry, in light of likely price and volume effects, revocation would have a significant adverse impact on the domestic industry.

By most conventional measures, the domestic industry's position is similar to that existing in 1985-87, when the Commission determined that it was being materially injured by subject imports. While the nominal value of production has increased since 1985-1987, domestic production accounted for a lower share of total domestic consumption in 1997-1998 than it did in the years of the original investigations.³⁰⁵ Capacity utilization was lower in 1998 than it was in any year of the original investigations.³⁰⁶ Similarly, operating income as a percentage of net sales was lower in 1998 than in any year of the original investigations.³⁰⁷ Capital expenditures rose in 1998, but declined in interim 1999 over interim 1998.³⁰⁸ The data suggest that the domestic industry is in a position to be negatively affected by the likely changes in volume of subject imports and subsequent price changes that would occur after revocation.³⁰⁹

In reaching these determinations, we are mindful that a majority of domestic producers actually oppose continuation of the orders and argue that no significant negative impact by subject imports is likely.³¹⁰ Producers accounting for 57.5 percent of domestic shipments by value favor revocation of the

countries would likely result in significant negative price effects in the event of revocation.

³⁰³ USITC Pub. 2185 at 68-69.

³⁰⁴ Torrington Posthearing Brief at 44.

³⁰⁵ CR/PR at Table BB-I-1.

³⁰⁶ CR/PR at Table BB-I-1.

³⁰⁷ CR/PR at Table BB-I-1.

³⁰⁸ CR/PR at Table BB-III-9.

³⁰⁹ We have considered the arguments presented by those producers favoring continuation of the orders that indicate that the bearings industries have failed to earn returns sufficient to cover their capital costs. In light of the BB industry's continued access to capital and significant expansion and investment since the imposition of the orders, we do not find these arguments persuasive.

³¹⁰ Commissioner Bragg does not join the remainder of this section. First, with regard to the opposition to continuation of the orders expressed by a number of U.S. producers, Commissioner Bragg notes that union employees of various such producers have voiced support for continuation of the very same orders, based upon their view that revocation would be likely to result in continuation or recurrence of material injury within a reasonably foreseeable time. Second, Commissioner Bragg does not base her determinations on the fragmented nature of the BB industry. Third, based upon her determination that revocation would likely result in a significant increase in import volumes, at prices that would likely have significant negative price effects in the U.S. market, Commissioner Bragg further determines that revocation of the orders on ball bearings from the eight subject countries under review would likely result in a significant adverse impact on the domestic industry. Accordingly,

orders, while producers accounting for 31.0 percent support continuation and producers accounting for 11.6 percent take no position.³¹¹

While the position of domestic producers is a factor in our analysis, the views of the domestic industry regarding the likely effects of revocation are not controlling. The level or extent of industry support for continuation of an order alone cannot be dispositive, for we often have 100 percent of an industry favoring continuation of an order, but are required to assess independently whether revocation is likely to result in the continuation or recurrence of material injury. With respect to the BBs industry, its highly fragmented composition raises the issue of whether, despite an individual company's perception of the likely effects of revocation, the industry as a whole may be injured by reason of the aggregate effects of many relatively small individual participants who each perceive only a small portion of the market. For example, in its comments on the likely effects of revocation *** spoke only of the effect of revocation on U.S. based manufacture of ***.³¹² *** expressly based its position only on ***.³¹³ The Commission cannot have such a limited perspective, but rather must assess the likely effects of revocation on the industry as a whole. Moreover, in this case, union employees of various producers favoring revocation have made known their support for continuation of the orders, based on their judgment that revocation is likely to be injurious to domestic production and domestic employment.³¹⁴

Our decision to reach affirmative determinations despite the position of domestic producers is based principally on the fragmented nature and current conditions of the BB industry and market. With thousands of different products, there is an opportunity for all domestic producers, whether or not related to subject foreign producers, to supplement U.S.-based production with imported BBs. Unlike the industries producing TRBs, SPBs, or even CRBs, the collective effect of so many individual BB producers complementing their U.S. production with subject imports likely would be injurious to the industry as a whole given the current condition of the BB industry and weak demand in the BB market.

We find that increased imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom would have significant adverse price effects that would lead to recurrence or continuation of material injury within a reasonably foreseeable time if the orders were revoked.

D. Revocation of the Orders on Subject BB Imports from Romania or Sweden Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time³¹⁵

1. Romania

We already noted above the likelihood that revocation of the order on subject imports of BBs from Romania would lead to no discernible adverse impact. Subject imports from Romania have

Commissioner Bragg determines that revocation of the orders on ball bearings from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, would likely result in continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

³¹¹ CR at BB-I-41, PR at BB-I-35.

³¹² CR at D-3, PR at D-3.

³¹³ CR at D-3, PR at D-3.

³¹⁴ UAW Posthearing Brief at 1-2.

³¹⁵ Commissioner Bragg does not join this section.

remained consistently low despite low duty margins.³¹⁶ Existing unused capacity in Romania is less than two percent of domestic consumption in the U.S.³¹⁷ Current levels and likely future levels of subject imports from Romania are too small to significantly affect domestic prices, especially given that Romanian subject imports are not pre-certified by major OEM producers.³¹⁸ We therefore find that subject imports would not lead to recurrence or continuation of material injury within a reasonably foreseeable time if the orders were revoked.

2. Sweden

Subject imports from Sweden were significantly lower in value in 1997-1998 than in the years of the original investigation, although, as with Romania, the dumping margin has consistently declined.³¹⁹ The total of all available unused capacity in Sweden represents less than *** percent of total domestic consumption.³²⁰ We find it unlikely that the modest increase in subject imports from Sweden likely upon revocation of the order could affect prices in the domestic market. In light of continuing low levels of subject imports despite low dumping duties, and the lack of significant available domestic capacity, we find that subject imports from Sweden would not likely lead to recurrence or continuation of material injury within a reasonably foreseeable time if the orders were revoked.

VI. CYLINDRICAL ROLLER BEARINGS³²¹

A. Cumulation

In these reviews, the statutory requirement that all cylindrical roller bearing reviews be initiated on the same day is satisfied. We find that subject imports from Sweden would not be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. Based on the available information regarding the capacity and export orientation of the industries in France, Germany, Italy, Japan, and the United Kingdom, we find that subject imports from all five countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked.³²² We also find that a reasonable overlap of competition between the subject imports and the domestic like product is likely to exist if the orders were revoked. We therefore cumulate subject imports from France, Germany, Italy, Japan, and the United Kingdom.

1. Likelihood of No Discernible Adverse Impact

³¹⁶ CR/PR at Tables BB-I-1 and I-6.

³¹⁷ CR/PR at Tables BB-I-1 and IV-7.

³¹⁸ CR at BB-II-14, PR at BB-II-7.

³¹⁹ CR/PR at Table BB-I-8.

³²⁰ CR/PR at Tables BB-I-1, BB-III-1, and BB-IV-9.

³²¹ Commissioner Bragg does not join this section. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

³²² Commissioner Askey finds that subject imports from Italy and the United Kingdom also are unlikely to have a discernible adverse impact on the domestic industry if the orders were revoked. See Separate and Dissenting Views of Commissioner Thelma J. Askey.

SKF is reportedly the only producer of bearings in Sweden. According to SKF, there has been no production of cylindrical roller bearings in Sweden since the mid-1990s.³²³ Given the absence of production in Sweden, we do not find it likely that there would be a discernible adverse impact on the domestic industry if the order on Sweden were revoked.

Subject imports from France, Germany, Italy, Japan, and the United Kingdom have remained in the U.S. market in the years since the orders were imposed. The market shares of subject imports from Germany and Japan were similar or higher than those found in the original investigation.³²⁴ In 1997 and in 1998 subject imports from each of these five countries accounted for a significant share of both total imports and domestic consumption.³²⁵ The continuing presence of these subject imports in the domestic market indicates that subject foreign producers continue to have the contacts and channels of distribution necessary to compete in the U.S. market.

The CRB industries in four of the five remaining countries are significantly export-oriented, with total exports accounting for between *** percent.³²⁶ While capacity utilization rates in the five countries have varied between 1997 and interim 1999, there is available capacity in each of the five countries.³²⁷ Four of the five countries are among the top five nations for total bearing production.³²⁸ We therefore find it likely that subject imports would have a discernible adverse impact within a reasonably foreseeable time if the respective orders were revoked.

2. Reasonable Overlap of Competition

In the original determination, the Commission found that subject imports from France, Germany, Italy, Japan, and the United Kingdom competed with each other and with the domestic like product and cumulated the volume and price effects of those subject imports.³²⁹ At that time the Commission noted that competition between bearings of different sizes and ratings might be limited, but still found that competition existed among all imports and the domestic like product for “each type, size, and rating.”³³⁰ The record in these reviews provides no reason to depart from the prior overlap of competition findings concerning subject imports of CRBs from France, Germany, Italy, Japan, and the United Kingdom.

Purchasers find domestically produced CRBs to be interchangeable with subject imports from each of the five countries, despite the existence of specialty products and qualification requirements.³³¹ This is true even for subject imports from countries such as Japan, which raised particular arguments

³²³ CR at CRB-IV-11, PR at IV-7.

³²⁴ CR/PR at Table CRB-I-1.

³²⁵ CR/PR at Table CRB-I-1.

³²⁶ CR/PR at Tables CRB-IV-3, IV-4, IV-5, IV-6, and IV-7.

³²⁷ CR/PR at Tables CRB-IV-3, IV-4, IV-5, IV-6, and IV-7.

³²⁸ CR at CRB-IV-5, IV-7, and IV-9; PR at CRB-IV-1 and IV-4-5.

³²⁹ USITC Pub. 2185 at 62-65.

³³⁰ USITC Pub. 2185 at 65.

³³¹ CR/PR at Table CRB-II-3.

regarding the lack of domestic competition for their subject imports. Purchasers rarely make purchasing decisions based on the country of origin of a bearing.³³²

Bearings are sold both to OEMs and to distributors and other aftermarket customers. Data gathered in the course of these reviews indicate that subject imports continue to compete for OEM sales and that the share of subject imports sold into the OEM market, as opposed to the aftermarket, is similar to the share of domestically produced CRBs sold to OEMs.³³³

Subject imports from each of the five countries have been present continuously in the U.S. market and have been sold throughout the U.S. market.³³⁴

We therefore find that there would likely be a reasonable overlap of competition between the subject imports and the domestic like product, and among the subject imports themselves, if the orders were revoked.

3. Other Considerations

Subject producers from Japan have argued that conditions of competition facing subject imports from Japan are notably different from those facing other subject imports, most notably in the significant investment in U.S. production facilities made by Japanese-owned producers.³³⁵ However, producers in each of the other remaining subject countries are also related to domestic producers.³³⁶

While there have been some differences in volume, the most notable trend in subject imports has been an increase in subject imports from each of the five countries. The volume of subject imports from each of the subject countries, measured in value, was significantly higher in 1997-98 than in any year in the earlier investigation. Each country's share of domestic consumption was generally higher in 1997-98 than in 1985-87.³³⁷

We therefore find that subject imports from each of these countries would compete in the U.S. market under similar conditions of competition. Based on the foregoing, we therefore exercise our discretion to cumulate subject imports from France, Germany, Italy, Japan, and the United Kingdom in these reviews.

B. Conditions of Competition

Domestic demand for CRBs has been marked by persistent and dramatic increases in consumption. In nominal terms, consumption of CRBs more than tripled between 1987 and 1998, rising

³³² CR/PR at Table CRB-II-2.

³³³ CR at CRB-I-23, PR at CRB-I-19.

³³⁴ CR at CRB-I-29 and Table CRB-I-1, PR at I-24 and Table CRB-I-1; Torrington Prehearing Brief at 11-12.

³³⁵ JBIA CRB Prehearing Brief at 2.

³³⁶ CR/PR at Table CRB-I-9. Chairman Koplán notes that it appears that only a *** portion of CRB production in Italy is by an entity related to a U.S. producer. However, the estimate of Italian CRB production represented by this entity may be ***. In any event, he does not find this fact alone sufficient to outweigh those factors that lead him to exercise his discretion to cumulate subject imports from Italy with subject imports from France, Germany, Japan, and the United Kingdom.

³³⁷ CR/PR at Table CRB-I-1.

from \$204.6 million in 1987 to \$622.1 million in 1998.³³⁸ The value of domestic consumption continued to grow strongly in the recent past, increasing by 9.4 percent between 1997 and 1998, and by 2.9 percent between interim 1998 and interim 1999.³³⁹ The volume of domestic consumption has also grown rapidly in recent years, rising 13.2 percent between 1997 and 1998 and by 16.9 percent in interim 1999 over the same time period in 1998.³⁴⁰ Further growth is forecast for the near future.³⁴¹

The value of U.S. shipments by domestic producers more than doubled between 1987 and 1998, rising 164 percent from \$183.0 million in 1987 to \$482.3 million by 1998.³⁴² The value of U.S. shipments by domestic producers increased by a strong 11.6 percent between 1997 and 1998 and by 6.7 percent from interim 1998 to interim 1999.³⁴³ The share of total consumption held by domestic producers' shipments is now lower than during the original investigations; shipments by domestic producers represented 77.5 percent of all consumption in 1998, compared to 89.4 percent in 1987.³⁴⁴ Subject imports accounted for between nine and 10 percent of total domestic consumption in the years 1985-1987, but rose to 15.7 percent in 1998. Nonsubject imports, which accounted for less than one-half of one percent of total domestic consumption in 1985-1987, accounted for approximately seven percent by 1997-1998.³⁴⁵

The increased demand for CRBs has been driven by several factors. The automotive industry is a significant user of CRBs, and the years since the orders were imposed have been marked by a revitalization of the domestic automobile industry.³⁴⁶ A gradual, long term increase in air travel has also spurred demand.³⁴⁷ Increased demand has been driven primarily by an increase in demand for products traditionally using CRBs, but some new bearing-using products have been introduced as well.³⁴⁸

CRBs are typically sold either to OEMs or to aftermarket distributors. Original equipment manufacturers are the dominant users of CRBs, accounting for nearly 97 percent of domestically produced shipments and 89 percent of subject imports.³⁴⁹ Sales to OEMs are particularly important to producers because of the large production volumes involved.³⁵⁰ OEMs typically have some certification process,³⁵¹ but for major international bearing producers, the certification process does not present a significant obstacle.

³³⁸ CR/PR at Table CRB-I-1.

³³⁹ CR/PR at Table CRB-I-1.

³⁴⁰ CR/PR at Table C-3.

³⁴¹ CR at CRB-II-4, PR at CRB-II-3.

³⁴² CR/PR at Tables CRB-I-1 and CRB-III-2.

³⁴³ CR/PR at Table CRB-III-2.

³⁴⁴ CR/PR at Table CRB-I-1.

³⁴⁵ CR/PR at Table CRB-I-1.

³⁴⁶ CR at CRB-II-4, PR at CRB-II-2.

³⁴⁷ CR at CRB-II-4, PR at CRB-II-2-3.

³⁴⁸ CR at CRB-II-4, PR at CRB-II-2.

³⁴⁹ CR at CRB-I-23, PR at CRB-I-19.

³⁵⁰ Torrington Posthearing Brief at 13.

³⁵¹ CR at CRB-II-11, PR at CRB-II-6.

Sales to OEMs are usually by contract. These contracts typically last three to five years and set an initial price but allow for annual price variations. Prices for customized bearings are established on a transaction-by-transaction basis. Price lists are used, at least as a starting point, in setting prices for sales to aftermarket customers. Sales to aftermarket customers may command higher prices but smaller volumes.³⁵² Large volume discounts to both kinds of purchasers are not uncommon.³⁵³

A significant portion of CRBs sold to OEMs are customized to some extent, though that customization may not require significant modifications by the producer.³⁵⁴ In the automobile industry, the shift by major producers to buying fewer parts and more subassemblies has increased demand for more customized bearings.³⁵⁵

The U.S. CRB industry is significantly concentrated, with three producers accounting for *** percent of domestic shipments by value.³⁵⁶ The most notable change since the imposition of the orders has been the rise of Torrington as the dominant domestic producer. In 1987 Torrington accounted for *** percent of total domestic production; by 1998 it accounted for *** percent of shipments by value and for *** percent of all domestic capacity.³⁵⁷ Torrington has continued to increase its production capacity throughout the period under investigation in these reviews, with capacity increases in 1998 over 1997 and in interim 1999 over the same time period in 1998.

The CRB industry is mature and capital-intensive and must operate at high capacity utilization rates to be profitable.³⁵⁸ The worldwide CRB industry is dominated by several global producers with facilities in many markets.³⁵⁹ These facilities typically produce primarily for the local market, but some degree of global rationalization has occurred, whereby multinational producers concentrate on production of specific items for greater efficiency. Bearing factories may be dedicated to the production of just one type of bearing. CRBs are typically produced on dedicated machinery, and it is difficult and expensive to shift production lines from one type of bearing to another.³⁶⁰ It is also apparently difficult for U.S. producers to shift sales to other markets.³⁶¹

³⁵² CR at CRB-V-5, PR at CRB-V-3.

³⁵³ CR at CRB-V-4, PR at CRB-V-3.

³⁵⁴ CR at CRB-I-22, PR at CRB-I-18.

³⁵⁵ JBJA CRB Prehearing Brief at 11.

³⁵⁶ CR/PR at Table CRB-I-9.

³⁵⁷ JBJA CRB Prehearing Brief at 12-13.

³⁵⁸ CR at CRB-II-1, PR at CRB-II-1.

³⁵⁹ The expansion of overseas facilities reflects in part a trend by large bearings manufacturers to localize production facilities in response to customers' needs. Nevertheless, we disagree with respondents' arguments that other factors lead purchasers to prefer domestically produced bearings over subject imports to a significant degree. Given the relatively small cost share of bearings in the final cost of the end product in which they are used, we do not find much of an effect from the North American Free Trade Agreement's local content rules, Corporate Average Fuel Economy regulations, or the American Automotive Labeling Act. The Defense Federal Acquisition Regulations affect only a very small part of the overall market. Finally, foreign producers can and do supply purchasers with just-in-time delivery requirements. See CR at CRB-II-13-14, PR at CRB-II-8.

³⁶⁰ CR at CRB-I-21, PR at CRB-I-18.

³⁶¹ CR at CRB-II-1, PR at CRB-II-1.

We find that these conditions are likely to prevail in the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

C. Revocation of the Orders on Subject CRB Imports from France, Germany, Italy, Japan, and the United Kingdom Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

In its original determination, the Commission found the cumulated volume of subject imports to be significant and increasing.³⁶² Despite the existence of the orders, subject imports have not only remained in the U.S. market, they have increased in value and market share.³⁶³

We find that revocation of the orders is not likely to result in significant additional volumes of subject imports. The data on the industries in the subject countries present a mixed picture. The industry in Japan is heavily oriented towards its home market, while those in France, Germany, and the United Kingdom ship roughly equal amounts to their respective home markets and to export markets.³⁶⁴ The industry in Italy is export-oriented.³⁶⁵ There is some unused capacity in all of the countries.³⁶⁶ Thus, some increase in subject imports is possible upon revocation. However, most of the major subject producers are related to domestic producers, either through direct ownership or through a common parent company.³⁶⁷ The record indicates that foreign producers have a strong and long-standing interest in U.S. production, and that this commitment is unlikely to change in the reasonably foreseeable future. In particular, the focus of foreign-affiliated domestic producers is increasingly in U.S. production, with the ratio of subject imports to domestic production falling from 1997 to 1998 and between interim periods.³⁶⁸ Thus, we find it unlikely that any subject producer will increase export volumes to the United States in a manner that would be injurious to its related domestic producer.

Recent administrative reviews have lowered antidumping duties on most subject imports, with firms in France, Germany, and Japan receiving particularly low rates.³⁶⁹ But in spite of the falling duty rates, subject imports from those countries have grown at a much slower rate than have nonsubject imports.³⁷⁰

Finally, even if revocation of these orders leads to some increase in subject imports, any increase is not likely to have a significant effect, given strong and growing demand for CRBs in the U.S. market and the strong condition of the domestic industry. In light of these findings, we find that the increase in the volume of subject imports is not likely to be significant within the reasonably foreseeable future.³⁷¹

³⁶² USITC Pub. 2185 at 71.

³⁶³ CR/PR at Table CRB-I-1.

³⁶⁴ CR/PR at Tables CRB-IV-3, IV-4, IV-6, and IV-7.

³⁶⁵ CR/PR at Table CRB-IV-5.

³⁶⁶ CR/PR at Tables CRB-IV-3, IV-4, IV-5, IV-6, and IV-7.

³⁶⁷ CR/PR at Table CRB-I-9.

³⁶⁸ CR/PR at Table CRB-III-4. The same trend is observed if Torrington is excluded.

³⁶⁹ CR/PR at Tables CRB-I-2, I-3, and I-5.

³⁷⁰ CR/PR at Table CRB-I-1.

³⁷¹ We reach this conclusion while noting that data on the industry in France is incomplete, with only one producer providing information to the Commission. However, CRBs from Germany, Italy, Japan, and the United Kingdom account for the vast majority of current subject imports, as they did in the original investigation. Thus, we

2. Likely Price Effects of Subject Imports

In its original determination, the Commission found the available pricing data to be inconclusive but found “some evidence” of price depressing effects on the domestic industry by the subject imports.³⁷² The pricing data gathered in the course of these reviews covers very few sales of either domestic or imported CRBs.³⁷³ The limited pricing data available show no clear pattern of either overselling or underselling.³⁷⁴ We are mindful of the limitations of using average unit value data for a product such as CRBs given that the AUV data may be more reflective of product mix differences than of pricing trends.

Based on other evidence on the record, we find it unlikely that subject imports will have significant price effects on the domestic industry if the orders were revoked. As discussed above, most of the major subject producers are related to domestic producers, and the domestic CRB industry is fairly heavily concentrated. We therefore find it unlikely that any subject producer will engage in pricing behavior in a manner that would be injurious to its related domestic producer.

Moreover, while a degree of substitutability and price competition exist in the market for CRBs, various parties agree that the CRB market is less “commoditized” than is the BB market.³⁷⁵ CRBs are frequently customized to some extent for specific purchasers, limiting price-based competition.³⁷⁶ Sales to OEMs are more important in the CRB market, especially for the domestic industry, and OEM purchasers are increasingly likely to demand customized products.³⁷⁷ The importance of other non-price factors in the CRB market, such as the ability to provide technical support and high delivery reliability, also make price less important a factor in purchasing decisions.³⁷⁸

Therefore, the increase in subject imports is not likely to have significant effects on prices. In light of the foregoing, and in conjunction with our finding regarding likely volume increases, we find that revocation of the antidumping duty orders would not lead to significant price suppression or depression within the reasonably foreseeable future.³⁷⁹

do not consider it likely that the missing data on producers in France would lead us to a different conclusion regarding cumulated subject imports. Moreover, our determination that revocation is not likely to lead to recurrence or continuation of material injury to the domestic industry is based primarily on the strong and growing demand for CRBs and the strong condition of the domestic industry, even in the face of past substantial increases in subject imports. Therefore, even a different conclusion on likely volume would not lead us to reach an affirmative determination regarding likelihood of recurrence or continuation of material injury.

³⁷² USITC Pub. 2185 at 70-71.

³⁷³ CR at CRB-V-5, PR at CRB-V-3.

³⁷⁴ CR/PR at Table CRB-V-5.

³⁷⁵ See, e.g., Tr. at 345-46 (Mr. Malmstrom).

³⁷⁶ CR at CRB-I-22, PR at CRB-I-22.

³⁷⁷ CR at CRB-I-23, PR at CRB-I-18, I-19; JBI Prehearing Brief at 11.

³⁷⁸ CR/PR at Table CRB-II-2.

³⁷⁹ In reaching our conclusion on likely price effects, we have weighed all the pertinent evidence on price and taken into account Commerce’s duty absorption findings on France, Germany, Japan, and the United Kingdom (65 Fed. Reg. at 35591 (July 1, 1999)), although we note the respondents’ argument that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce’s duty absorption findings with respect to transition orders. See SKF Prehearing Brief at 6-12; SKF Posthearing Brief at xviii. However, since those findings do not, in our view, outweigh other evidence indicating the

3. Likely Impact of Subject Imports

In the original determinations, the Commission found that the profitability of the CRB industry was “anemic” and concluded that the domestic CRB industry was suffering material injury.³⁸⁰ During the period of the original investigations, subject imports increased both absolutely and relatively compared to domestic shipments, and these increases occurred at a time when domestic consumption was actually declining.³⁸¹

The CRB industry was clearly ailing during the period of the original investigations, with low or negative income and anemic capacity utilization. The years since the imposition of the orders have brought a dramatic expansion of the industry overall. Capacity expanded from 51.1 million units in 1987 to *** million in 1998.³⁸² The growth in capacity was spurred by investment by both domestically owned and foreign-owned firms.³⁸³ Capacity utilization, which was below 25 percent during the period of the original investigation, was over 80 percent in 1997 and 1998.³⁸⁴ The number of production workers rose from 1,900 in 1987 to 4,160 in 1998.³⁸⁵ The ratio of operating income to net sales rose from 1.4 percent in 1987 to a very healthy 13.9 percent in 1998.³⁸⁶ Domestic producers have even increased exports relative to the period of the original investigations.³⁸⁷ By any measure, the domestic CRB industry is significantly stronger now than it was during the period of the original investigations and is not currently vulnerable to material injury.³⁸⁸ As discussed earlier, the CRB domestic industry is relatively concentrated, with Torrington representing *** percent of U.S. shipments by value and the top three producers accounting for *** percent of U.S. shipments by value.³⁸⁹

This dramatic improvement in the health of the domestic industry has occurred during a time when, despite the orders, subject imports, as well as nonsubject imports, continued to increase substantially, both in total value and in market share. In light of this, we find that any likely increase in imports upon revocation of the orders, which we have already found not likely to be significant in terms of increased volume or effects on prices, would not have a material impact on the condition of the domestic industry.

lack of significant effects on price, we do not need to resolve respondents’ objections to considering Commerce’s duty absorption findings.

³⁸⁰ USITC Pub. 2185 at 71.

³⁸¹ USITC Pub. 2185 at 70.

³⁸² CR/PR at Table CRB-I-1.

³⁸³ CR at CRB-I-1, PR at CRB-I-1.

³⁸⁴ CR/PR at Table CRB-I-1.

³⁸⁵ CR/PR at Table CRB-I-1.

³⁸⁶ CR/PR at Table CRB-I-1.

³⁸⁷ CR/PR at Table CRB-I-1.

³⁸⁸ We have considered the arguments presented by those producers favoring continuation of the orders that indicate that the bearings industries have failed to earn returns sufficient to cover their capital costs. In light of the CRB industry’s continued access to capital, significant expansion and investment, and high rates of return, we do not find these arguments persuasive.

³⁸⁹ CR/PR at Table CRB-I-9.

This conclusion is strengthened by the projected growth in demand, which will provide additional opportunities for the domestic industry even if subject imports were to increase modestly.

In light of these findings, and given our findings that subject imports are not likely to have significant volume effects or to cause significant price suppression or depression, we conclude that subject imports from France, Germany, Italy, Japan, and the United Kingdom likely would not lead to a recurrence or continuation of material injury within a reasonably foreseeable time.

D. Revocation of the Order on Subject CRB Imports from Sweden Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

We have already determined that, given the lack of production of CRBs, subject imports from Sweden would be likely to have no discernible adverse impact on the domestic industry. Given the absence of production, we find it unlikely that subject imports from Sweden could increase significantly. We therefore find it unlikely that the expected volume of imports could possibly have any effects on domestic prices in the U.S. In the absence of the likelihood of any significant increase in volume or effects on price, we find that subject imports from Sweden likely would not lead to a recurrence or continuation of material injury within a reasonably foreseeable time.

VII. SPHERICAL PLAIN BEARINGS

For the reasons discussed in our separate views, we find that revocation of the antidumping duty order on SPBs from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time,³⁹⁰ and that revocation of the antidumping duty orders on SPBs from Germany and Japan 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.³⁹¹

CONCLUSION

For the foregoing reasons, we conclude:

with respect to TRBs, that revocation of the antidumping duty order on TRBs from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that revocation of the antidumping finding and orders on TRBs from

³⁹⁰ Commissioner Hillman dissenting with respect to SPBs from France. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

Commissioner Askey dissenting with respect to SPBs from France. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

³⁹¹ Commissioner Bragg dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

Commissioner Miller dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Marcia E. Miller.

Hungary, Japan, and Romania 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;^{392 393}

with respect to BBs, that revocation of the antidumping duty orders on BBs from France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time,³⁹⁴ and that revocation of the antidumping duty orders on BBs from Romania and Sweden 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;^{395 396}

with respect to CRBs, that revocation of the antidumping duty orders on CRBs from France, Germany, Italy, Japan, Sweden, and the United Kingdom 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;^{397 398}

with respect to SPBs, that revocation of the antidumping duty order on SPBs from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time,³⁹⁹ and that revocation of the antidumping duty orders on SPBs from Germany

³⁹² Commissioner Bragg dissenting with respect to TRBs from Romania. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to TRBs from Japan and Romania. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

³⁹³ Commissioner Askey concurring with respect to TRBs from Hungary, Japan, and Romania, and dissenting with respect to TRBs from China. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

³⁹⁴ Commissioner Hillman dissenting with respect to BBs from Singapore. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

³⁹⁵ Commissioner Bragg dissenting with respect to BBs from Romania and Sweden. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to BBs from Romania. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

³⁹⁶ Commissioner Askey concurring with respect to BBs from France, Romania, and Sweden and dissenting with respect to BBs from Germany, Italy, Japan, Singapore, and the United Kingdom. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

³⁹⁷ Commissioner Bragg dissenting with respect to CRBs from France, Germany, Italy, and Japan. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to CRBs from France, Germany, Italy, Japan, and the United Kingdom. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

³⁹⁸ Commissioner Askey concurring with respect to CRBs from all countries. However, she writes separately to explain her views in this proceeding. She joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

³⁹⁹ Commissioner Hillman dissenting with respect to SPBs from France. See Separate and Dissenting Views of Commissioner Jennifer A. Hillman.

and Japan 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.^{400 401}

⁴⁰⁰ Commissioner Bragg dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Lynn M. Bragg. Commissioner Bragg joins, to the extent noted, only in Sections I, II, III.B, IV.B, IV.C, IV.D, IV.E, V.B, and V.C of this opinion.

Commissioner Miller dissenting with respect to SPBs from Germany and Japan. See Separate and Dissenting Views of Commissioner Marcia E. Miller. Commissioner Miller joins only in Sections I, II, and III of this opinion.

⁴⁰¹ Commissioner Askey concurring with respect to SPBs from Germany and Japan and dissenting with respect to SPBs from France. She writes separately to explain her views in this proceeding but joins in Sections I, II, and III of the majority opinion to the extent noted. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

**CONCURRING AND DISSENTING VIEWS OF
COMMISSIONER THELMA J. ASKEY**

Section 751(d) of the Tariff Act of 1930, as amended, requires the Department of Commerce (“Commerce”) to revoke an antidumping duty or countervailing duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.¹

Based on the record in these five-year reviews, I determine that revocation of the antidumping duty orders and finding on tapered roller bearings (“TRBs”) from China, Hungary, Japan, and Romania 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 further determine that revocation of the antidumping duty order on ball bearings (“BBs”) from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, but that revocation of the antidumping duty orders on BBs from Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom 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 also determine that revocation of the antidumping duty orders on cylindrical roller bearings (“CRBs”) from France, Germany, Italy, Japan, Sweden, and the United Kingdom 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. Finally, I determine that revocation of the antidumping duty order on spherical plain bearings (“SPBs”) from France, Germany, and Japan 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 write separately to explain my determinations with respect to these orders. I concur with my colleagues with respect to their findings concerning the domestic like product, the domestic industry and related parties, and the legal standards governing the Commission’s cumulation and causation analysis in sunset reviews. Accordingly, I join the Commission’s joint views discussing these issues.

I. TAPERED ROLLER BEARINGS FROM CHINA, HUNGARY, JAPAN, AND ROMANIA

A. Cumulation

1. General

In sunset reviews, the Commission has the discretion to cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews were initiated on the same day if those imports would be likely to compete with each other and with the domestic like product within a reasonably foreseeable time if the orders are revoked.² Thus, in five-year reviews, the relevant inquiry is whether there would likely be competition among the domestic and subject merchandise within the reasonably foreseeable future, even if none currently exists. Because of the

¹ 19 U.S.C. §§ 1675(d)(2), 1675a(a)(1) (1994).

² 19 U.S.C §1675a(a)(7).

prospective nature of five-year reviews and the discretionary nature of the cumulation decision, the Commission has also examined other conditions of competition that are likely to prevail upon revocation when deciding whether to cumulate in sunset reviews.

Although cumulation is discretionary in sunset reviews, the statute unambiguously states that the Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise if those imports are “likely to have no discernible adverse impact on the domestic industry” upon revocation of the order covering those imports.³ As can be seen, the statute does not direct the Commission to focus its discernability analysis solely on the likely volume levels of the imports; instead, the statute expressly directs the Commission to assess whether the subject imports will have a discernible adverse “impact” on the industry upon revocation. Accordingly, when I assess whether I am permitted to cumulate the subject imports in sunset reviews, I first focus on whether the imports will impact the condition of the industry in a discernible way as a result of revocation, and not simply on whether there will be a small -- *i.e.*, negligible -- volume of imports after revocation.⁴

In this case, the reviews of the orders and finding covering TRBs from China, Hungary, Japan, and Romania were initiated on the same day. Accordingly, I first consider whether the subject imports from these countries are likely to have a “discernible adverse impact” on the domestic industry upon revocation of the orders. If I find that imports from any of these countries are not likely to have a discernible adverse impact on the domestic industry upon revocation of the order, then I am precluded from cumulating the imports from that country with those of the other subject countries. If I find that they are likely to have a discernible adverse impact on the industry upon revocation of the order, I must then consider whether it is appropriate to exercise my discretion to cumulate the subject countries.

I discuss my cumulation analysis for each of these countries below.

2. *Discernible Adverse Impact*

a. The Subject Imports from Hungary Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within The Reasonably Foreseeable Future If the Hungarian Order is Revoked

I find that the subject imports from Hungary are not likely to have a discernible adverse impact on the domestic industry if the Hungarian order is revoked. Currently, there are minimal levels of Hungarian imports in the market. During 1997, 1998, and interim 1999, the subject imports of TRBs from Hungary occupied less than 0.05 percent of the domestic TRB market.⁵ Moreover, Hungarian imports occupied a very small share of the domestic market during the original investigations, with their market share ranging between *** percent and *** percent.⁶ These historical patterns of very low importation levels indicate

³ Section 752(a)(7) of the Act, 19 U.S.C. 1675a(a)(7)

⁴ I discussed the rationale for my approach in more detail in my Additional Views in Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245, at 31 (October 1999). I also further explained my views in Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Invs. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 & 379-380 (Review), USITC Pub. 3290, at 36-37 (April 2000).

⁵ CR and PR at Table TRB-I-1.

⁶ CR and PR at Table TRB-I-1.

that the Hungarian producer is unlikely to ship more than very small volumes of merchandise to the United States within the reasonably foreseeable future.

In addition, the sole Hungarian producer has an extremely limited amount of capacity that could be used to export TRBs to the United States. The Hungarian producer's capacity utilization rates declined during the period of review,⁷ but its total capacity level is small when compared to overall domestic consumption and production. In 1998 and interim 1999, the Hungarian producer's total annual capacity was approximately *** million bearings,⁸ which was equivalent to *** percent of domestic consumption in those years.⁹ Thus, although the Hungarian producer operated at capacity utilization rates of *** percent in 1998 and *** percent in interim 1999, its available unused capacity in those years would have equaled less than *** percent of total U.S. consumption in 1998 and *** percent in interim 1999. Quite simply, this level of available capacity clearly indicates that the Hungarian producer does not have the ability to ship volumes to the United States that could have a discernible adverse impact on the industry. Moreover, although the record indicates that the Hungarian producer is export-oriented, with exports representing *** percent and *** percent of its total TRB shipments in 1997 and 1998, respectively,¹⁰ the record also shows that the Hungarian producer has focused its marketing efforts on increasing its sales in Europe and ***, where it already has an established presence and faces no import barriers.¹¹ Further, the Hungarian producer appears to have no existing marketing, sales, or distribution network in the United States. Given all of the foregoing, I find that it is not likely that the Hungarian producer would ship any TRBs to the United States that might have a discernible impact on the industry in the reasonably foreseeable future.

I also find that the record indicates that the subject imports from Hungary will not have a discernible adverse impact on domestic prices upon revocation of the order. Although there is little usable price comparison data for Hungarian imports in this review, the minimal volumes of the Hungarian imports that would be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future.

For the foregoing reasons, I find that the subject imports from Hungary are unlikely to have a discernible adverse impact on the domestic industry upon revocation of the order. I have, therefore, not cumulated the subject imports from Hungary with imports from the other subject countries for purposes of my analysis in this review.

b. The Subject Imports from Romania Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within the Reasonably Foreseeable Future If the Romanian Order is Revoked

I also determine that the subject imports from Romania are not likely to have a discernible adverse impact on the domestic industry if the Romanian order is revoked. Romania's market share

⁷ Its capacity utilization rates declined from *** percent in 1997 to *** percent in 1998 and then to *** percent in interim 1999. CR and PR at Table TRB-IV-4.

⁸ Throughout this opinion, when referring to 1999 capacity figures, I am referring to annualized capacity data.

⁹ CR and PR at Table TRB IV-4 ; Staff Summary of Foreign and Domestic Capacity and Production Data, dated June 1, 2000 ("Foreign Capacity Charts").

¹⁰ CR and PR at Table TRB-IV-4.

¹¹ CR at TRB-IV-8, 10, PR at TRB-IV-7.

levels are currently extremely small, ranging from 0.1 percent to 0.3 percent during the period of review.⁹ During the original period of investigation, Romania's market share was also minimal, ranging from *** percent to *** percent from 1983 to 1986.¹⁰ These small historical market shares indicate that the Romanian producers are unlikely to begin shipping more than very small volumes of imports to the United States upon revocation of the order.

The Romanian producers have a limited amount of available capacity that can be used to ship merchandise to the United States upon revocation of the order. Although Romania has a larger amount of production capacity than Hungary (with the annual production capacity of the Romanian producers being approximately *** TRBs in 1998 and *** TRBs in 1999), the Romanian producers have operated at very high capacity utilization rates in 1998 and interim 1999. Moreover, their unused annual capacity during both years would have been equivalent to less than *** percent of total domestic consumption.¹¹ The combination of very high capacity utilization rates and somewhat small overall capacity levels establishes that the Romanian producers are unlikely to ship more than minimal additional volumes to the United States upon revocation of the order.

Further, although Romania is clearly export-oriented, with exports representing *** percent and *** percent of its total TRB shipments in 1997 and 1998, respectively,¹² the Romanian producers focus their export efforts primarily on customers in Europe. Romanian producers state that product shifting is not likely and the Romania producers had virtually no exports to the United States during the review period despite low or de minimis margins.¹³ Finally, two of the six Romanian producers are related to significant domestic producers, including the largest Romanian producer of TRBs.¹⁴ I believe these affiliations make these two producers significantly less likely to ship any additional merchandise to the United States upon revocation of the orders. Thus, in light of Romania's historically small market share levels, the small amount of available Romanian capacity, the Romanian producers' current export patterns, and their existing relationships with domestic producers, it is unlikely that Romania will ship any volumes to the United States upon revocation of the order that could have a discernible adverse impact on the domestic industry.

Similarly, I find that the record data indicate that the subject Romanian imports will not have a discernible adverse impact on domestic prices upon revocation of the order. There is a very limited amount of pricing data available for the Romanian imports, which indicates that the Romanian imports have generally undersold the domestic product.¹⁵ I note, however, that this underselling by the Romanian imports appears to have had no apparent effect on the prices of comparable domestic products.¹⁶ Moreover, given that it is unlikely that the Romanian producers would ship more than a minimal volume of merchandise to the United States upon revocation of the order, I find that it is unlikely these small volumes

⁹ CR and PR at Table TRB-I-1.

¹⁰ CR and PR at Table TRB-I-1.

¹¹ CR and PR at Table TRB-IV-6 & Foreign Capacity Chart.

¹² CR/PR at Table TRB-IV-6.

¹³ CR at TRB-II-4-5, PR at TRB-II-3.

¹⁴ Koyo Romania, the largest TRB producer in Romania, is owned by the same Japanese parent, Koyo Seiko, as is the U.S. TRB producer Koyo Corporation of USA. Similarly, the Romanian producer Timken Romania is related to Timken, one of the original petitioners. Timken Romania reported that it ***. CR at TRB-IV-15, PR at TRB-IV-10.

¹⁵ CR and PR at Tables TRB-V-3, V-6 & V-8.

¹⁶ Id.

of imports would have a more discernible adverse effect on domestic prices within the reasonably foreseeable future upon revocation of the order.

Accordingly, I find that the subject imports from Romania would not be likely to have a discernible adverse impact on the domestic industry if the order were revoked. I have, therefore, not cumulated the subject imports from Romania with the subject imports from other countries for purposes of my analysis in this review.¹⁷

3. *Reasonable Overlap of Competition With Respect to China and Japan*

I have chosen to exercise my discretion to cumulate the subject imports of TRBs from China and Japan for purposes of my analysis in this review. In this regard, I find that the record indicates that there is likely to be a reasonable but limited overlap of competition among the Chinese and Japanese imports and the domestic merchandise upon revocation of the orders and finding.

First, the Chinese and Japanese imports were generally reported to be interchangeable with the domestic merchandise, which indicates that there is a reasonable degree of fungibility among the subject and domestic merchandise.¹⁸ However, the record also suggests that the Chinese imports may be of lower quality than the Japanese imports.¹⁹ In a market in which quality is the primary purchase factor, this indicates that the Japanese and Chinese imports may not be fully interchangeable with each other.²⁰ Moreover, the average unit values of the Chinese merchandise during the period of review are significantly lower than the Japanese,²¹ which suggests that there may be significant quality issues or product differentials between imports from the two countries.

Second, the record indicates that the Chinese and Japanese imports are both sold to end users and distributors, which indicates that they share similar channels of distribution in the market.²² Nonetheless, the record indicates that most Japanese TRBs are sold to OEMs with qualification requirements while no subject Chinese TRBs exported to the United States have been pre-certified by major OEMs.²³ This suggests that the subject imports from China are often sold primarily to the aftermarket and distributors in the non-automotive sectors²⁴ and may not directly compete with the Japanese imports in their primary market, the OEM automotive sector.²⁵ Finally, I note that the subject imports and the domestic

¹⁷ In accordance with the statute, I have also considered whether imports from China and Japan would be likely to have a discernible adverse impact on the industry upon revocation of the order. In the case of both countries, I find that it is a somewhat close call as to whether they would be likely to have a discernible adverse impact on the industry upon revocation of the order. Nonetheless, I find that both countries have enough available capacity and are currently in the market in significant enough quantities that I believe that they will likely increase their volumes to the United States in a discernible fashion upon revocation of the order.

¹⁸ CR and PR at Table TRB-II-3 & Figure TRB-II-1.

¹⁹ INV-X-117 at 1.

²⁰ CR and PR at Table TRB-II-1.

²¹ CR and PR at Table C-1.

²² CR at TRB-I-26, PR at TRB-I-22.

²³ CR at TRB-I-26-27, TRB-II-12, PR at TRB-I-22, TRB-II-7.

²⁴ Sales of subject Chinese imports to OEMs are to manufacturers that serve low-end markets (for example, boat and utility trailers, garden transaxles, and roller conveyors) and do not require certification.

²⁵ CR at TRB-I-26-27, PR at TRB-I-22.

merchandise are likely to be sold throughout the nation and are likely to be simultaneously present upon revocation of the order.²⁶

On the whole, the record suggests that there is a sufficient degree of likely competitive overlap between these two countries and the domestic merchandise to cumulate them. The record indicates that the imports and the domestic merchandise are somewhat interchangeable, that they are sold in similar channels of trade, and that the subject imports and the domestic merchandise are likely to be sold throughout the nation and are likely to be simultaneously present upon revocation of the order.²⁷ However, the record strongly suggests that the actual degree of competitive overlap between the Chinese and Japanese imports is likely to be limited. Accordingly, I have chosen to exercise my discretion to cumulate the subject imports from China and Japan.²⁸

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic 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.”²⁹ The TRB market in the United States is characterized by the following conditions of competition:

First, demand has grown considerably in the TRB market since the 1986-87 investigations. Apparent consumption of TRBs has *** since 1986, with total consumption increasing from \$*** worth of TRBs in 1986 to \$1.419 billion in 1998.³⁰ Moreover, demand continued to grow during the period of review, with total consumption of TRBs increasing from \$1.322 billion in 1997 to \$1.419 billion in 1998. Apparent consumption was higher in interim 1999 than in interim 1998 as well. Measured in quantity terms, apparent consumption grew from 233 million TRBs in 1997 to 240 million TRBs in 1998.³¹ In

²⁶ CR and PR at Table TRB-I-1.

²⁷ CR and PR at Table TRB-I-1.

²⁸ In this regard, I note that there are also a number of considerations that might warrant a decision not to cumulate the Chinese and Japanese imports in this proceeding. First, the Japanese imports have exhibited significantly different price and volume trends than the Chinese imports during the period of review. For example, the Japanese imports oversold the domestic merchandise in 76 percent of possible price comparisons during the period of review (109 of 143 possible comparisons), while the Chinese imports undersold the domestic merchandise in all instances. CR and PR at Table TRB-V-19. Moreover, as I noted above, there are currently significant pricing differentials between the Chinese and Japanese merchandise. CR and PR at Table C-1. Further, the market share of the Japanese imports has declined since the original period of investigation while the Chinese imports’ market share has increased. CR and PR at Table TRB-I-1. Finally, several of the significant Japanese producers have established affiliates in the United States to produce TRBs, while the Chinese producers have not. Given these considerations, I could reasonably have chosen not to exercise my discretion to cumulate the subject imports from China and Japan.

²⁹ 19 U.S.C. § 1675a(a)(4).

³⁰ Although these demand increases (which are based on value) may have been affected in part by inflation, the record indicates that the overall price of TRBs has grown by less than 40 percent since 1987, CR and PR at Figure TRB-V-1, while demand has increased by approximately *** percent. CR and PR at Table TRB-I-1. This indicates that there has been a significant actual increase in demand for TRBs since the original investigations.

³¹ CR at TRB-II-6, PR at II-TRB-II-3.

quantity terms, consumption has grown an additional 5.3 percent between interim 1998 to interim 1999.³² Demand is expected to grow at an annual rate of 3.5 percent from 1999 to 2003.

Second, domestic capacity has grown from 147 million TRBs in 1997 to 155 million TRBs in 1998 and then to 160 million TRBs in 1999.³³ However, the industry's total capacity is significantly lower than demand in the TRBs market, with apparent consumption being 240 million TRBs in 1998. Moreover, during the period of review, domestic capacity utilization rates have been consistently in excess of 90 percent.³⁴ Given the industry's current capacity levels and its high capacity utilization rates, the record indicates that the industry is not able to satisfy all, or even most, of domestic demand.

Third, the TRB industry is a relatively concentrated industry. The original petitioner, Timken Company, accounts for nearly *** of domestic TRB production. Although Timken has increased its production capacity since the antidumping orders were imposed, the record indicates that on occasion ***.³⁵

Fourth, the current composition of the industry reflects the increasing globalization of bearings facilities, which is a result of decisions made by multinational producers to establish local facilities in major markets. These facilities are designed to serve customers in the local markets. For example, the dominant domestic producer Timken has established TRB affiliates in the subject countries of Romania and China.³⁶ Similarly, the next three largest domestic producers (NTN Bearing Corp. of America, *** and ***) are subsidiaries of multinational bearings companies and two are affiliated with TRB producers in subject countries.

More particularly, the domestic producers NTN Bearing and Koyo Corp. are subsidiaries of the two large Japanese TRB producers, NTN and Koyo Seiko.³⁷ The latter two Japanese producers have made significantly increased investments in their U.S. facilities since the original period of investigation. NTN Bearing Corporation of America, which accounted for approximately *** percent of the value of U.S. TRB shipments in 1998, has increased its TRB production at facilities throughout the United States on a number of occasions since the 1987 investigation.³⁸ Koyo Seiko reports that it ***.³⁹ As a result, Koyo Corporation is the *** largest domestic producer, accounting for approximately *** percent of the value of U.S. TRB shipments in 1998.⁴⁰ Koyo reportedly plans ***.⁴¹

Fourth, the record indicates that the subject imports from all of the subject countries are generally interchangeable with the domestic merchandise, although there are some variations reported amongst countries with respect to quality, lead times, and product range, among other things.⁴² The staff suggests

³² *Id.*

³³ CR and PR at Table TRB-I-1.

³⁴ CR and PR at Table TRB-I-1.

³⁵ CR at TRB-II-1, PR at TRB-II-1.

³⁶ CR and PR at Table TRB-I-9.

³⁷ CR and PR at TRB-I-9.

³⁸ JBIA Prehearing Brief at 7.

³⁹ JBIA Prehearing Brief at 7.

⁴⁰ CR and PR at Table TRB-I-9.

⁴¹ JBIA Economic Report at III-26.

⁴² CR at TRB-II-10-12, PR at TRB-II-6-7.

that there is a moderate to moderately high degree of substitutability between the subject imports and the domestic merchandise, with the elasticity of substitution being in the 3 to 5 range.⁴³

Fifth, quality is the most important factor in the purchase decision for bearings products, with 21 of 39 responding purchasers rating it the most important factor when selecting a supplier.⁴⁴ Although price was not selected by most purchasers as the most important factor in the purchase decision, it was nonetheless selected as one of the three most important factors by 33 of 39 responding purchasers.⁴⁵ However, 23 of 38 responding purchasers stated that they would not vary their supplier based on quarterly price changes, while only four purchasers stated that they would.⁴⁶ Finally, 24 of 41 responding purchasers reported that they always or usually base their purchase decisions on the specific identity of the producer.⁴⁷

Sixth, TRBs consist of literally thousands of part numbers, and even within part numbers, specialization or customization, sometimes in the form of minor variations, can occur. Producers seek to expand their offering of specialized bearings in order to meet demand for those products. Once a producer has developed a particular customized bearing, it can produce that bearing in larger quantities, and the bearing becomes a standard bearing for the producer. Timken, the dominant U.S. producer, has an extensive inventory of some *** standard bearings.⁴⁸ In the OEM segment of the market, factors such as quality, availability, existence of pre-arranged contracts, and service are as important as price in purchasing decisions.

Seventh, large OEM customers, particularly in the automotive and construction sectors, are few in number but represent a substantial proportion of TRB consumption and often command market power.⁴⁹ Generally, domestic producers report that they tend to negotiate contracts with OEM customers, which generally have terms of three to five years, with prices fixed annually.⁵⁰ OEMs often require certification of facilities and product and are not likely to change suppliers merely on the basis of price.⁵¹ Approximately 84 percent of domestic producers' shipments are to OEMs while 53 percent of import shipments are made to OEMs. The remainder are made to distributors.⁵²

Finally, there is a substantial volume of nonsubject imports in the market. The market share of the nonsubject imports increased from 11.1 percent in 1997 to 13.3 percent in 1998, but then declined somewhat (to 11.6 percent) in interim 1999.⁵³ The market share of all imports was 17.7 percent in 1997, 19.8 percent in 1998, and 17.9 percent in interim 1999.⁵⁴ These market share levels are generally higher than the market share levels of imports during the 1983 to 1986 period of investigation.

⁴³ CR at TRB-II-13, PR at TRB-II-7.

⁴⁴ CR at TRB-II-7-8, PR at TRB-II-4-5.

⁴⁵ CR at TRB-II-7-8, PR at TRB-II-4-5.

⁴⁶ CR at TRB-II-8, PR at TRB-II-5.

⁴⁷ CR at TRB-II-9, PR at TRB-II-5.

⁴⁸ CR at TRB-I-25, PR at TRB-II-21.

⁴⁹ CR at Overview-21, TRB-I-23, PR at Overview-16, TRB-I-20.

⁵⁰ CR at TRB-V-3, PR at TRB-V-3.

⁵¹ CR at Overview-21, TRB-II-8-9, 12, PR at Overview 16, TRB-II-4-7.

⁵² CR at TRB-I-26, PR at TRB-I-22.

⁵³ CR and PR at Table TRB-I-1.

⁵⁴ CR and PR at Table TRB-I-1.

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide a reasonable basis on which to assess the likely effects of revocation within the reasonably foreseeable future.

C. REVOCATION OF THE ANTIDUMPING DUTY ORDERS AND FINDING COVERING TAPERED ROLLER BEARINGS FROM CHINA AND JAPAN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

1. Likely Volume of the Cumulated Imports from China and Japan

In evaluating the likely volume of imports of subject merchandise if an antidumping order is revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁵⁵ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁵⁶

In its original 1987 determinations covering TRBs from China and Japan, among others, the Commission found that the volume of the cumulated imports had been significant. The Commission found that there had been a large and stable volume and penetration of cumulated subject imports at a time of declining shipments by the domestic industry.⁵⁷ It also found that the market penetration of cumulated subject imports was approximately 20 percent throughout the period of investigation, and that the value of subject imports’ U.S. market share increased from 8 percent in 1983 to 11 percent in 1986.⁵⁸ In its 1976 finding for Japanese imports of TRBs, the Commission found that the value of TRB imports from Japan increased from *** in 1970 to *** in 1973 while the value of Japanese subject imports as a percentage of U.S. consumption grew from *** percent in 1970 to *** percent in 1973.

Nonetheless, I find that the volume of the cumulated subject imports from China and Japan is not likely to be significant if the Chinese and Japanese orders and finding are revoked. First, the record indicates that there is little available unused capacity in Japan and China. During the period of review, the Japanese producers operated at extremely high capacity utilization rates, with their capacity utilization rates being 104 percent in 1997, 96 percent in 1998, and 92 percent in interim 1999.⁵⁹ Similarly, although we do not have complete data for all TRB producers in China,⁶⁰ the data submitted indicates that the

⁵⁵ 19 U.S.C. § 1675a(a)(2).

⁵⁶ 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁵⁷ USITC Pub. 1983 at 15-16. For its 1987 determination on TRBs from China, the Commission cumulatively assessed the volume and price effects of subject imports from six countries: Hungary, China, Romania, Yugoslavia, Japan, and Italy. The orders on TRB imports from Italy and Yugoslavia were revoked in 1996 and 1995, respectively. See 61 Fed. Reg. 52920 (Oct. 9, 1996); 60 Fed. Reg. 58046 (Nov. 24, 1995).

⁵⁸ USITC Pub. 1983 at 16.

⁵⁹ CR and PR at Table TRB-IV-5. If the Japanese used all of the capacity available in 1999 to ship merchandise to the United States, that production level would equal less than 5 percent of total domestic consumption in 1999. See CR and PR at Table TRB-IV-5 and Capacity Chart.

⁶⁰ The Commission received questionnaire responses from seven of the eleven Chinese TRB producers to whom questionnaires were sent, as well as two exporters. ***. Staff Memorandum responding to Commissioner Miller

(continued...)

Chinese producers are also operating at high capacity utilization levels, with their capacity utilization rates being 88.1 percent in 1997, 87.3 percent in 1998, and 85.1 percent in interim 1999.⁶¹ These high levels of capacity utilization make it unlikely that the Japanese and Chinese producers would have an incentive to, or even be able to, increase their export levels to the United States significantly upon revocation of the orders.

Moreover, the other record evidence indicates that it is unlikely that the Japanese or Chinese producers would change their current export levels to the United States significantly upon revocation of the order. First, the Japanese and Chinese producers both ship the majority of their TRB production to their home market. In particular, the Japanese producers have consistently shipped nearly two-thirds of their production to their home market, while the Chinese producers have consistently shipped more than half of their production to their home market. Thus, the Japanese and Chinese have historically focused their production efforts on their home markets. Given that the Japanese and Chinese producers both report that there have been significant increases in home market demand for their bearings products,⁶² I find that it is likely that the majority of any production resulting from additional use of capacity in these countries would be directed at their home market, and not at the United States market.

Second, the record indicates that there is little incentive for two of the three large Japanese producers to ship significant additional volumes of TRBs to the United States upon revocation of the order. As I discussed previously, these two producers, NTN and Koyo Seiko, are affiliated with significant domestic producers of TRBs and accounted for more than *** percent of total Japanese production of TRBs in 1998.⁶³ Given that the record indicates that bearings manufacturers are increasingly choosing to serve particular markets from their local affiliates, I believe that it is likely that these two producers will not attempt to ship significant additional merchandise to the United States upon revocation of the order, in order to avoid competing with their U.S. affiliates. This further reduces the small likelihood of significant Japanese imports upon revocation of the order.

Moreover, the record indicates that a significant number of Chinese producers have been subject to de minimis dumping deposits since 1997⁶⁴ and that the level of Chinese imports has not increased significantly since that year. In fact, the market share of the Chinese imports has declined somewhat since 1997. In light of this, and the Commerce Department's finding that four Chinese producers are unlikely to resume dumping at more than de minimis levels upon revocation of the order, I believe that this

⁶⁰ (...continued)

inquiry, dated June 1, 2000. Although the report states that these producers may represent less than half of Chinese production, that statement appears to be based on an affidavit submitted by an employee of Timken, a petitioner in this case, which asserts that there is approximately *** TRBs worth of capacity in China. CR at TRB-IV-6, n. 3. Even if one assumes that the Timken estimate of overall Chinese capacity is correct, the other data in the record indicate that the Chinese producers have been consistently operating at capacity utilization rates above 84 percent, which would indicate that total unused Chinese capacity would be equivalent to less than seven percent of domestic consumption in 1999. I note, however, that the China TRB Sunset Coalition asserts that unused TRB capacity in China is between \$*** and \$***. China TRB Sunset Coalition Posthearing Brief at 9-10; Letter Response of China TRB Sunset Coalition to Timken Company Filing at 2 (May 2, 2000). This amount of unused capacity would only equal between *** percent and *** percent of total apparent domestic consumption in 1999.

⁶¹ CR and PR at Table TRB-IV-3.

⁶² CR at TRB-IV-6 & TRB-IV-12, PR at TRB-IV-5 & TRB-IV-7.

⁶³ Foreign Production Charts.

⁶⁴ CR and PR at Table TRB-I-4. For example, CMC (which accounts for *** percent of reported Chinese production) has been subject to a de minimis dumping rate since November 1997. Id.

indicates that it is unlikely that these Chinese exporters will change their export patterns or behavior significantly upon revocation of the order.

Fourth, as I discussed previously, the record indicates that the domestic industry is now operating at high capacity utilization rates, that it does not have sufficient capacity to serve the market currently, and that the domestic market is projected to grow moderately over the next few years. In light of this, it seems clear that any possible increase in subject import volume that might occur within the reasonably foreseeable future would come out of an increased demand in the market, not at the expense of the domestic industry.

Further, the record also indicates that the subject imports lost market share after the order was issued but that market share was simply taken by nonsubject imports.⁶⁵ In particular, while the subject imports from China, Japan, Hungary and Romania lost nearly *** percentage points of market share since 1986, the nonsubject imports gained *** percentage points of market share.⁶⁶ This suggests that any additional volumes of subject imports resulting from revocation of the order will simply supplant existing nonsubject imports in the market, rather than taking significant market share from the industry.

Finally, I note that there are no reported trade barriers or antidumping orders against Chinese or Japanese TRBs in third countries. Moreover, the record indicates that there is little possibility of product shifting because of the difficulty involved in switching production facilities from one type of bearing product to another.

Accordingly, I find that the volume of the cumulated subject imports from China and Japan is not likely to be significant upon revocation of the finding and orders.

2. *Likely Price Effects of the Cumulated Imports from China and Japan*

In evaluating the likely price effects of subject imports if the antidumping duty orders and finding are 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 prices of the domestic like product.⁶⁷

In its 1987 determination involving TRBs from China, Japan, Hungary and Romania, the Commission found that the cumulated subject imports had had significant price effects on the domestic merchandise. It found that the value of cumulated subject imports was increasing at a time of decreasing shipments by domestic producers and that underselling by cumulated subject imports at a time of declining U.S. prices was fairly consistent.⁶⁸ Similarly, in its 1975 determination on TRBs less than four inches in diameter from Japan, the Commission found that the unit prices of LTFV bearings from Japan were generally lower than U.S. prices for comparable bearings and that the LTFV margins were a material factor in the margins of underselling by the Japanese producers.⁶⁹

⁶⁵ CR and PR at Table TRB-I-1.

⁶⁶ CR and PR at Table TRB-I-1.

⁶⁷ 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.

⁶⁸ USITC Pub. 2020 at 11-12.

⁶⁹ USITC Pub. 714 at 5.

I find that the cumulated subject imports from China and Japan are not likely to have significant adverse effects on domestic prices if the orders are revoked. I recognize that the record indicates that there is a moderately high level of substitutability between the subject imports from China and Japan and the domestic merchandise and that price is an important consideration in the purchase decision. Nonetheless, as I discussed above, the record indicates that it is unlikely that there will be a significant increase in the volumes of the cumulated subject imports upon revocation of the orders. Moreover, I find nothing in the record that would indicate that the subject imports would change their pricing practices in a way that would have a significant negative impact on the industry at their current volume levels. In fact, given that demand is expected to increase moderately, that the domestic industry is operating at high capacity utilization rates, and that the domestic industry cannot now supply demand in the market, I believe that domestic prices are likely to continue rising in the reasonably foreseeable future. Accordingly, I find that it is unlikely that the subject imports will have a significant adverse impact on domestic prices upon revocation of the orders.

In reaching this conclusion, I have examined the available price comparison data. That data indicates that the subject imports from China and Japan are currently having little noticeable impact on domestic prices. The price comparison data show that the subject imports from Japan have consistently oversold the domestic merchandise throughout the period of review, especially on products with high volume sales.⁷⁰ The Japanese imports oversold the domestic product in 109 out of 143 possible quarterly comparisons, with their average margins of overselling ranging from 27.0 percent to 122.3 percent.⁷¹ Moreover, even a cursory review of the data indicates that Japanese imports have had no noticeable impact on domestic price movements.

With respect to the Chinese imports, the pricing data indicate that those imports have undersold the domestic merchandise consistently throughout the period.⁷² Chinese subject imports undersold the U.S. product in every quarter for which price comparisons were available, at average underselling margins of 65.4 percent in 1997, 57.4 percent in 1998, and 64.7 percent in the January-September 1999 interim period.⁷³ Nonetheless, as with the Japanese merchandise, the price comparison data also reveal that this consistent underselling by the Chinese product has had little or no impact on price movements of the domestic merchandise during the period of review. Given this, I see no indication in the record that the Chinese or Japanese merchandise are currently having a negative impact on domestic prices or that they will have such an impact in the reasonably foreseeable future.

Further, when assessing the likely price effects of the subject imports, I have examined the average unit value data for imports and domestic merchandise. The data indicate that, during the period of review, the average unit values of the domestic merchandise have been substantially higher throughout the period than the average unit values of the subject and nonsubject imports⁷⁴ and that domestic prices

⁷⁰ CR and PR at Tables TRB V-2-18 & TRB-V-19.

⁷¹ CR and PR at Table TRB-V-19.

⁷² CR and PR at Tables TRB-V-2-18 & TRB-V-19.

⁷³ CR and PR at Table TRB-V-19.

⁷⁴ CR and PR at Table C-1. The average unit values of domestic merchandise increased from \$8.54 in 1997 to \$8.86 in 1998 and then increased further to \$9.03 in interim 1999. Id. The average unit values of the subject imports from Japan ranged from \$2.10 to \$2.28 during this period, while the average unit values of the Chinese imports ranged from \$0.56 to \$0.71 during the period. Id. While there was more variation with respect to nonsubject imports, their average unit value ranged between \$2.67 and \$3.73 during the period. Id.

increased during the period of review.⁷⁵ I believe that the data suggest that the domestic producers sell a substantially higher-valued product mix in the market than the subject and nonsubject imports and that there is little significant price competition between imports and domestic merchandise in this market.

Accordingly, I find that there is a limited potential for significant adverse effects on domestic prices by reason of the subject imports within the reasonably foreseeable future.

Accordingly, I find that the cumulated subject imports from China and Japan are not likely to have significant adverse effects on domestic prices upon revocation of the orders and finding.⁷⁶

3. *Likely Impact of the Cumulated Imports from China and Japan*

In evaluating the likely impact of imports of subject merchandise if the antidumping duty 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.⁷⁷ 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.⁷⁸

In its original 1987 determination involving TRB imports from China and Japan, the Commission found that the large and stable volume and penetration of cumulated subject imports and increasing value at a time of declining shipments by the domestic industry, together with evidence of fairly consistent underselling by imports at a time of declining prices, demonstrated that the subject imports were a cause of material injury to the domestic industry.⁷⁹ In the original 1975 determination involving TRBs of less than 4 inches in diameter from Japan, the Commission found that the financial condition of the U.S. TRB industry had deteriorated since the LTFV import sales began and, given the market penetration and

⁷⁵ Id.

⁷⁶ In reaching my conclusion on the likely price effects of the subject imports, I have weighed all the pertinent evidence on price, including Commerce's duty absorption finding for Japan. I find that Commerce's duty absorption finding does not outweigh the other evidence indicating the lack of significant effects on price by reason of the subject imports. I note, however, that Commerce found that the administrative margins announced for the Japanese producers, after being adjusted for duty absorption, were lower than the margins found in the original investigation and used these as its likely margins in this proceeding. CR and PR at TRB-I-7. Because Commerce used the higher original margins as its likely sunset margins (thus indicating the level at which the Japanese imports can be expected to be priced upon revocation), I believe that the duty absorption findings are of little import in this proceeding. Moreover, I note that a recent CIT decision (*SKF USA Inc., et al. v. United States*, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to transition orders.

⁷⁷ 19 U.S.C. § 1675a(a)(4).

⁷⁸ 19 U.S.C. § 1675a(a)(4).

⁷⁹ USITC Pub. 1983 at 15.

underselling by Japanese imports, that the U.S. TRB industry would likely be injured by reason of LTFV imports from Japan.⁶⁸

I find that the U.S. industry is not currently in a vulnerable state. Despite the continued significant presence of imports in the market, the industry's condition is strong and has improved since the 1987 investigations in a number of ways that are unrelated to the orders. The industry is concentrated and retains a dominant share of the TRBs market, with its market share staying at the eighty percent range throughout the period of review.⁶⁹ Domestic prices have been increasing during a period of increasing demand and demand is expected to continue to increase for the reasonably foreseeable future. The industry remains reasonably profitable, as its operating income levels have ranged from *** and *** percent during 1997 to 1999.⁷⁰ In fact, Timken, the dominant U.S. producer, has shown *** throughout the review period.⁷¹ Finally, the industry's capacity utilization rates have increased considerably since the 1987 investigations and its sales revenues and production volumes are strong.⁷²

As I discussed above, the record of this review indicates that the subject imports from China and Japan are not likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the finding and orders were revoked. Accordingly, I also find that the cumulated subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the finding and orders would not be likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Accordingly, I find that revocation of the antidumping orders and finding covering TRBs from China and Japan is not likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders and finding covering these imports would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

D. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING TAPERED ROLLER BEARINGS FROM HUNGARY IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Hungary would not be likely to have a discernible adverse impact on the domestic industry if the Hungarian antidumping duty order were revoked. Accordingly, I have not cumulated the subject imports from Hungary with the other subject imports for purposes of my sunset analysis. In addition, for the reasons outlined previously, I find that the subject imports from Hungary are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the

⁶⁸ USITC Pub. 714 at 5-6.

⁶⁹ CR and PR at Table TRB-I-1.

⁷⁰ CR and PR at Table TRB-I-1.

⁷¹ CR and PR at Table-TRB-III-8, CR at TRB-III-11, PR at TRB-III-5.

⁷² CR and PR at Table-TRB-I-1.

subject imports from Hungary 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.⁷³

⁷³ As discussed above, I find that the domestic industry is currently not vulnerable to imports. I have further taken into account the Commission's findings in its original determination in my analysis. I note that the record indicates that there is only a limited possibility that the Hungarian imports would be able to engage in product shifting in their facilities. I further note that there are no antidumping or countervailing duty orders in third country markets covering Hungarian imports and that the inventory levels of the Hungarian imports are minimal in comparison to total domestic consumption.

E. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING TAPERED ROLLER BEARINGS FROM ROMANIA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Romania are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the subject imports from Romania with the other subject imports for purposes of my sunset analysis. In addition, for the reasons I outlined previously, I find that the subject imports from Romania are not likely to have significant adverse volume or price effects on the domestic industry after revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Romania 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.⁷⁴

II. BALL BEARINGS FROM FRANCE, GERMANY, ITALY, JAPAN, ROMANIA, SINGAPORE, SWEDEN, AND THE UNITED KINGDOM

A. Cumulation

1. General

In this case, the reviews of the orders covering ball bearings (“BBs”) from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom were initiated on the same day. Accordingly, I have considered first whether the subject imports from the subject countries are likely to have a “discernible adverse impact” on the domestic industry upon revocation of the orders. If I find that imports from any one of these countries are not likely to have a discernible adverse impact on the domestic industry upon revocation of the order, then I am precluded from cumulating the imports from that country with those of any other subject country. If I find that they are likely to have a discernible adverse impact on the industry upon revocation of the order, I must then consider whether it is appropriate to exercise my discretion to cumulate the subject countries.

I discuss my cumulation analysis for each of these countries below.

2. Discernible Adverse Impact

- a. The Subject Imports from Sweden Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within the Reasonably Foreseeable Future If the Swedish Order is Revoked

⁷⁴ As discussed above, I find that the domestic industry is currently not vulnerable to imports. I have further taken into account the Commission’s findings in its original determination in my analysis. I note that the record indicates that there is only a limited possibility that the Romanian imports would be able to engage in product shifting in their facilities. I further note that there are no antidumping or countervailing duty orders in third country markets covering Romanian imports and that the inventory levels of the Romanian imports are minimal in comparison to total domestic consumption.

I determine that the subject imports from Sweden are not likely to have a discernible adverse impact on the domestic industry if the Swedish order is revoked. Currently, Sweden's market share levels are at a minimal level of 0.1 percent.⁷⁵ Sweden's market share was minimal throughout the original period of investigation, ranging between 0.4 and 0.7 percent throughout the period of investigation.⁷⁶ Moreover, Sweden has an extremely small level of total capacity, with their current capacity being only *** BBs.⁷⁷ Thus, the Swedish producer's total capacity was equivalent to less than *** percent of total domestic consumption in 1998.⁷⁸ In addition, the Swedish producer is operating at reasonably high capacity utilization rates, with its capacity utilization rate being *** percent in 1998 and *** percent in interim 1999.⁷⁹ Accordingly, the Swedish producer's current available capacity is equivalent to a minuscule percentage of total domestic consumption, equaling only *** percent of domestic consumption in 1999. In light of Sweden's historically small market share levels and the minuscule amount of available Swedish capacity, it is unlikely that Sweden will ship any additional volumes of BBs to the United States upon revocation of the Swedish order.

I also find that the subject imports from Sweden will not have a discernible adverse impact on domestic prices upon revocation of the order. First, the minimal volumes of Swedish subject imports likely to be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future. Moreover, although there is little usable price comparison data for the Swedish imports in this review, the average unit values of data indicate that the Swedish imports have been priced significantly higher than the domestic merchandise.⁸⁰ While I recognize that there are product mix issues inherent in average unit value data, this limited data suggest that the Swedish imports are not likely to undersell the domestic merchandise significantly upon revocation of the order.

Accordingly, I find that the subject imports from Sweden would not be likely to have a discernible adverse impact on the domestic industry if the order were revoked. I have, therefore, not cumulated the subject imports from Sweden with the subject imports from other countries for purposes of my analysis in this review.

b. The Subject Imports from Romania Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within A Reasonably Foreseeable Time If the Romanian Order is Revoked

I also find that the subject imports from Romania would not be likely to have a discernible adverse impact on the domestic industry if the Romanian order is revoked. Currently, Romania's market share levels are minuscule, staying at 0.1 percent throughout the period from 1997 to 1999.⁸¹ Moreover, during the original period of investigation, Romania's market share was minimal as well, remaining between 0.6

⁷⁵ CR and PR at BB-I-1

⁷⁶ CR and PR at BB-I-1.

⁷⁷ CR and PR at Table BB-IV-9.

⁷⁸ Investigative Staff Response to Commissioner Hillman inquiry, dated May 25, 2000.

⁷⁹ Id.

⁸⁰ CR and PR at Table C-2.

⁸¹ CR and PR at Table BB-I-1.

and 0.7 percent throughout the period of investigation.⁸² These historical patterns of low importation levels indicate that the Romanian producers are unlikely to ship more than minimal additional volumes of merchandise to the United States within a reasonably foreseeable time.

Moreover, the very limited available data indicate that Romania has a small amount of available capacity that could be used to ship additional volumes of BBs to the United States. Although Romania was operating at relatively low capacity utilization rates in 1998 and interim 1999,⁸³ Romanian total production capacity is not particularly large when compared to total domestic consumption⁸⁴ and the total available capacity of the Romanian producers would be equivalent to less than *** percent of domestic consumption in interim 1999.⁸⁵ While this is not necessarily an inconsequential amount of potential production, the record also indicates that the Romanian producers are still adjusting to the changeover of the Romanian economy from a non-market economy to a market-oriented economy.⁸⁶ Moreover, the record also indicates that the single largest Romanian producer, Koyo Romania, is affiliated with the significant domestic producer, Koyo Corp.,⁸⁷ which provides a significant disincentive for the export of merchandise by Koyo Romania to the United States. Finally, the record indicates that none of the subject producers in Romania are pre-certified for sales to major OEMs.⁸⁸ In light of the fact that Romania has historically had minuscule market share levels, that Romania has a small amount of available capacity, that the country is undergoing significant economic changes, and that the largest producer is affiliated with a significant domestic producer, I find that it is unlikely that Romania would ship more than minimal levels to the United States upon revocation of the order.

I also find that the record indicates that the subject imports from Romania will not have a discernible adverse impact on domestic prices upon revocation of the order. In this regard, the minimal volumes of Romanian imports that would be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future.

For the foregoing reasons, I find that minimal volumes of subject imports from Romania that may occur upon revocation of the orders are unlikely to have a discernible adverse impact on the domestic industry. I have, therefore, not cumulated the subject imports from Romania with imports from the other subject countries for purposes of my analysis in this review.

c. The Subject Imports from the United Kingdom Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within the Reasonably Foreseeable Future If the British Order is Revoked

⁸² CR and PR at Table BB-I-1.

⁸³ CR and PR at Table BB-IV-6.

⁸⁴ Romania's total capacity level in interim 1999 was equivalent to *** percent of total domestic consumption. CR and PR at BB-IV-6; Investigative Staff response to Commissioner Hillman inquiry, dated May 25, 2000.

⁸⁵ CR and PR at BB-IV-6, Investigative Staff response to Commissioner Hillman inquiry, dated May 25, 2000.

⁸⁶ CR at BB-IV-17, PR at BB-IV-9.

⁸⁷ CR and PR at Table BB-I-1, CR at BB-IV-17, PR at BB-IV-9. Koyo Romania accounted for *** percent of Romanian production in 1998 while Koyo Corp. accounted for *** percent of domestic production. I note that the two producers have similar capacity levels. CR at BB-IV-17, PR at BB-IV-9; CR and PR at Table BB-I-1; Investigative Staff Response to Commissioner Miller inquiry, dated June 1, 2000.

⁸⁸ CR at BB-II-14, PR at BB-II-7.

I find that the subject imports from the United Kingdom are not likely to have a discernible adverse impact on the domestic industry if the British order is revoked. Like Romania and Sweden, the United Kingdom's market share remained at very low levels throughout the original period of investigation, with its market share ranging from 0.7 percent in 1985 to 0.9 percent in 1987.⁸⁹ Currently, the UK's market share remains at a low level, staying at the 0.4 to 0.5 percent level throughout the period of review.⁹⁰ These historical patterns of low importation levels suggest that the British producers are unlikely to ship more than minimal additional volumes of merchandise to the United States within the reasonably foreseeable future.

Moreover, the United Kingdom has a relatively small amount of unused capacity that could be used to increase shipments of BBs to the United States upon revocation of the order. Although the British producers' capacity levels are higher than those of the Swedish and Romanian producers, and were equivalent to *** percent of domestic consumption in 1998 and interim 1999,⁹¹ the British have been operating at high capacity utilization rates during the period of review, with their capacity utilization rate being *** percent in 1997, *** percent in 1998, and *** percent in interim 1999.⁹² The British producers' available capacity would only be equivalent to approximately *** percent of domestic consumption in 1999.

In addition, the dominant British producer, NSK-RHP Europe, is an affiliate of the domestic producer NSK and accounts for *** of British BB production.⁹³ Since NSK is the *** largest U.S. producer (accounting for *** percent of domestic shipments in 1998),⁹⁴ this affiliation is likely to act as a significant disincentive to NSK-RHP Europe to ship additional amounts of imports to the United States upon revocation. In light of the United Kingdom's historically small market share levels, its relatively small amount of available capacity, and the existence of a significant affiliation between the *** largest domestic producer and the dominant British producer, I find that it is unlikely that the United Kingdom will ship even minimal amounts of BBs to the United States upon revocation of the orders.

I also find that the record indicates that the subject imports from the United Kingdom will not have a discernible adverse impact on domestic prices upon revocation of the order. The minimal volumes of British imports that would be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future.

For the foregoing reasons, I find that minimal volumes of subject imports from the United Kingdom that can be expected upon revocation of the orders are unlikely to have a discernible adverse impact on the domestic industry. I have, therefore, not cumulated the subject imports from the United Kingdom with imports from the other subject countries for purposes of my analysis in this review.⁹⁵

⁸⁹ CR and PR at Table BB-I-1.

⁹⁰ CR and PR at Table BB-I-1.

⁹¹ CR and PR at Table BB-IV-9, Foreign Capacity Chart, dated June 1, 2000. The British producers' capacity was equal to approximately *** BBs in 1998. Id.

⁹² CR and PR at Table BB-IV-9.

⁹³ CR at BB-IV-23, PR at BB-IV-11.

⁹⁴ CR and PR at Table BB-I-11.

⁹⁵ I have also considered whether imports from France, Germany, Italy, Japan, and Singapore would be likely to have a discernible adverse impact on the industry upon revocation of the order. In the case of Italy, Japan and Singapore, I find that the record does not support a finding of no likely discernible adverse impact on the industry. The record indicates that each of these three countries currently has substantial levels of capacity and that each

(continued...)

⁹⁵ (...continued)

country has enough unused capacity to ship volumes that might have a discernible impact on the industry upon revocation. As for France, we have a limited amount of data available. However, as I discuss below, that data indicates that the French producers are operating at lower capacity utilization rates than the other subject producers and that they have ample production capacity. Finally, I believe it is a close call with respect to Germany, in light of their extremely high capacity utilization rates and somewhat low capacity levels. Because cumulation of the German imports with those from Italy, Japan and Singapore would not make a difference in my analysis, I have chosen not to find that the German imports are likely to have no discernible adverse impact on the industry.

3. Reasonable Overlap of Competition for Germany, Italy, Japan, and Singapore

I have chosen to exercise my discretion to cumulate the subject imports of BBs from Germany, Italy, Japan and Singapore for purposes of my analysis in this review. However, I exercise my discretion not to cumulate the subject imports from France with imports from Germany, Italy, Japan, and Singapore, primarily because there are significant differences in the likely conditions of competition between imports from France and those four countries.

First, I find that the record indicates that there is likely to be a reasonable overlap of competition among imports from the five subject countries and the domestic merchandise upon revocation of the order. Most purchasers report that the French, German, Italian, Japanese and Singaporean imports of BBs are interchangeable with the domestically produced BBs.⁹⁶ Moreover, the record indicates that bearings from these three countries are sold in similar channels of trade, with the large majority of domestic and imports shipments being made to original equipment manufacturers (OEMs).⁹⁷ Finally, the subject imports from each of these countries have been present continuously in the U.S. market and have been sold throughout the U.S. market.⁹⁸

On the whole, the record suggests that there is a reasonable degree of likely competitive overlap between imports from these countries and the domestic merchandise. The record indicates that the imports and the domestic merchandise are likely to be reasonably interchangeable, that they are likely to be sold in similar channels of trade, and that the subject imports and the domestic merchandise are likely to be sold throughout the nation and to be simultaneously present upon revocation of the order.

Accordingly, I have exercised my discretion to cumulate the subject imports from Germany, Italy, Japan and Singapore for purposes of my analysis in this review. However, I exercise my discretion not to cumulate the subject imports from France with the subject imports from Germany, Italy, Japan, and Singapore. In this regard, I note that the record indicates that the subject imports from France are likely to be subject to significantly different conditions of competition upon revocation of the orders. First, unlike the industries in the four other countries, there is not a significant degree of affiliation between the French producers and the domestic BB industry.⁹⁹ In France, two of the four significant French BB producers are not affiliated with domestic producers,¹⁰⁰ while most or all of the large subject producers in Germany, Italy, Japan and Singapore do have such affiliations.¹⁰¹ Second, the limited data indicate that the French producers are likely to be operating at significantly lower capacity utilization rates than the German, Japanese, Italian and Singaporean producers.¹⁰²

Given these differences in the conditions of competition between France and the other subject countries, I have concluded that the subject French producers are significantly more likely than the other

⁹⁶ CR/PR at Table BB-II-3.

⁹⁷ CR at BB-I-33, PR at BB-I-28.

⁹⁸ CR at BB-I-42 and Table BB-I-1, PR at I-36 ; Torrington Prehearing Brief at 11-12.

⁹⁹ CR and PR at Table BB-I-11.

¹⁰⁰ See CR and PR at Table BB-I-11 & CR at BB-IV-7, PR at BB-IV-1.

¹⁰¹ The record indicates that the four large German producers, the sole Singaporean producer, the dominant Italian producer and three of four large Japanese producers are affiliated with domestic BB producers. CR and PR at Table BB-I-11, CR at BB-IV-9-19, PR at BB-IV-6-11, Foreign Capacity Charts, dated June 1, 2000.

¹⁰² CR and PR at Tables BB-IV-3-9.

subject producers to increase their exportation level to the United States significantly upon revocation of the order.¹⁰³ Accordingly, I have chosen not to cumulate the French imports with the other imports.

B. CONDITIONS OF COMPETITION

In evaluating the likely impact of the subject imports on the domestic 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.”¹⁰⁴ The BB market in the United States is characterized by the following conditions of competition:

First, demand for BBs is directly affected by demand for automobiles, which is a significant end use of BBs. The automotive industry is a significant consumer of BBs, and the revitalized U.S. automobile market has helped spur demand growth since the original investigations.¹⁰⁵ Other growth markets include computer disc drives, computer peripherals, and fractional motors.¹⁰⁶ Demand has grown considerably since the original investigations. By value, apparent consumption of BBs has more than doubled since 1987, with total consumption increasing from \$1.6 billion of BBs in 1987 to \$3.25 billion in 1998.¹⁰⁷ However, apparent consumption has been relatively flat during the period of review, increasing by only 1.4 percent between 1997 and 1998 and declining by 3.2 percent between interim 1998 and interim 1999.¹⁰⁸

Second, the capacity of the domestic industry has increased significantly since the original investigations.¹⁰⁹ Domestic capacity more than doubled overall from 1987 to 1998, with capacity increasing from 259 million BBs in 1987 to 641 million BBs in 1998. Although domestic capacity has grown considerably, capacity utilization has remained relatively stable, ranging between 70 percent and 76 percent during the period of review.¹¹⁰ Even with this significant capacity expansion, the industry’s capacity levels were significantly lower than overall domestic consumption in 1998 and interim 1999, which indicates that the domestic producers are unable to supply demand for BBs in the market.¹¹¹

Third, the domestic industry producing BBs is fairly dispersed and unconcentrated. Thirty-six firms reported producing ball bearings in 1998, with no one producer representing more than *** percent

¹⁰³ I also note that three of the four large French producers have not submitted questionnaire data in this proceeding.

¹⁰⁴ 19 U.S.C. § 1675a(a)(4).

¹⁰⁵ CR at BB-II-5, PR at BB-II-3.

¹⁰⁶ CR at BB-I-29, PR at BB-I-25. BBs are used in many manufacturing applications and few substitutes exist. However, BBs typically account for a very small percentage of the cost of finished goods. CR at BB-II-6-7, PR at BB-II-4.

¹⁰⁷ CR and PR at Table BB-I-1.

¹⁰⁸ CR and PR at Table BB-I-1.

¹⁰⁹ CR and PR at Table BB-I-1.

¹¹⁰ CR and PR at Table BB-I-1.

¹¹¹ For example, domestic capacity was 641 million BBs in 1998 while apparent consumption was 1.315 billion BBs in 1998. CR and PR at Table C-2.

of domestic shipments in 1998.¹¹² Nonetheless, five firms accounted for nearly sixty percent of the domestic shipments in 1998.¹¹³

Fourth, like all bearings industries, the BB industry has become increasingly globalized as larger numbers of domestic producers have become affiliated with overseas bearings operations, including a number of subject producers.¹¹⁴ Of the 35 U.S. companies responding to the Commission's questionnaires, 16 reported having a corporate relationship with one or more bearings producers in subject countries, including four of the five largest subject countries in this review.¹¹⁵ Moreover, of the five largest domestic producers, only one (Delphi Automotive Systems) is not related to a subject bearings producer.¹¹⁶

Fifth, BBs are typically produced on dedicated machinery, and firms cannot easily switch production from one type of bearing to another.¹¹⁷ Likewise, domestic producers report that it is difficult for domestic producers to shift sales of BBs from domestic purchasers to overseas purchasers.¹¹⁸

Sixth, purchasers and producers report that the subject imports from all countries are generally interchangeable with the domestic merchandise, although there are some variations reported amongst countries with respect to quality, lead times, and product range, among other things.¹¹⁹ The staff estimates that there is a moderate to moderately high degree of substitutability between the subject imports and the domestic merchandise, with the elasticity of substitution being in the 3 to 5 range.¹²⁰

Seventh, quality is the most important factor in the purchase decision for bearings with 21 of 39 purchasers rating it the most important factor when selecting a supplier.¹²¹ Although price was not selected by most purchasers as the most important factor in the purchase decision, it was nonetheless selected as one of the three most important factors by 33 of 39 responding purchasers.¹²² However, twenty-three of thirty-eight responding bearings purchasers stated that they would not vary their supplier based on quarterly price changes, while only four purchasers stated that they would.¹²³ Finally, twenty-four of forty-one responding purchasers reported that they always or usually base their purchase decisions on the specific identity of the producer.¹²⁴

Eighth, generally, domestic producers report that they tend to negotiate contracts with OEM customers, which have durations of between three to five years.¹²⁵ Approximately 79 percent of

¹¹² CR and PR at Table BB-I-11.

¹¹³ ***. CR and PR at Table BB-I-1.

¹¹⁴ CR and PR at Table BB-I-11.

¹¹⁵ CR and PR at Table BB-I-1.

¹¹⁶ CR and PR at Table BB-I-11.

¹¹⁷ CR at BB-I-30, PR at BB-I-25.

¹¹⁸ CR at BB-II-1-2, PR at BB-II-1.

¹¹⁹ CR at BB-II-10, PR at BB-II-7.

¹²⁰ CR at BB-II-17.

¹²¹ CR and PR at Table BB-II-1.

¹²² CR and PR at Table BB-II-1.

¹²³ CR at BB-II-8, PR at BB-II-5.

¹²⁴ CR and PR at Table BB-II-2.

¹²⁵ CR at BB-V-3, PR at BB-V-2.

domestic producers' shipments of BBs are to OEMs while 96 percent of import shipments are made to OEMs. The remainder are made to distributors.¹²⁶

Finally, there is a substantial volume of nonsubject imports in the market currently. The market share held by nonsubject imports was 13.8 percent in 1997, 14.5 percent in 1998 and 16.1 percent in interim 1999. Total market share for subject and nonsubject imports was 29.5 percent in 1997, 30.1 percent in 1998, and 29.6 percent in interim 1999.¹²⁷ These levels are higher than those seen during the original period of investigation, when total import market shares ranged from 22 to 27 percent.¹²⁸

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide a reasonable basis on which to assess the likely effects of revocation within the reasonably foreseeable future.

C. REVOCATION OF THE ANTIDUMPING DUTY ORDERS COVERING BALL BEARINGS FROM GERMANY, ITALY, JAPAN AND SINGAPORE IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

1. Likely Volume of the Cumulated Imports from Germany, Italy, Japan and Singapore

In its original determinations, the Commission found the volume of subject imports to be both increasing and significant.¹²⁹ Although the market share of the subject imports has declined somewhat since the orders, their current market share levels remain substantial and their absolute volume levels have increased substantially since the orders.¹³⁰

I find that the cumulated subject imports from Germany, Italy, Japan and Singapore are not likely to enter the market in volumes that will be significant. First, the subject producers in each of these countries are currently operating at high capacity utilization rates, which indicates that there is little available unused subject capacity that can be used to increase shipments to the United States. For example, the available data indicate that the German producers of BBs are operating at *** high capacity utilization rates, with their capacity utilization rates being *** percent in 1998 and *** percent in interim 1999.¹³¹ Similarly, the Japanese producers are operating at very high capacity utilization rates, with their capacity utilization rates being 93.1 percent in 1998 and 91.1 percent in interim 1999.¹³² Moreover, the Italian and Singaporean producers, while operating at lower capacity utilization rates than the German and Japanese producers, are nonetheless still operating at high rates, with the Italian producers operating at *** percent of capacity in 1998 and *** percent of capacity in interim 1999 and the Singaporean

¹²⁶ CR at BB-I-33, PR at BB-I-28.

¹²⁷ CR and PR at Table BB-I-1.

¹²⁸ CR and PR at Table BB-I-1.

¹²⁹ USITC Pub. 2185 at 68-69.

¹³⁰ CR and PR at Table BB-I-1.

¹³¹ CR and PR at Table BB-IV-4.

¹³² CR and PR at Table BB-IV-6.

producers operating at *** and *** percent in 1998 and interim 1999, respectively.¹³³ These high levels of capacity utilization make it unlikely that the subject producers in Germany, Italy, Japan or Singapore would have an incentive to, or even be able to, increase their export levels to the United States significantly upon revocation of the orders.

Moreover, the other record evidence indicates that it is unlikely that the subject producers in these countries would increase their export levels to the United States upon revocation of the orders. First, most or all of the large BB producers in the four countries are affiliated with significant domestic producers of BBs. Three of the four large BB producers in Japan are affiliated with significant domestic producers of BBs.¹³⁴ The four large producers in Germany are related to significant domestic producers of BBs,¹³⁵ as are the two producers in Singapore¹³⁶ and the dominant Italian BB producer.¹³⁷ In light of the fact that bearings producers are continuing to establish production facilities in local markets for the purpose of serving those markets, these affiliations indicate that it is unlikely that the large subject producers in Germany, Japan, Italy and Singapore will increase their shipments to the United States significantly upon revocation of the orders.

Second, given their high capacity utilization rates, I believe that the subject producers are unlikely to change their existing shipment patterns simply because of the revocation of the orders. In this regard, the record indicates that the German and Japanese producers generally ship at least *** percent of their production to their home market customers, with the large bulk of the remainder going to third country markets.¹³⁸ The Italian and Singaporean producers ship a much larger portion of their production to third country markets.¹³⁹ In the absence of any significant expected decline in these markets or the capacity utilization rates of the producers, I find that it is unlikely that these producers will shift significant production volumes away from existing markets and customer relationships.

Third, the record indicates that the orders have not significantly limited the volumes of the subject imports in this market. While the market share of the cumulated subject imports has declined somewhat since the original investigation, they still retain a significant portion of the market.¹⁴⁰ Given that the domestic industry's capacity levels are substantially below apparent consumption, I believe that the record

¹³³ CR and PR at Tables BB-IV-5 & BB-IV-8.

¹³⁴ CR and PR at Table BB-I-11; CR at BB-IV-14, PR at BB-IV-9. In fact, the three Japanese producers (NSK, NTN and Koyo Seiko) are the three largest producers in Japan, accounting for nearly *** percent of total BB production in Japan in 1998. June 1, 2000 Foreign Production and Capacity Chart. These three producers are related to domestic producers accounting for *** percent of domestic shipments in 1998.

¹³⁵ CR and PR at Table BB-I-11, CR at BB-IV-9, PR at BB-IV-6. The four large German producers (Neuweg Fertigung, FAG Kugelfischer, NTN Germany, and SKF Germany) account for all reported BB production in Germany. June 1, 2000 Production and Capacity Chart. These four producers are related to domestic producers accounting for *** percent of domestic production. CR and PR at Table BB-I-11.

¹³⁶ The Singaporean producers, NMB/Pelmec, are related to the domestic producer, New Hampshire Ball Bearings, which accounted for *** percent of domestic production. CR and PR at Table BB-I-11, CR at BB-IV-19, PR at BB-IV-11.

¹³⁷ The dominant Italian producer, SKF, is related to the domestic producer, SKF, which accounted for *** percent of domestic production in 1998. CR and PR at Table BB-I-11, CR at BB-IV-12, PR at BB-IV-7.

¹³⁸ CR and PR at Tables BB-IV-4 & BB-IV-6.

¹³⁹ CR and PR at Tables BB-IV-5 & BB-IV-8.

¹⁴⁰ The market share of the cumulated subject imports was 14.2 percent in 1998, which compares with a market share of 19.5 percent in 1987. CR and PR at Table BB-I-1.

indicates that this continued market presence is primarily due to the inability of the domestic industry to supply overall demand in this market. Moreover, because the orders have had little restraining effect on the volume of the subject imports during the period of review, I find that revocation of these orders is unlikely to result in a significant increase in their volume levels and will have little effect on their competitive behavior in this market.

Finally, I note that there is little likelihood of product shifting from other types of antifriction bearings to BBs because the record indicates that such shifting is difficult.¹⁴¹ Moreover, there are no other formal barriers to imports from these countries in other markets.¹⁴² These factors also indicate that significant additional subject import volumes upon revocation is unlikely.

Accordingly, I find that the volume of the subject imports is not likely to change significantly upon revocation of these orders.

2. *Likely Price Effects of the Cumulated Imports from Germany, Italy, Japan and Singapore*

In its original determinations, the Commission found evidence of underselling and found that subject imports were suppressing prices for the domestic product.¹⁴³ The Commission found that demand for BBs was relatively price inelastic and was marked by a fair degree of price competition.

Nonetheless, I find that the subject imports are not likely to have significant adverse effects on domestic prices within a reasonably foreseeable time if the orders are revoked. As an initial matter, I recognize that the record indicates that there is a moderately high level of substitutability between the subject imports and the domestic merchandise and that price is a relatively important consideration in the purchase decision. Nonetheless, as I discussed above, the record indicates that it is unlikely that there will be a significant increase in the volumes of the cumulated subject imports upon revocation of the orders. Moreover, I find nothing in the record that would indicate that the subject imports would change their pricing practices in a way that would have a significant negative impact on the industry at their current volume levels. Accordingly, I find that it is unlikely that the subject imports will have a significant adverse impact on domestic prices upon revocation of the orders.

I note that the record of these reviews indicates that the bearings markets, including the BB market, are not particularly price-sensitive markets. Although price is an important aspect of the purchase decision for bearings products, the record indicates that twenty-one of thirty-nine purchasers stated that quality was the most important factor when selecting a bearing supplier.¹⁴⁴ Moreover, twenty-three of thirty-eight responding purchasers stated that they would not vary their supplier based on quarterly price changes, while only four purchasers stated that they would.¹⁴⁵ In addition, the record of these reviews indicates that bearings products, including BBs, are increasingly becoming design-oriented, customized products for which non-price considerations (such as quality, availability, technical support, and product range) are becoming more important considerations in the purchase decisions. Given all of

¹⁴¹ CR at BB-I-30, PR at BB-I-25.

¹⁴² CR at BB-IV-9, IV-12, IV-15, IV-19, and IV-23, PR at IV-6, IV-7, IV-8, IV-11.

¹⁴³ USITC Pub. 2185 at 68-69.

¹⁴⁴ CR and PR at Table BB-II-1.

¹⁴⁵ CR at BB-II-8, PR at BB-II-5.

this, I find that there is a significant structural limitation in this market on the ability of the subject imports to have a significant adverse impact on domestic prices.

Moreover, the limited pricing data collected in the course of these reviews does not give clear evidence of a consistent pattern of underselling or overselling in this proceeding, though the data do indicate that underselling occurred in more than half of the transactions covered.¹⁴⁶ When overselling by subject imports did occur, there were significant volume discrepancies which may explain the degree of overselling.¹⁴⁷ Moreover, even for products for which there was consistent underselling by the subject imports, the record does not indicate that price movements for the domestic merchandise were related to, or affected by, movements in the price of the subject imports.¹⁴⁸ In light of the fact that there have been substantial volumes of imports in the market during the period of review, I find that the price comparison evidence suggests that the subject imports have not had a significant impact on domestic prices. Moreover, because significant additional volumes of the subject imports are unlikely to enter the market upon revocation of the orders, I believe that it is unlikely that the price effects of the cumulated subject imports will be significantly worse upon revocation of the orders.

Finally, as I discussed above, most of the major producers in the four subject countries are related to significant domestic producers. To the extent that the subject producers do compete in the market, I believe that these affiliations will cause them to avoid engaging in aggressive pricing behavior that would have an adverse impact on the prices of their affiliated domestic producers.

Accordingly, I find that the cumulated subject imports from Germany, Italy, Japan and Singapore are not likely to have significant adverse effects on domestic prices upon revocation of the orders.¹⁴⁹

3. *Likely Impact of the Cumulated Imports from Germany, Italy, Japan and Singapore*

In its original determinations, the Commission found that the volume and price effects of subject imports were significant and had an adverse impact on the domestic industry, as shown by the consistent decline in the profitability of the domestic industry.¹⁵⁰

I find that the domestic industry is not currently in a vulnerable state. Despite the continued significant and increasing presence of imports in the market since the imposition of the orders, the

¹⁴⁶ CR/PR at Table BB-IV-19.

¹⁴⁷ See, e.g., CR/PR at Table BB-V-2.

¹⁴⁸ CR and PR at Tables BB-V-2-V-18.

¹⁴⁹ In reaching my conclusion on the likely price effects of the subject imports, I have weighed all the pertinent evidence on price, including Commerce's duty absorption findings for France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom. I find that these duty absorption findings do not outweigh the other evidence that indicates a lack of significant price effects by reason of the subject imports from Germany, Italy, Japan, Singapore, Sweden and the United Kingdom. Moreover, I note that Commerce found that the administrative margins announced for the French, German, Italian, Japanese, Singaporean and British producers, after being adjusted for duty absorption, were lower than the margins found in the original investigation and used the original margins as its likely margins in this proceeding. Because Commerce used the higher original margins as its likely sunset margins (thus indicating the level at which these imports can be expected to be priced upon revocation), the duty absorption findings are of little import in this proceeding. Finally, a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to transition orders.

¹⁵⁰ USITC Pub. 2185 at 68-69.

industry's condition is strong and has improved in ways unrelated to the order. Although the record indicates that the industry has lost some market share since the original period of investigations, the industry retains a dominant share of the market, with its market share ranging from 68.1 percent to 70.5 percent during the period of review.¹⁵¹ Moreover, the industry's capacity levels have more than doubled since the original period of investigation, with the industry's production, shipment and sales revenues showing similar increases as well.¹⁵² Further, the industry's capacity utilization rates have remained stable and reasonably high, ranging from 70.1 to 76.1 percent during the period of review. These capacity utilization rates are similar to the levels seen during the original investigation.¹⁵³ Finally, the industry's operating income levels are strong and have ranged between 5.7 and 7.5 percent during the period of review.¹⁵⁴

As I discussed above, the record of this review indicates that the subject imports from Germany, Italy, Japan and Singapore are not likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the orders were revoked. Accordingly, I also find that the cumulated subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the orders would not be likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Finally, an important factor in my determination is the fact that the domestic industry supports revocation of these orders. Nearly sixty percent of the industry affirmatively supports revocation of the orders.¹⁵⁵ An additional 11.6 percent of the industry takes no position on whether the orders should be revoked. Only 31.0 percent of the industry supports continuation of the orders.¹⁵⁶ In my view, if the industry as a whole finds that an order or group of orders is not necessary, that fact should weigh heavily in favor of revoking the orders. As the Court of Appeals for the Federal Circuit has stated in the context of reviewing a threat determination by the Commission:

The views of the potentially threatened domestic industry on the nature of the threat . . . are without doubt relevant to whether the domestic industry faces a threat of material injury. The industry best knows its own economic interests and, therefore, its views can be considered an economic factor. Indeed, an industry's failure to acknowledge an affirmative threat has direct significance [to the Commission's threat finding] And in the difficult enterprise of projecting future economic harm, the industry's views take on added relevance. Moreover, publicly

¹⁵¹ CR and PR at Table BB-I-1.

¹⁵² CR and PR at Table BB-I-1.

¹⁵³ CR and PR at Table BB-I-1.

¹⁵⁴ CR and PR at Table BB-I-1.

¹⁵⁵ CR at BB-I-41, PR at BB-I-35. The percentage of the industry is calculated on the basis of shares of domestic shipments in 1998.

¹⁵⁶ CR at BB-I-41, PR at BB-I-35.

expressed industry support for the petition, or lack of it, is probative evidence of those views. (emphasis added)¹⁵⁷

Indeed, as recently as last month, the Commission stated that “the fact that the domestic industry no longer supports retention of the orders” was “a central factor” in its negative sunset determinations with respect to industrial phosphoric acid from Israel and Belgium.¹⁵⁸

Accordingly, I find that revocation of the antidumping orders covering BBs from Germany, Italy, Japan, and Singapore would not be likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders covering these imports would not be likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.

D. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING BALL BEARINGS FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Sweden are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the Swedish imports with other subject imports for purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from Sweden are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Sweden 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.¹⁵⁹

E. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING BALL BEARINGS FROM ROMANIA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Romania are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the Romanian imports with other subject imports for

¹⁵⁷ Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 Federal Reporter 978, 984 (Fed. Cir. 1994).

¹⁵⁸ Industrial Phosphoric Acid from Israel and Belgium Invs. Nos. 701-TA-286 (Review) and 731-TA-365 (Review), USITC Pub. 3302 at 4 & 16 (May 2000)(Commission stating that withdrawal of support for continuation was a “central factor” in negative finding; Vice Chairman Miller noting that it is “compelling evidence” of a lack of likely injury upon revocation).

¹⁵⁹ As discussed above, I find that the domestic industry is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission’s findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in BB facilities and that there are no antidumping or countervailing duty orders in third countries covering the Swedish imports. Finally, I note that the inventory levels of the Swedish imports are minimal when compared to total domestic consumption. CR and PR at Table BB-IV-2.

purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from Romania are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Romania 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.¹⁶⁰

F. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING BALL BEARINGS FROM THE UNITED KINGDOM IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from the United Kingdom are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the British imports with other subject imports for purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from the United Kingdom are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from the United Kingdom 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.¹⁶¹

G. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING BALL BEARINGS FROM FRANCE IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I have chosen not to cumulate the French imports with other subject imports for purposes of my analysis. Although it is a close call given the lack of industry support for continuation of the French order and the structural conditions of competition that otherwise limit possible volume and price effects from the subject imports in this market, I find that the subject imports from France are likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order.

In this regard, I first note that the Commission was able to obtain a limited amount of data concerning the French industry. Of the three known significant producers in France, only one, SKF-

¹⁶⁰ As discussed above, I find that the domestic industry producing BBs is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in BB facilities and that there are no antidumping or countervailing duty orders covering the Romanian imports. Finally, I note that the inventory levels of the Romanian imports are minimal when compared to total domestic consumption. CR and PR at Tables BB-IV-2 & BB-IV-5.

¹⁶¹ As discussed above, I find that the domestic industry is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in BB facilities and that there are no antidumping or countervailing duty orders in third countries covering the British imports. Finally, I note that the inventory levels of the British imports are minimal when compared to total domestic consumption. CR and PR at Tables BB-IV-2.

France, responded to the Commission's questionnaire.¹⁶² In that questionnaire, SKF-France reported that it had total capacity of *** BBs and that it was operating at a capacity utilization rate of *** percent. SKF also reported that it accounted for approximately *** percent of French production of BBs in 1998.¹⁶³ Assuming that SKF's estimate is correct, this indicates that total BB capacity in France in 1998 may have equaled approximately *** BBs, which was equivalent to *** percent of total domestic consumption in 1998. If the entire French industry were operating at the same capacity rate as SKF (i.e., *** percent), this would suggest that the French industry has at least *** percent of its *** BB capacity available to increase shipments to the United States, assuming (as the record indicates) that a *** percent capacity utilization rate can generally be considered full capacity utilization in this industry. Thus, this limited record evidence indicates that the French could, upon revocation, ship more than *** BBs to the United States, which would equal nearly *** percent of total consumption in 1998.

Given that the available evidence indicates that the French industry may have a tendency to export the bulk of their merchandise to third country markets,¹⁶⁴ I believe that the French producers are likely to use their substantial available capacity to increase their export levels to the United States significantly upon revocation of the order. Moreover, because the French imports currently have a minimal presence in the market and because there is a reasonable degree of substitutability between the subject and domestic merchandise, I believe that the French producers (in particular, the two significant producers who are not related to domestic producers) are likely to try to achieve market share gains through aggressive price competition with the industry. Accordingly, I find that revocation of the order on the subject imports from France is likely to lead to significant adverse volume and price effects on the industry. I therefore find that revocation of the order will be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁶⁵

III. CYLINDRICAL ROLLER BEARINGS FROM FRANCE, GERMANY, ITALY, JAPAN, SWEDEN, AND THE UNITED KINGDOM

A. Cumulation

1. General

In this case, the reviews of the orders covering cylindrical roller bearings ("CRBs") from France, Germany, Italy, Japan, Sweden, and the United Kingdom were initiated on the same day. Accordingly, I have considered first whether the subject imports from the subject countries are likely to have a "discernible adverse impact" on the domestic industry upon revocation of the orders. If I find that imports from any one of these countries are not likely to have a discernible adverse impact on the domestic industry upon revocation of the order, then I am precluded from cumulating the imports from that country

¹⁶² CR at Table BB-IV-3 & BB-IV-7-9, PR at Table-BB-IV-3 & BB-IV-1.

¹⁶³ CR at Table BB-IV-3 & BB-IV-7-9, PR at Table-BB-IV-3 & BB-IV-1.

¹⁶⁴ Moreover, the available data indicate that the reporting French producer ships more than *** percent of its BBs to third country markets. CR and PR at Table BB-IV-3.

¹⁶⁵ As discussed above, I find that the domestic industry is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in BB facilities and that there are no antidumping or countervailing duty orders in third countries covering the French imports.

with those of any other subject country. If I find that they are likely to have a discernible adverse impact on the industry upon revocation of the order, I must then consider whether it is appropriate to exercise my discretion to cumulate the subject countries.

I discuss my cumulation analysis for each of these countries below.

2. *Discernible Adverse Impact*

a. The Subject Imports from Italy Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within The Reasonably Foreseeable Future If the Italian Order is Revoked

I find that the subject imports from Italy are not likely to have a discernible adverse impact on the domestic industry if the Italian order were revoked. Currently, the market share of the Italian imports has been small, ranging between 1.1 and 1.5 percent throughout the period of review.¹⁶⁶ During the original period of investigation, Italy's market share was minuscule, remaining at the *** percent level throughout the period of investigation.¹⁶⁷ These historical patterns of low importation levels suggest that the Italian producers are unlikely to ship more than minimal additional volumes of merchandise to the United States within the reasonably foreseeable future.

Moreover, the very limited available data indicate that Italy has a very small amount of CRB capacity. Although only two of six bearing producers in Italy responded to our questionnaires, the staff believes that these producers account for the majority of Italian production of CRBs.¹⁶⁸ The data submitted by these two producers indicate that total Italian production of CRBs in 1998 would have been equal to an extremely small percentage of apparent domestic CRB consumption in 1998.¹⁶⁹ Moreover, the record suggests that the Italian producers are likely to be operating at reasonably high capacity utilization rates, with the sole reporting producer's capacity utilization rate being *** percent in 1998 and interim 1999. Thus, the available data suggest that the Italian producers have an extremely small amount of available capacity that could be used to ship merchandise to the United States upon revocation of the order. In addition, one of the two large Italian producers reports that it produces CRBs only to customer specifications, which suggests that it is unlikely to be competing in a part of the CRB market that would shift significant volumes in response to price changes. In light of this, and given the Italian producers' historically small market share levels, the limited available data indicates that the Italian producers are unlikely to increase their exports to the United States in more than a minimal way upon revocation of the order.

¹⁶⁶ CR and PR at Table CRB-I-1.

¹⁶⁷ CR and PR at Table CRB-I-1.

¹⁶⁸ CR at CRB-IV-9, PR at CRB-IV-5.

¹⁶⁹ We have very limited capacity data for Italy. Nonetheless, the total production volume reported by the two responding Italian producers was *** CRBs in 1998. CR and PR at Table CRB-IV-5. Given that the staff believes that these producers account for a majority of Italian production, this indicates that total Italian production of CRBs in 1998 was *** CRBs, at most. This production volume would have been equivalent to less than *** percent of total domestic consumption in 1998. Even if the Italian producers operated at an extremely low capacity utilization rate, such as *** percent, for example, their total available capacity would only equal *** percent of domestic consumption in 1998.

The record also indicates that the subject imports from Italy will not have a discernible adverse impact on domestic prices upon revocation of the order. First, the minimal volumes of Italian imports that would be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future. Second, although there is little usable price comparison data for the Italian imports in this review, the data indicate that the Italian imports have been priced significantly above the domestic merchandise during the period of review.¹⁷⁰ This suggests that the Italian imports are unlikely to undersell the domestic merchandise significantly upon revocation of the order.

For the foregoing reasons, I find that minimal volumes of subject imports from Italy that can be expected upon revocation of the orders are unlikely to have a discernible adverse impact on the domestic industry. I have, therefore, not cumulated the subject imports from Italy with imports from the other subject countries for purposes of my analysis in this review.

b. The Subject Imports from Sweden Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within the Reasonably Foreseeable Future If the Swedish Order is Revoked

I also determine that the subject imports from Sweden are not likely to have a discernible adverse impact on the domestic industry if the Swedish order is revoked. Currently, Sweden's market share levels are below 0.05 percent.¹⁷¹ Moreover, Sweden's market share was minimal throughout the original period of investigation, remaining at a level of *** percent throughout the period of investigation.¹⁷² Finally, SKF, the sole Swedish bearings producer, reports that there has been no production of CRBs in Sweden since the mid-1990s. Accordingly, I find that it is unlikely that Sweden will ship anymore volume of CRBs to the United States upon revocation of the order and I find that it is unlikely that the Swedish imports will have any impact on domestic prices. I therefore find that the subject imports from Sweden would not be likely to have a discernible adverse impact on the domestic industry and have not cumulated the subject imports from Sweden with the subject imports from other countries for purposes of my analysis in this review.

c. The Subject Imports from the United Kingdom Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within The Reasonably Foreseeable Future If the United Kingdom Order is Revoked

I also find that the subject imports from the United Kingdom would not be likely to have a discernible adverse impact on the domestic industry if the British order is revoked. Currently, the United Kingdom's market share is relatively small, ranging between 1.0 to 1.4 percent during the period of review.¹⁷³ Although the United Kingdom's market share was somewhat larger than Italy and Sweden during the original period of investigations, it was nonetheless relatively small even then, ranging from ***

¹⁷⁰ CR and PR at Table C-3.

¹⁷¹ CR and PR at Table CRB-I-1

¹⁷² CR and PR at Table CRB-I-1.

¹⁷³ CR and PR at Table CRB-I-1.

percent to *** percent.¹⁷⁴ These historical patterns of low importation levels suggest that the British producers are unlikely to ship more than minimal additional volumes of merchandise to the United States within the reasonably foreseeable future.

The record further indicates that the United Kingdom has only small amounts of available capacity that could be used to ship additional merchandise to the United States. The United Kingdom has a total capacity level that was equivalent to less than *** percent of domestic consumption in 1998.¹⁷⁵ Moreover, the British producers have been operating at high capacity utilization rates during the period of review, with capacity utilization rates of *** percent in 1998 and *** percent in interim 1999. Thus, the record indicates that the British producers' available capacity would have been equivalent to only *** percent of total domestic consumption in 1998 and interim 1999. In light of the British industry's minimal available capacity levels and its historically small market share levels, it is unlikely that the British producers will be able to increase their exports to the United States in more than a minimal way upon revocation of the order. I also find that the record indicates that the subject imports from the United Kingdom will not have a discernible adverse impact on domestic prices upon revocation of the order. First, the minimal volumes of British imports that would be present in the market upon revocation of the order are unlikely to have a discernible effect on domestic prices within the reasonably foreseeable future. Second, although there is a limited amount of usable price comparison data for the British imports in this review, those data indicate that the British imports have been priced significantly above the domestic merchandise during the period of review.¹⁷⁶ This suggests that the British imports are unlikely to undersell the domestic merchandise significantly upon revocation of the order.

For the foregoing reasons, I find that minimal volumes of subject imports from the United Kingdom that can be expected upon revocation of the orders are unlikely to have a discernible adverse impact on the domestic industry. I have, therefore, not cumulated the subject imports from the United Kingdom with imports from the other subject countries for purposes of my analysis in this review.¹⁷⁷

3. Reasonable Overlap of Competition With Respect to France, Germany and Japan

I have chosen to exercise my discretion to cumulate the subject imports of CRBs from France, Germany and Japan for purposes of my analysis in this review. I find that the record indicates that there is likely to be a reasonable overlap of competition among imports from the three subject countries and the domestic merchandise upon revocation of the order. First, there are some quality distinctions among the subject imports and the domestic merchandise and there is increasing customization of products in the CRB market. Nonetheless, most purchasers report that the French, German and Japanese imports are

¹⁷⁴ CR and PR at Table CRB-I-1.

¹⁷⁵ CR and PR at Table CRB-IV-7.

¹⁷⁶ CR and PR at Table C-4.

¹⁷⁷ I have also considered whether imports from France, Germany and Japan will be likely to have a discernible adverse impact on the industry upon revocation of the order. In the case of these three countries, I find that the record does not support a finding of no likely discernible adverse impact on the industry. The record indicates that each of these three countries currently has substantial levels of capacity and that each country has enough unused capacity to ship enough merchandise to the United States to have a discernible impact on the industry upon revocation.

interchangeable with the domestically produced CRBs.¹⁷⁸ Moreover, the record indicates that bearings from these three countries are sold in similar channels of trade, with the bulk of domestic and import shipments being made to OEMs, and the remainder being sold to distributors and other aftermarket customers.¹⁷⁹ Finally, the record indicates that the subject imports from these three countries have been present continuously in the U.S. market and have been sold throughout the U.S. market.¹⁸⁰

On the whole, the record suggests that there is likely to be a reasonable degree of competitive overlap among imports from these three subject countries and the domestic merchandise. The record indicates that the imports and the domestic merchandise are likely to be reasonably interchangeable, that they are likely to be sold in similar channels of trade, and that the subject imports and the domestic merchandise are likely to be sold throughout the nation and to be simultaneously present upon revocation of the order.¹⁸¹

Accordingly, I have exercised my discretion to cumulate the subject imports from France, Germany and Japan for purposes of my analysis in this review.¹⁸²

B. CONDITIONS OF COMPETITION

In evaluating the likely impact of the subject imports on the domestic 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.”¹⁸³ The CRB market in the United States is characterized by the following conditions of competition:

First, demand for CRBs has grown considerably since the original investigations. Increased demand for CRBs has been driven by several factors. The automotive industry is a significant user of CRBs, and the years since the orders were imposed have been marked by a revitalization of the domestic automobile industry.¹⁸⁴ Moreover, a gradual, long term increase in air travel has also spurred demand.¹⁸⁵ Based on value, demand for CRBs more than tripled since 1987, with total consumption increasing from \$205 million worth of CRBs in 1987 to \$622 million worth in 1998.¹⁸⁶ Moreover, apparent consumption grew by an additional 9.4 percent between 1997 and 1998 and by 2.9 percent between interim 1998 and interim 1999.¹⁸⁷ Demand is projected to increase by at least 3 percent in the year 2000.¹⁸⁸

¹⁷⁸ CR/PR at Table CRB-II-3.

¹⁷⁹ CR at CRB-I-23, PR at CRB-I-19.

¹⁸⁰ CR at CRB-I-29 and Table CRB-I-1, PR at CRB-I-24 and Table CRB-I-1; Torrington Prehearing Brief at 11-12.

¹⁸¹ CR and PR at Table CRB-I-1.

¹⁸² In this regard, I note that I have chosen to exercise my discretion to cumulate France with Germany and Japan because the French industry is not generally operating at lower capacity utilization rates than the German and Japanese producers, as it is in the ball bearings review.

¹⁸³ 19 U.S.C. § 1675a(a)(4).

¹⁸⁴ CR at CRB-II-4, PR at CRB-II-2.

¹⁸⁵ CR at CRB-II-4, PR at CRB-II-3.

¹⁸⁶ CR and PR at Table CRB-I-1.

¹⁸⁷ CR and PR at Table CRB-I-1, CR and PR at Table C-3.

¹⁸⁸ CR at CRB-II-4, PR at CRB-II-2.

Second, the CRB industry is somewhat concentrated, with three producers accounting for *** percent of domestic shipments by value.¹⁸⁹ Since the imposition of the order, the most notable change in the structure of the industry has been the rise of Torrington as the dominant domestic producer. In 1987, Torrington accounted for *** percent of total domestic production; by 1998 it accounted for *** percent of shipments by value and for *** percent of all domestic capacity.¹⁹⁰ Torrington has continued to increase its production capacity throughout the period under investigation in these reviews, with capacity increases in 1998 over 1997 and in interim 1999 over the same time period in 1998.

Third, the CRB industry has become increasingly multinational, as more domestic producers have become affiliated with overseas bearings operations, including a number of subject producers.¹⁹¹ This increasing globalization of operations has resulted from a desire by firms to serve individual markets primarily from local operations. Moreover, bearing factories may be dedicated to the production of just one type of bearing. CRBs are typically produced on dedicated machinery, and it is difficult and expensive to shift production lines from one type of bearing to another.¹⁹² It is also apparently difficult for U.S. producers to shift sales to other markets.¹⁹³

Fourth, domestic supply has expanded significantly since the original investigations and domestic capacity utilization has almost quadrupled.¹⁹⁴ Domestic capacity increased nearly *** from 1987 to 1998, with overall capacity levels increasing from 51 million CRBs in 1987 to *** million CRBs in 1998.¹⁹⁵ Moreover, at the same time that capacity has been growing significantly, capacity utilization has also increased significantly since the original investigations, rising from a range of 21 to 24 percent during the original period of investigation to a range of 75 to 83 percent in the period from 1997 to interim 1999.¹⁹⁶ The record indicates that these capacity and capacity utilization increases have been due to the significant rise in demand for CRBs since the original investigations.

Fifth, purchasers and producers report that the subject imports from all countries are generally interchangeable with the domestic merchandise.¹⁹⁷ The staff estimates that there is a moderate to moderately high degree of substitutability between the subject imports and the domestic merchandise, with an elasticity of substitution for these products in the 3 to 5 range.¹⁹⁸

Sixth, quality is the most important factor in the purchase decision, with 21 of 39 responding purchasers rating it the most important factor when selecting a supplier.¹⁹⁹ However, 23 of 38 responding purchasers stated that they would not vary their supplier based on quarterly price changes, while only four

¹⁸⁹ CR and PR at Table CRB-I-9.

¹⁹⁰ JBI A CRB Prehearing Brief at 12-13.

¹⁹¹ CR and PR at Table CRB-I-9.

¹⁹² CR at CRB-I-21, PR at CRB-I-18.

¹⁹³ CR at CRB-II-1, PR at CRB-II-1.

¹⁹⁴ CR and PR at Table CRB-I-1.

¹⁹⁵ CR and PR at Table CRB-I-1.

¹⁹⁶ CR and PR at Table CRB-I-1.

¹⁹⁷ CR at CRB-II-9, PR at CRB-II-5-6.

¹⁹⁸ CR at CRB-II-14, PR at CRB-II-8.

¹⁹⁹ CR and PR at Table CRB-II-1.

purchasers stated that they would.²⁰⁰ Finally, 24 of 41 responding purchasers reported that they always or usually base their purchase decisions on the specific identity of the producer.²⁰¹

Seventh, CRBs are typically sold either to OEMs or to aftermarket distributors. Original equipment manufacturers are the dominant users of CRBs, accounting for nearly 97 percent of domestically produced shipments and 89 percent of subject imports.²⁰² Sales to OEMs are particularly important to producers because of the large production volumes involved.²⁰³ OEMs typically have a certification process for their supplies.²⁰⁴

Eighth, sales to OEMs are usually made through contracts. The contracts typically last three to five years and set an initial price but allow for annual price variations. Prices for customized bearings are established on a transaction-by-transaction basis. Price lists are used, at least as a starting point, in setting prices for sales to aftermarket customers. Sales to aftermarket customers may command higher prices but smaller volumes.²⁰⁵ Large volume discounts to both kinds of purchasers are not uncommon.²⁰⁶

Finally, there is a reasonably significant volume of nonsubject CRB imports in the market currently. The market share of the nonsubject imports was 7.4 percent in 1997, 6.8 percent in 1998 and 7.2 percent in interim 1999. These volumes are substantially larger than the minimal nonsubject levels that were in the market during the original period of investigation.²⁰⁷ Similarly, total import market share during the period of review ranged from 20 to 24 percent, which is higher than during the original period of investigation, when total import market share ranged from nine to ten percent of the market.²⁰⁸

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide a reasonable basis on which to assess the likely effects of revocation within the reasonably foreseeable future.

C. REVOCATION OF THE ANTIDUMPING DUTY ORDERS COVERING IMPORTS OF CYLINDRICAL ROLLER BEARINGS FROM FRANCE, GERMANY AND JAPAN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

1. Likely Volume of the Cumulated Imports from France, Germany and Japan

In its original determination, the Commission found the cumulated volume of subject imports to be significant and increasing.²⁰⁹ Since the imposition of the orders, however, subject imports have not only

²⁰⁰ CR at CRB-II-7, PR at CRB-II-5.

²⁰¹ CR and PR at Table CRB-II-2.

²⁰² CR at CRB-I-23, PR at CRB-I-19.

²⁰³ Torrington Posthearing Brief at 13.

²⁰⁴ CR at CRB-II-11, PR at CRB-II-6.

²⁰⁵ CR at CRB-V-5, PR at CRB-V-5.

²⁰⁶ CR at CRB-V-4, PR at CRB-V-4.

²⁰⁷ CR and PR at Table CRB-I-1.

²⁰⁸ CR and PR at Table CRB-I-1.

²⁰⁹ USITC Pub. 2185 at 71.

remained in the U.S. market, their overall volume and market share have increased substantially.²¹⁰

I find that the volume of the cumulated subject imports from France, Germany, and Japan is not likely to increase significantly upon revocation of the orders. First, as suggested above, the orders have had little impact on the ability of the subject producers to ship substantial volumes of merchandise to the United States. The volume and market share of the imports has substantially increased since the original period of investigation, yet the subject imports appear to have had no adverse impact on the condition of the industry primarily, I believe, because demand in the CRB market has been increasing so dramatically since the orders were imposed. Given the substantial increases in demand and the profitability of the industry, I can only conclude that the orders no longer serve a useful purpose in this market. Accordingly, I believe that revocation of the orders will have little effect on the competitive impact of the subject imports in this market.

Second, the record indicates that the subject producers are operating at reasonably high capacity utilization rates. The Japanese producers operated at capacity utilization rates of 81 percent in 1998 and 1999.²¹¹ Similarly, the German producers operated at somewhat high capacity utilization rates of *** percent in 1998 and *** percent in interim 1999. Finally, although we have a limited amount of data for the French industry,²¹² the available data indicates that sole responding French producer has been operating at high capacity utilization rates during the period of review as well, with its capacity utilization rate being *** percent in 1998 and *** percent in interim 1999.²¹³ While these capacity utilization rates appear to be somewhat low when compared with utilization rates in the other bearings industries, the record of this review indicates that a capacity utilization rate of *** percent is sufficiently high to allow producers to operate at high levels of profitability.²¹⁴ Accordingly, I believe that these capacity utilization levels are relatively high and do not suggest that the Japanese, German and French producers are likely to ship significant additional amounts of merchandise to the United States upon revocation of the orders.

Moreover, the other record evidence indicates that the cumulated subject producers are not likely to increase their shipments to the United States significantly upon revocation of the orders. For example, the subject producers in Japan, Germany and France have generally been shipping the majority of their product to their home markets. The Japanese have shipped 95 percent of their production of CRBs to their home market in recent years²¹⁵ and the German producers have generally shipped more than *** of their total production to their home market.²¹⁶ The responding French producer has been shipping nearly *** percent of its production to its home market.²¹⁷ Clearly, the production and marketing efforts of these producers have been focused on their home markets. I see nothing in the record that would suggest that

²¹⁰ CR/PR at Table CRB-I-1.

²¹¹ CR and PR at Table CRB-IV-6.

²¹² The Commission received a questionnaire response from only one of the four known significant producers of CRBs in France. Nonetheless, the single responding producer accounts for a substantial amount of production, with its production in 1998 equaling *** CRBs. CR at CRB-IV-5, PR at CRB-IV-1.

²¹³ CR and PR at Table CRB-IV-3.

²¹⁴ For example, the domestic industry has operated at capacity utilization rates between 74 and 83 percent throughout the period of review, but have enjoyed operating income margins of between 12.0 and 15.3 percent. CR and PR at Table CRB-I-1.

²¹⁵ CR and PR at Table CRB-IV-6.

²¹⁶ CR and PR at Table CRB-IV-4.

²¹⁷ CR and PR at Table CRB-IV-3.

there is a significant likelihood that these producers would shift their marketing focus away from their home markets upon revocation of the orders.

In addition, the record indicates that there is a high degree of affiliation between the subject producers in Germany, France and Japan. The five large German producers are related to significant domestic producers of CRBs, including ***, and two of the four significant French producers, SKF France and Nadella, are affiliated with domestic producers.²¹⁸ Moreover, the record indicates that two of the three large Japanese producers are related to significant domestic producers. The largest Japanese producer, ***, is related to ***, the *** domestic producer of CRBs, and the second largest Japanese producer, ***, has established a significant production affiliate in the United States, ***.²¹⁹ Although the third largest Japanese producer, ***, is not related to a domestic CRB producer, it is operating at *** high capacity utilization rates, with these rates being well in excess of *** percent throughout the period of review.²²⁰ Given the increasing importance of localized production operations in the global CRB market, I find that these affiliations will act as a significant disincentive for the related subject producers to increase their exports to the United States.

Further, even if revocation of these orders might lead to some increase in imports from these countries, any increase is likely to be absorbed in part by the continued healthy and increasing overall level of demand in this market. These increases in demand would act to mitigate any possible adverse impact of additional subject import volumes on the industry.

Finally, the inventory levels of the subject producers are not particularly high, when compared to overall domestic consumption.²²¹ Moreover, there are no reported trade barriers or antidumping orders against the subject imports in third country markets and there is little possibility of product shifting because of the difficulty involved in switching production facilities from one type of bearing product to another.

Accordingly, I find that the volume of the cumulated subject imports from France, Germany and Japan is not likely to be significant upon revocation of the orders.

2. *Likely Price Effects of the Cumulated Imports from France, Germany and Japan*

In its original determination, the Commission found the available pricing data to be inconclusive but found “some evidence” of price depressing effects on the domestic industry by the subject imports.²²² Nonetheless, I find that the record of this review indicates that the subject imports from France, Germany and Japan are not likely to have significant adverse effects on domestic prices upon revocation of the orders covering imports from these countries.

First, as I previously discussed, it is unlikely that there will be significant increases in the volume levels of the subject merchandise upon revocation of the orders. Accordingly, I find that it is unlikely that these imports will be able to have a significant impact on domestic prices, given that the record indicates that the CRB market is not a particularly price-sensitive market.

²¹⁸ CR and PR at Table CRB-I-9, CR at CRB-IV-5,7, PR at CRB-IV-1,4-5, Foreign Capacity Charts.

²¹⁹ CR and PR at Table CRB-I-9, Investigative Staff Response to Commissioner Miller inquiry, dated June 1, 2000.

²²⁰ Investigative Staff Response to Commissioner Miller inquiry, dated June 1, 2000.

²²¹ CR and PR at Tables CRB-IV-2, CRB-IV-3, CRB-IV-4 & CRB-IV-6.

²²² USITC Pub. 2185 at 70-71.

Second, I recognize that the price comparison data in this review indicates that the subject imports from Germany and Japan have engaged in some level of underselling during the period of review.²²³ However, I note that the price comparisons cover a small volume of domestic and imported merchandise.²²⁴ I also note that an examination of the data do not indicate that there is any correlation between price movements for the domestic and subject merchandise.²²⁵ Finally, I note that the average unit values of the subject imports have, on the whole, been significantly higher than those of the domestic merchandise during the period of review.²²⁶ Although I am mindful that using average unit value data may simply mask product mix differences between particular suppliers, nonetheless the average unit value data does indicate to me that the subject imports generally have not been aggressively competing on price with the domestic product and that they are not likely to do so within a reasonable foreseeable time.

Third, although the record suggests that there is a reasonable degree of substitutability between the domestic and imported merchandise and that price is an important factor in the purchase decision, the parties generally agree that quality and other non-price considerations are as important as (if not more important than) price in the purchase decision.²²⁷ Moreover, the record indicates that CRBs are frequently customized to some extent for specific purchasers, limiting price-based competition.²²⁸ In particular, sales to OEMs are more important in the CRB market, especially for the domestic industry, and OEM purchasers are increasingly likely to demand customized products.²²⁹ All of these considerations reduce the importance of price in the purchase decision and lessen the potential impact of the subject imports on domestic prices.

Finally, as I discussed above, most of the major subject producers are related to domestic producers, and the domestic CRB industry is fairly heavily concentrated. I believe that this indicates that most of the subject producers are unlikely to engage in pricing behavior that would be injurious to the industry.

Accordingly, I find that the cumulated subject imports from France, Germany, and Japan are not likely to have significant adverse effects on domestic prices upon revocation of the orders.²³⁰

²²³ CR and PR at Table CRB-V-5.

²²⁴ CR at CRB-V-5, PR at CRB-V-3.

²²⁵ CR and PR at Table CRB-V-5.

²²⁶ CR and PR at Table C-3.

²²⁷ CR and PR at Table CRB-II-2.

²²⁸ CR at CRB-I-22, PR at CRB-I-18.

²²⁹ CR at CRB-I-23, PR at CRB-I-4; JBIA CRB Prehearing Brief at 11.

²³⁰ In reaching my conclusion on the likely price effects of the subject imports, I have weighed all the pertinent evidence on price, including Commerce's duty absorption findings for France, Germany, Japan, Sweden and the United Kingdom. I find that Commerce's duty absorption findings do not outweigh the other evidence indicating the lack of significant effects on price by reason of the subject imports from these producers. I note, however, that Commerce generally found that the administrative margins announced for these producers, after being adjusted for duty absorption, were lower than the margins found in the original investigation and used the original margins as its likely margins in this proceeding. Because Commerce used the higher original margins as its likely sunset margins (thus indicating the level at which the imports can be expected to be priced upon revocation), I believe that this indicates that the duty absorption findings are of little import in this proceeding. Moreover, I note that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to transition orders.

3. *Likely Impact of the Cumulated Imports from France, Germany, and Japan*

In the original determinations, the Commission found that the profitability of the CRB industry was “anemic” and concluded that the domestic CRB industry was suffering material injury.²³¹ During the period of the original investigations, subject imports increased both absolutely and relatively compared to domestic shipments, and these increases occurred at a time when domestic consumption was actually declining.²³²

Nonetheless, I find that the domestic industry is not currently in a vulnerable state. Despite the continued significant and increasing presence of imports in the market since the imposition of the orders, the industry’s condition has improved considerably since the 1987 investigations, primarily due to the dramatic increase in demand for CRBs since the original period of investigation. The industry is somewhat concentrated and retains a dominant share of the CRB market, with its market share remaining at or around the seventy-six percent range throughout the period of review.²³³ Domestic prices have been stable throughout the period of review.²³⁴ Most importantly, the industry has increased its profitability levels very considerably since the original period of investigation, with its operating income levels ranging from 12.0 to 15.3 percent during the period of review.²³⁵ Finally, the industry’s production, sales and capacity utilization levels have all increased considerably since the 1987 investigations and remain strong, primarily due to significant increases in demand.²³⁶ The industry’s high profitability levels, increased production and capacity levels, and increased sales and shipments levels all indicate that the industry is not vulnerable to the impact of imports in a period of increasing demand.

As I discussed above, the record of this review indicates that the subject imports from France, Germany and Japan are not likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the orders were revoked. Thus, I also find that the cumulated subject imports would not be likely to have a significant impact on the domestic industry’s cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the orders would not be likely to lead to a significant reduction in U.S. producers’ output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Accordingly, I find that revocation of the antidumping orders covering CRBs from France, Germany, and Japan would not be likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders covering these imports would not be likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.

D. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING CYLINDRICAL ROLLER BEARINGS FROM ITALY IS NOT LIKELY TO

²³¹ USITC Pub. 2185 at 71.

²³² USITC Pub. 2185 at 70.

²³³ CR and PR at Table CRB-I-1.

²³⁴ CR and PR at Table CRB-I-1.

²³⁵ CR and PR at Table CRB-I-1. These levels compare very favorably with the industry’s operating income levels during the 1987 investigation, which ranged between 1.4 and (0.4) percent. Id.

²³⁶ CR and PR at Table CRB-I-1.

**LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY
WITHIN A REASONABLY FORESEEABLE TIME**

As discussed above, I determined that the subject imports from Italy are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the Italian imports with other subject imports for purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from Italy are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Italy 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.²³⁷

**E. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING
CYLINDRICAL ROLLER BEARINGS FROM SWEDEN IS NOT LIKELY TO
LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY
WITHIN A REASONABLY FORESEEABLE TIME**

As discussed above, I determined that the subject imports from Sweden are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, I have not cumulated the Swedish imports with other subject imports for purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from Sweden are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Sweden 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.²³⁸

**F. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING
CYLINDRICAL ROLLER BEARINGS FROM THE UNITED KINGDOM IS
NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF
MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME**

As discussed above, I determined that the subject imports from the United Kingdom are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these

²³⁷ As discussed above, I find that the domestic industry producing CRBs is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in CRB facilities and that there are no antidumping or countervailing duty orders covering the Italian imports. Finally, I note that the inventory levels of the Italian imports are relatively small when compared to total domestic consumption. CR and PR at Tables CRB-IV-2 & CRB-IV-5.

²³⁸ As discussed above, I find that the domestic industry is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in CRB facilities and that there are no antidumping or countervailing duty orders covering the Swedish imports. Finally, I note that the inventory levels of the Swedish imports are relatively small when compared to total domestic consumption. CR and PR at Tables CRB-IV-2.

imports were revoked. Accordingly, I have not cumulated the British imports with other subject imports for purposes of my analysis. In addition, for the reasons outlined above, I find that the subject imports from the United Kingdom are not likely to have significant adverse volume or price effects on the domestic industry upon revocation of the order. Accordingly, I find that revocation of the order on the subject imports from the United Kingdom 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.²³⁹

²³⁹ As discussed above, I find that the domestic industry is not currently vulnerable to imports. As also previously discussed, I have taken into account the Commission's findings in its original determinations. I note that the record indicates that there is a limited potential for product shifting in CRB facilities and that there are no antidumping or countervailing duty orders covering the British imports. Finally, I note that the inventory levels of the British imports are relatively small when compared to total domestic consumption. CR and PR at Tables CRB-IV-2.

IV. SPHERICAL PLAIN BEARINGS FROM FRANCE, GERMANY, AND JAPAN

A. Cumulation

1. General

In this case, the reviews of the orders covering spherical plain bearings (“SPBs”) from France, Germany, and Japan were initiated on the same day. Accordingly, I have considered first whether the subject imports from the subject countries are likely to have a “discernible adverse impact” on the domestic industry upon revocation of the orders. If I find that imports from any one of these countries are not likely to have a discernible adverse impact on the domestic industry upon revocation of the order, then I am precluded from cumulating the imports from that country with those of any other subject country. If I find that they are likely to have a discernible adverse impact on the industry upon revocation of the order, I must then consider whether it is appropriate to exercise my discretion to cumulate imports from the subject countries. I discuss my cumulation analysis for each of these countries below.

2. Discernible Adverse Impact

I find that the record data do not support a finding that the subject imports from France, Germany and Japan are not likely to have a discernible adverse impact on the industry upon revocation. With respect to France, I note that there were minuscule levels of SPB imports from France during the original period of investigation and that there are currently very small levels of French imports in the market, with the French market share ranging from 0.6 to 0.8 percent during the period of review.²⁴⁰ While these importation levels might otherwise support a finding of no discernible impact for the French imports, we have extremely limited data with respect to France’s overall capacity levels, capacity utilization or export patterns. Only one French producer responded to the Commission’s questionnaire and that producer reports that it represents only a “fraction” of total French SPB production; its production alone would have equaled between *** and *** percent of total domestic consumption in 1998 and 1999.²⁴¹ Given this, it is difficult to assess with precision the level of available capacity in France. However, I believe that this data indicate that the French producers of SPBs have reasonably substantial capacity levels. Accordingly, I cannot conclude that the French producers are unlikely to have some discernible level of impact on the industry upon revocation of the orders.

As for Germany and Japan, their imports are currently in the market at somewhat substantial levels. The market share of the German imports has ranged between 2.0 and 3.0 percent during the period of review while the market share of the Japanese producers has ranged between 2.1 and 4.2 percent during the same period.²⁴² Moreover, during the original investigation, both Germany and Japan had significantly higher market share levels, with the market share of the German imports being *** percent in 1987 and the market share of the Japanese imports being *** percent in 1987. Further, the German and Japanese producers’ reported capacity levels are relatively large in comparison to total domestic consumption. The German producers’ reported total capacity was equivalent to approximately *** percent of consumption in 1998 while the Japanese producers’ capacity was equivalent to 30 percent

²⁴⁰ CR and PR at Table SPB-I-1.

²⁴¹ Investigative Staff Response to Commissioner Hillman inquiry, dated May 25, 2000.

²⁴² CR and PR at Table SPB-I-1.

of consumption in 1998.²⁴³ In addition, each country has some unused capacity, with the responding German producers operating at a *** percent level in 1998 and a *** percent level in interim 1999 while the Japanese producers were operating at 81 percent of capacity in 1998 and at 62 percent of capacity in interim 1999.²⁴⁴ Accordingly, given the German and Japanese producers' somewhat high overall capacity levels and the availability of some excess capacity in each country, I find that it is likely that each of these countries might ship at least enough merchandise to the United States to have a discernible impact on the industry upon revocation.

3. *Reasonable Overlap of Competition With Respect to France, Germany and Japan*

I have chosen to exercise my discretion to cumulate the subject imports of SPBs from France, Germany and Japan for purposes of my analysis in this review.

I find that the record indicates that there is likely to be a reasonable overlap of competition among imports from the three subject countries and the domestic merchandise upon revocation of the order. First, although there may be quality distinctions among the subject imports and the domestic merchandise, all purchasers report that the French, German and Japanese imports are interchangeable with the domestically produced SPBs.²⁴⁵ Moreover, although the proportion of U.S. sales of customized SPB bearings may be increasing,²⁴⁶ the record indicates that the subject imports are able to compete to some degree with domestic SPBs in the customized segment of the market. In addition, bearings from these three countries are sold in similar channels of trade, with shipments being made primarily to OEMs with a smaller percentage being shipped to distributors and other aftermarket customers.²⁴⁷ Finally, the record indicates that the subject imports from these three countries have been present continuously in the U.S. market²⁴⁸ and that the SPB market is a nationwide market.

On the whole, the record suggests that there is likely to be a reasonable degree of competitive overlap among imports from the three subject countries and the domestic merchandise. The record indicates that the imports and the domestic merchandise are likely to be reasonably interchangeable, that they are likely to be sold in similar channels of trade, and that the subject imports and the domestic merchandise are likely to be sold throughout the nation and to be simultaneously present upon revocation of the orders.

Accordingly, I have exercised my discretion to cumulate the subject imports from France, Germany and Japan for purposes of my analysis in this review.²⁴⁹

²⁴³ CR and PR at Tables SPB-IV-4 & SPB-IV-5.

²⁴⁴ CR and PR at Tables SPB-IV-4 & SPB-IV-5.

²⁴⁵ CR/PR at Table SPB-II-3.

²⁴⁶ CR at SPB-II-8-9, PR at SPB-II-5.

²⁴⁷ CR at SPB-I-14, PR at SPB-I-12.

²⁴⁸ CR and PR at Table SPB-I-1.

²⁴⁹ In this regard, I have exercised my discretion to cumulate France with the other subject countries because the French industry is not operating at lower capacity utilization rates than the German and Japanese producers, as it is in the ball bearings market.

B. CONDITIONS OF COMPETITION

In evaluating the likely impact of the subject imports on the domestic 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.”²⁵⁰ The SPB market in the United States is characterized by the following conditions of competition:

First, demand for SPBs is derived primarily from demand for agricultural and construction equipment. Since 1985, demand for SPBs has exhibited considerable growth. Based on value, apparent consumption of SPBs more than *** between 1987 and 1998, with total consumption increasing from \$*** in 1987 to \$163 million in 1998.²⁵¹ Moreover, apparent domestic consumption grew by 4.6 percent between 1997 and 1998. However, demand declined by 1.6 percent between interim 1998 and 1999.²⁵²

Second, the domestic industry’s capacity levels have increased significantly since the original investigations.²⁵³ Domestic capacity increased nearly *** from 1987 to 1998, with the industry’s capacity increasing from *** million SPBs in 1987 to 14.2 million SPBs in 1998.²⁵⁴ Despite this significant growth in capacity, the industry has been able to maintain reasonably high capacity utilization rates, with their utilization rates ranging between 78 and 85 percent during the period of review.²⁵⁵

Third, the SPB industry is highly concentrated, with two producers accounting for *** percent of U.S. shipments in 1998 and four producers accounting for *** percent of domestic shipments in 1998.²⁵⁶ Moreover, like all of the bearings industries, the SPB industry has become increasingly globalized as domestic producers have become increasingly affiliated with overseas SPB operations, including subject producers. For example, New Hampshire Ball Bearings, Inc. (“NHBB”), the dominant domestic producer,²⁵⁷ is owned by Minebea Co., Ltd., of Japan, a producer of SPBs.²⁵⁸ Similarly, the *** largest domestic producer, SKF,²⁵⁹ is related to producers of SPBs in France and Germany.

Fourth, purchasers and producers report that the subject imports from all countries are generally interchangeable with the domestic merchandise.²⁶⁰ The staff suggests that there is at least a moderately

²⁵⁰ 19 U.S.C. § 1675a(a)(4).

²⁵¹ CR and PR at Table SPB-I-1. Although these demand increases (which are based on value) have been affected in part by inflation, the record indicates that overall demand increased by *** percent between 1987 and 1998 while the overall price of SPBs increased by less than *** percent during this period. CR and PR at Table SPB-I-1 & Figure SPB-V-1. This indicates that there has been a significant actual increase in demand since the original investigations.

²⁵² CR at SPB-II-3, PR at SPB-II-2.

²⁵³ CR and PR at Table SPB-I-1.

²⁵⁴ CR and PR at Table SPB-I-1.

²⁵⁵ CR and PR at Table SPB-I-1.

²⁵⁶ CR and PR at Table SPB-I-6.

²⁵⁷ NHBB accounted for *** percent of U.S. shipments in 1998. CR and PR at Table SPB-I-6.

²⁵⁸ CR and PR at Table SPB-I-6.

²⁵⁹ SKF accounted for *** percent of domestic shipments in 1998. CR and PR at Table SPB-I-6.

²⁶⁰ CR at SPB-II-9, PR at SPB-II-5.

high degree of substitutability between the subject imports and the domestic merchandise, with the elasticity of substitution being in the 3 to 5 range.²⁶¹

Fifth, quality is the most important factor in the purchase decision for bearings products, with 21 of 39 purchasers rating it the most important factor when selecting a supplier.²⁶² Although price was not rated as the most important factor by most purchasers, it was nonetheless selected as one of the three most important factors by 33 of 39 responding purchasers.²⁶³ However, 23 of 38 responding purchasers stated that they would not vary their supplier based on quarterly price changes, while only four purchasers stated that they would.²⁶⁴ Finally, 25 of 41 responding purchasers reported that they always or usually base their purchase decisions on the specific identity of the producer.²⁶⁵

Sixth, the U.S. SPB market is concentrated in a somewhat small number of high volume part numbers and a handful of major OEM accounts.²⁶⁶ Generally, domestic producers report that they tend to negotiate contracts with OEM customers, which have durations of between three to five years.²⁶⁷ Approximately 71 percent of domestic producers' shipments were to OEMs in 1998, while 68 percent of import shipments were made to OEMs. The remainder were made to distributors.²⁶⁸

Seventh, demand for customized SPB bearings appears to be important and growing. For example, one U.S. producer, ***, which represented *** percent of the value of U.S. SPB shipments in 1998, reported that *** percent of its 1998 sales were customized bearings and its custom-made bearings sales had increased since 1997 because of growth in several OEM applications. In both the OEM market, which accounted for the vast majority of total SPB shipments in 1998, and in the aftermarket, *** percent of SPB shipments reportedly are of customized bearings.²⁶⁹

Finally, there is a reasonably significant volume of nonsubject imports in the market currently. The market share of the nonsubject imports was 5.8 percent in 1997, 6.3 percent in 1998 and 6.4 percent in interim 1999. These market share levels are substantially larger than the minimal nonsubject levels that were in the market during the original period of investigation.²⁷⁰ Total import market share during the period of review ranged from 12 to 13 percent.²⁷¹

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide a reasonable basis on which to assess the likely effects of revocation within the reasonably foreseeable future.

²⁶¹ CR at SPB-II-11, PR at SPB-II-7.

²⁶² CR and PR at Table SPB-II-1.

²⁶³ CR and PR at Table SPB-II-1.

²⁶⁴ CR at SPB-II-6, PR at SPB-II-3.

²⁶⁵ CR and PR at Table SPB-II-2.

²⁶⁶ See CR at SPB-I-18, PR at I-15; Torrington Prehearing Brief at 6-11; Torrington Posthearing Brief at Commissioner Bragg Answers, p.1-8.

²⁶⁷ CR at SPB-V-3, PR at SPB-V-3.

²⁶⁸ CR at SPB-I-14, PR at SPB-I-12.

²⁶⁹ JBIA Posthearing Brief at 4-8.

²⁷⁰ CR and PR at Table SPB-I-1.

²⁷¹ CR and PR at Table SPB-I-1.

C. REVOCATION OF THE ANTIDUMPING DUTY ORDERS COVERING SPHERICAL PLAIN BEARINGS FROM FRANCE, GERMANY AND JAPAN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

1. Likely Volume of the Cumulated Imports from France, Germany and Japan

In the original investigations, the Commission found that the volume of cumulated subject SPB imports had increased dramatically throughout the period of investigation, that import value increased by more than *** percent from 1985 to 1987, and that market penetration by subject imports was equally dramatic, with imports capturing more than one quarter of domestic consumption by interim 1988.²⁷²

Nonetheless, I find that the subject imports from France, Germany and Japan are not likely to increase significantly upon revocation of the order. First, the subject producers in each of the three countries are operating at reasonably high capacity utilization rates. The Japanese producers operated at a capacity utilization rate of 88 percent in full year 1997 and 81 percent in full year 1998.²⁷³ Similarly, the German producers operated at a capacity utilization rate of *** percent in 1997 and *** percent in 1998.²⁷⁴ Finally, although there is a limited amount of data for the French producers, that limited data indicate that the reporting French producers are operating at high capacity utilization rates of *** percent in 1997, *** percent in 1998 and *** percent in interim 1999.²⁷⁵ While these capacity rates are not extremely high, I find that they are not so low that they suggest that the producers in these countries will have a clear incentive to increase their capacity utilization solely for the purpose of increasing shipments to the United States upon revocation of the order.²⁷⁶

Moreover, the other record evidence indicates that it is unlikely that the subject producers would increase their export volumes to the United States significantly upon revocation of the order. First, the available data indicate that the subject producers in France, Germany and Japan ship the large bulk of their merchandise to their home and local markets, which is behavior that is consistent with the increasing trend toward localization in the global bearings market. For example, the Japanese producers have shipped between 62 and 71 percent of their production to their home market during the period of

²⁷² USITC Pub. 2185 at 71.

²⁷³ CR and PR at Table SPB-IV-5. Although the capacity utilization rate for the Japanese producers declined to 62.5 percent in interim 1999, the data indicate that this may be a seasonal fluctuation in their capacity utilization, because their utilization rate for interim 1998 was only 66 percent. *Id.* Moreover, I note that the capacity utilization rates for the companies that accounted for most of the Japanese SPB exports to the United States during the review period (i.e., Minebea, NTN, and NSK) were all over *** percent in 1997 and 1998.

²⁷⁴ CR and PR at SPB-IV-4. The Germans' capacity utilization rate dropped to *** percent in interim 1999. However, like the Japanese, the German capacity data indicate that this may be a seasonal fluctuation in their capacity utilization, because the German producers' utilization rate for interim 1998 was only *** percent. *Id.*

²⁷⁵ CR and PR at Table SPB-IV-3.

²⁷⁶ Moreover, I note that the capacity utilization rates of the subject producers are similar to those experienced by the domestic industry during the period of review. The domestic industry's capacity utilization rates were 78.3 percent in 1997, 85.3 percent in 1998, and 78.8 percent in interim 1999. CR and PR at Table C-4. Given that the industry was operating at very high operating income levels during this period, *id.*, this suggests to me that these capacity utilization rates are actually high in the SPB market.

review.²⁷⁷ Similarly, the reporting French producers have generally shipped *** of their production to their home market during the period of review and have shipped nearly all of the remainder to export markets in Europe.²⁷⁸ Moreover, the reporting German producers have reported that the European markets are their principal export markets.²⁷⁹ In light of the fact that the record indicates that demand in these markets is stable or increasing, I find that it is most likely that the producers in these countries will continue to ship their production to their home or local export markets and not to the United States.

Second, the possibility of increased imports from these countries is further limited somewhat by the existence of affiliations between certain subject producers and domestic producers. For example, the *** largest Japanese producer, Minebea, is related to New Hampshire Ball Bearings, the dominant domestic producer of SPBs. In addition, the *** largest domestic producer, SKF, is related to significant SPB producers in France and Germany. As I have indicated in my other bearings opinions, these affiliations make it unlikely that these subject producers will ship significant additional volumes of SPBs to the United States upon revocation of the orders.

Third, the SPBs market has grown considerably since the original investigation.²⁸⁰ Although demand declined somewhat in interim 1999, I believe that demand for SPBs can be expected to continue to grow, especially with the expected continued growth of the overall economy and continued growth in the construction industry. Accordingly, to the extent that revocation of the orders actually leads to an increase in imports from these countries, I believe that such an increase will be likely to be absorbed by a continued growth in demand in this market and will not come at the expense of domestic production or shipments.

Finally, I note that the inventory levels of the subject producers are not particularly high when compared to overall domestic consumption.²⁸¹ Moreover, there are no reported trade barriers or antidumping orders against the subject imports in third country markets and there is little possibility of product shifting because of the difficulty involved in switching production facilities from one type of bearing product to another.

Accordingly, I find that the volume of the cumulated subject imports from France, Germany and Japan is not likely to be significant upon revocation of the orders.

2. *Likely Price Effects of the Cumulated Imports from France, Germany and Japan*

In the original investigations, the Commission found that the specific pricing data for SPBs was generally inconclusive. Nonetheless, the Commission found that there was sufficient evidence of price and volume effects by reason of the subject imports due to the dramatic surge in the volumes of the subject imports that accompanied a decline in the financial condition of the domestic industry.²⁸²

I find that the subject imports are not likely to have significant adverse effects on domestic prices if the orders are revoked. First, as I discussed above, the record indicates that it is unlikely that there will

²⁷⁷ CR and PR at Table SPB-IV-5.

²⁷⁸ CR and PR at Table SPB-IV-3, CR at SPB-IV-5, PR at SPB-IV-1.

²⁷⁹ CR at SPB-IV-7, PR at SPB-IV-4.

²⁸⁰ CR and PR at Tables SPB-I-1.

²⁸¹ CR and PR at Tables SPB-IV-3, SPB-IV-4, SPB-IV-5.

²⁸² USITC Pub. 2185 at 71-72.

be significant additional volumes of the subject imports in the market within a reasonably foreseeable time after revocation of the orders. Without significant additional volumes, it is unlikely that the subject imports will have any adverse impact on domestic prices.

Second, the limited number of pricing comparisons indicates that, during the period, the subject imports have oversold the domestic merchandise in the majority of instances by substantial margins.²⁸³ In particular, the German imports oversold the domestic merchandise in 17 of 30 possible price comparisons while the Japanese imports oversold the domestic merchandise in 12 possible quarterly price comparisons. In addition, the average overselling margins for both countries were higher than the underselling margins.²⁸⁴ Finally, the price movements of the subject merchandise appear to have no correlation with the price movements of the domestic merchandise. Given these facts, and in light of the fact that there have been reasonably substantial volumes of subject imports in the market during the period of review, I find that this evidence indicates that the subject imports are not currently having adverse effects on domestic prices. Moreover, I see nothing in the record that indicates that conditions in the market would change in such a way that the subject imports would have a significantly adverse impact on the industry upon revocation.

In addition, I note that the record indicates that the SPB market is not a particularly price sensitive market. Although price is an important aspect of the purchase decision, quality was rated by 21 of 39 purchasers as being the most important factor when selecting a supplier.²⁸⁵ Moreover, 23 of 38 responding purchasers stated that they would not vary their supplier based on quarterly price changes, while only four purchasers stated that they would.²⁸⁶ Finally, the growing importance of customization in this market and the use of extensive certification procedures by SPB purchases indicates that this is a market in which factors other than price (such as quality, availability, and service) are likely to become the most important considerations in purchasing decisions. Accordingly, there will be increasingly less potential for subject imports to have significant effects on domestic prices.

Accordingly, I find that the cumulated subject imports from France, Germany and Japan are not likely to have significant adverse effects on domestic prices upon revocation of the orders.²⁸⁷

3. *Likely Impact of the Cumulated Imports from France, Germany, and Japan*

²⁸³ CR and PR at Tables SPB-V-2-6 & SPB-V-8.

²⁸⁴ CR/PR at Table SPB-V-8.

²⁸⁵ CR and PR at Table SPB-II-1.

²⁸⁶ CR at SPB-II-6, PR at SPB-II-9.

²⁸⁷ In reaching my conclusion on the likely price effects of the subject imports, I have weighed all the pertinent evidence on price, including Commerce's duty absorption findings for France, Germany, and Japan. I find that Commerce's duty absorption findings do not outweigh the other evidence indicating the lack of significant effects on price by reason of the subject imports from France, Germany, and Japan. I note, however, that Commerce found that the administrative margins announced for France, Germany, and Japan, after being adjusted for duty absorption, were lower than the margins found in the original investigation or most recent administrative review and used the original margins as its likely margins in this proceeding. CR at SPB-I-5-6, PR at SPB-I-1, SPB-I-5. Because Commerce used the higher original margins as its likely sunset margins (thus indicating the level at which the imports can be expected to be priced upon revocation), I believe that this indicates that the duty absorption findings are of little import in this proceeding. Moreover, I note that a recent CIT decision (*SKF USA Inc., et al. v. United States*, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to transition orders.

In the 1989 determination, the Commission found that the dramatic surge in cumulated subject import volume and market share for a product whose demand was relatively unresponsive to price declines, and the high absolute level of market penetration, in combination with the severe decline in the financial condition of the domestic industry, provided sufficient evidence of a causal connection between the subject imports and the material injury being experienced by the domestic industry.²⁸⁸

I find that the domestic industry is not currently in a vulnerable state. The industry's condition is very strong and has improved considerably since the order. The industry has gained market share since the original investigation and enjoys a dominant 87 percent of the market.²⁸⁹ Moreover, the industry's capacity levels have increased *** since the original investigation and its capacity utilization rates have remained high.²⁹⁰ Similarly, the industry's production levels have increased more than ***, rising from *** million SPBs in 1987 to 12.1 million SPBs in 1998. The industry has experienced similar increases in its domestic shipments and net sales revenues.²⁹¹ Most importantly, the industry's operating income levels are very strong and have ranged from 10.3 to 13.5 percent throughout the period of review. These operating income levels compare very favorably with the large losses experienced by the industry during 1986 and 1987.²⁹² Nonetheless, I believe that these improvements are not due to the imposition of the orders but are primarily the result of significant increases in demand over the period since the orders were put in place.

As I discussed above, the record of this review indicates that the subject imports from France, Germany and Japan are not likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the orders were revoked. Accordingly, I also find that the cumulated subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the orders would not be likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Finally, an important factor in my determination has been the lack of domestic industry support for continuation of the orders. The record shows that only 32.2 percent of the industry²⁹³ affirmatively supports continuation of the orders. Approximately 57.6 percent of the industry takes no position on whether the orders should be revoked while 10.2 percent of the industry supported revocation of the orders. This indicates that the industry is not interested in the protections afforded by these orders. In my mind, if an industry no longer has an interest in maintaining a set of orders, that fact should weigh heavily in favor of revoking most, or even all, of the orders. As the Court of Appeals for the Federal Circuit has stated with regard to the Commission's threat analysis, which is similar to our sunset analysis:

The views of the potentially threatened domestic industry on the nature of the threat . . . are without doubt relevant to whether the domestic industry faces a threat of material injury. The

²⁸⁸ USITC Pub. 2185 at 71-72.

²⁸⁹ CR and PR at Table SPB-I-1.

²⁹⁰ CR and PR at Table SPB-I-1.

²⁹¹ CR and PR at Table SPB-I-1.

²⁹² CR and PR at Table SPB-I-1.

²⁹³ Calculated on the basis of the percentage of total shipments in 1998.

industry best knows its own economic interests and, therefore, its views can be considered an economic factor. Indeed, an industry's failure to acknowledge an affirmative threat has direct significance [to the Commission's threat finding] And in the difficult enterprise of projecting future economic harm, the industry's views take on added relevance. Moreover, publicly expressed industry support for the petition, or lack of it, is probative evidence of those views. (emphasis added)²⁹⁴

Accordingly, I find that revocation of the antidumping orders covering SPBs from France, Germany, and Japan would not be likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders covering these imports would not be likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.

²⁹⁴ Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F. 3d 978, 984 (Fed. Cir. 1994).

**SEPARATE VIEWS OF CHAIRMAN STEPHEN KOPLAN
IN SPHERICAL PLAIN BEARINGS FROM FRANCE, GERMANY,
AND JAPAN, INV. NOS. 731-TA-391-C, 392-C, and 394-C (REVIEW)**

On the basis of the information obtained in these reviews, I determine that revocation of the antidumping orders covering spherical plain bearings (SPBs) from Germany and Japan 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 determine that revocation of the antidumping order covering SPBs from France would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. CUMULATION

A. Framework

The statute regarding review investigations 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.¹

Thus, cumulation is discretionary in five year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews were 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 Act precludes cumulation, however, if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.² I note that neither the statute nor the SAA provides 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.³ With respect to this

¹ 19 U.S.C. § 1675a(a)(7).

² *Id.*

³ The legislative history to the URAA, however, provides guidance in the interpretation of this provision. The Senate Report on the URAA clarifies that “it is appropriate to preclude cumulation [in five-year reviews] where imports are likely to be negligible.” S. Rep. 103-412, at 51 (1994). The legislative history further explains that it is not appropriate “to adopt a strict numerical test for determining negligibility because of the extraordinary difficulty in projecting import volumes into the future with precision” and, therefore, “the ‘no discernible adverse impact’ standard is appropriate in sunset reviews.” Thus, I understand the “no discernible adverse impact” provision to be largely a negligibility provision without the use of a strict numerical test of the sort now required by the statute in original antidumping and countervailing duty investigations. 19 U.S.C. § 1677(24). Indeed, before enactment of the URAA, cumulation was not required if the subject imports were “negligible and have no discernable adverse impact

(continued...)

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.

The Commission has generally considered four factors that provide a framework for determining whether the imports compete with each other and with the domestic like product.^{4 5} Only a “reasonable overlap” of competition is required.⁶ In five-year reviews, the relevant inquiry is whether there would likely be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, the Commission has examined not only the 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.⁷

In these reviews, the statutory requirement that all reviews be initiated on the same day is satisfied. For the reasons discussed below, however, although I find there would likely be a reasonable overlap of competition among subject imports from France, Germany, and Japan, I have not exercised my discretion to cumulate imports from France with those from Germany and Japan.

B. Discussion

1. Likelihood of No Discernible Adverse Impact

I do not find that imports from any of the three subject countries are likely to have no discernible adverse impact in the reasonably foreseeable future if the orders are revoked.

Subject imports from France, Germany, and Japan have remained in the U.S. market in the years since the orders were imposed. The continuing presence of these subject imports in the domestic market

³ (...continued)

on the domestic industry.” 19 U.S.C. § 1677(7)(C)(v)(1994). Because of the similarity of the five-year review provision with the pre-URAA test for negligibility, the Commission’s prior negligibility practice may provide some guidance in applying the “no discernible adverse impact” provision in five-year reviews.

⁴ 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.

⁵ See e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁶ 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)).

⁷ 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, 741-742 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

indicates that subject foreign producers continue to have the contacts and channels of distribution necessary to compete in the U.S. market.

The levels of subject imports from Germany and Japan, in absolute terms and as a percentage of consumption, currently exceed levels that would have a discernable adverse impact on the domestic industry.⁸ Nothing in the record indicates that subject imports from either country would decline in the event of revocation. For the same reasons that I believe that subject imports from France would cause the recurrence of material injury to the domestic industry, I find that such imports are likely to have a discernable adverse impact on the industry. I therefore find it likely that subject imports from each of the three countries would have a discernable adverse impact within a reasonably foreseeable time if the orders were revoked.

2. Reasonable Overlap of Competition

In the original investigations, the Commission cumulated subject SPB imports from all the subject countries, based on a reasonable overlap of competition. With respect to fungibility, one of the four traditional cumulation factors, the record of these reviews shows that all responding purchasers consider U.S.-manufactured SPBs to be interchangeable with SPBs produced in all three subject countries.⁹ While most purchasers reported that, for SPBs, some type of qualification or pre-qualification was required and while most OEMs have a certification process, the purchasers also stated that interchangeability and qualification are more company-level than country-level issues.¹⁰ While the proportion of U.S. sales of customized SPB bearings, as opposed to standard bearings, may be increasing,¹¹ the record does not indicate that subject country imports are not able to compete with U.S.-produced bearings in the customized segment of the market. The record also indicates U.S.-produced and subject country imports move in the same channels of distribution in comparable proportions.¹²

Overall, based on the traditional four competition factors, I find that there likely would be a reasonable overlap of competition among subject imports from France, Germany, and Japan, and between subject imports and the domestic like product if the orders are revoked.

3. Other Considerations

My cumulation analysis in a five-year review encompasses more than an examination of whether there would likely be a reasonable overlap of competition. To aid me in the exercise of my discretion, I also have examined the overall similarities and differences in the conditions of competition that likely would prevail if the orders under review are revoked. I find that, in the absence of the respective orders, the likely prevailing conditions of competition concerning subject imports of SPBs from France would differ significantly from those concerning subject imports from Germany and Japan.¹³

⁸ CR and PR at Table SPB I-8.

⁹ CR at SPB-I-13, SBP-II-8, Table SPB-II-3, PR at SPB-I-11, SPB-II-5, Table SPB-II-3.

¹⁰ CR at SPB-II-7-8, PR at SPB-II-5.

¹¹ CR at SPB-II-8-9, PR at SPB-II-5.

¹² CR at SPB-I-14, PR at SPB-I-12.

¹³ In this regard, I note that the Commission has considered factors in addition to its traditional competition

(continued...)

First, the import volumes during the review period differ significantly for France when compared to those for Germany and Japan. Whereas for both Germany and Japan, the import volumes changed significantly following the imposition of the antidumping duty orders and fluctuated somewhat since that time, the volume of imports from France has remained essentially unchanged and has not fluctuated over the period of review. There is limited pricing data in our record regarding imports from Germany and Japan and no pricing data for imported subject French product. However, the average unit values (AUVs) for the imported French product are substantially higher than the AUVs for either the German or the Japanese subject imports.¹⁴

More significantly, the conditions of competition for the subject French SPB producers differ in one central respect from those for subject SPB producers in Germany and Japan. In both Germany and Japan, a sizeable portion of the foreign production is by entities that are related to significant U.S. producers. By contrast, French SPB producers are unique in that only a *** portion of French production is represented by an entity related to a U.S. producer.¹⁵

On the basis of the divergent price and volume trends and the significant difference in the conditions of competition between subject French imports and the subject German and Japanese imports, I find that it is not appropriate to assess cumulatively the likely volume and price effects of subject imports from France with those of subject imports from Germany and Japan. Accordingly, I have not exercised my discretion to cumulate subject imports from France with subject imports from Germany and Japan. I have exercised my discretion to cumulate subject imports from Germany and Japan based on the substantially similar conditions of competition affecting imports from those two subject countries.

C. Conditions of Competition

The demand for SPBs has exhibited considerable growth since the time of the original investigation. The value of U.S. apparent consumption of SPBs increased from *** in 1987 to \$163,226,000 in 1998.¹⁶ The demand for SPBs is derived from the demand for end-use products, and agricultural and construction equipment manufacturers are two of the most important end-users. Although the demand for agricultural equipment was somewhat depressed during the review period, the demand for new construction equipment has been stronger.¹⁷

The U.S. SPB industry has experienced strong growth since the original investigation. The value of U.S. producers' U.S. shipments increased from *** in 1987 to \$143,121,000 in 1998. The value of

¹³ (...continued)

analysis in evaluating whether to exercise its discretion to cumulate for the purposes of threat determinations in original antidumping and countervailing duty investigations. *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, 741-742 (Ct. Int'l Trade 1989); *Asociacion Colombiana de Exportadores de Flores v. United States*, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

¹⁴ CR and PR at Appendix C, Table C-4.

¹⁵ Of the six firms believed to be producers of bearings in France, only one, SKF, has domestic SPB production. SKF estimated its share of French SPB production to be *** percent and the vast majority of that product is sold to ***.

¹⁶ CR/PR at Table SPB-I-1.

¹⁷ CR at SPB-II-3, PR at SPB-II-2.

U.S. producers' export shipments increased from *** in 1987 to \$7,114,000 in 1998. U.S. producers' dominance of the U.S. market grew, with market share rising from *** percent in 1987 to 87.7 percent in 1998. Subject imports' market share fell from *** percent in 1987 to 6.0 percent in 1998; nonsubject imports' market share rose from *** percent in 1987 to 6.3 percent in 1998.¹⁸

Sales of SPBs in the United States, by both U.S. and foreign producers, are concentrated in the OEM/end-user market. In 1998, U.S. producers shipped 70.9 percent of their U.S. shipments of SPBs to end users/OEMs, and the remaining 29.1 percent to distributors/aftermarket customers. Similarly, in 1998, importers shipped 68.1 percent of their U.S. SPB shipments to end users/OEMs, and the remaining 31.9 percent to distributors/aftermarket customers.¹⁹ The U.S. SPB market is concentrated in a relatively small number of high volume part numbers and a handful of major OEM accounts.²⁰ Generally, sales to OEMs are through three-to-five year contracts.

The SPB industry is highly concentrated, with four producers accounting for *** percent of U.S. shipments by value and with two of those producers accounting for *** percent of domestic shipments by value. One of those four producers, New Hampshire Ball Bearings, Inc. ("NHBB"), the dominant producer with *** percent of U.S. shipments, is owned by Minebea Co., Ltd., of Japan, a Japanese producer of SPBs.²¹

The SPB industry is capital intensive, and producers cannot easily switch to other markets or to the production of other types of bearings or products.²² SPB manufacturers must produce at high capacity utilization rates to recover their fixed costs and maximize their return on investment.

SPBs are generally specialized products. Purchasers' demand for customized SPB bearings appears to be important and growing. For example, one U.S. producer, ***, reported that *** percent of its 1998 sales were of custom-made bearings and that its custom-made sales had increased since 1997 because of growth in several OEM applications. In both the OEM market, which accounted for the vast majority of total SPB shipments in 1998, and in the aftermarket, *** percent of SPB shipments reportedly are of customized bearings.²³ Factors in addition to price, such as quality, availability, existence of pre-arranged contracts, and service, appear to be important in SPB purchasers' decisions.²⁴ Purchasers generally view SPBs from the subject countries as interchangeable with the U.S. product, although most purchasers require some type of qualification or pre-qualification before buying SPBs from a particular supplier.²⁵

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

¹⁸ CR/PR at Table SPB-I-1.

¹⁹ CR at SPB-I-14, PR at SPB-I-12.

²⁰ See CR at SPB-I-18, PR at SPB-I-15; Torrington Prehearing Brief at pp. 6-11; Torrington Posthearing Brief at Commissioner Bragg Answers, p.1-8.

²¹ CR/PR at Table SPB-I-6.

²² CR at SPB-II-1, PR at SPB-II-1.

²³ JBIA Posthearing Brief at pp. 4-8.

²⁴ CR at SPB-II-5, PR at SPB-II-3-4.

²⁵ CR at SPB-II-8, PR at SPB-II-5.

II. REVOCATION OF THE ANTIDUMPING DUTY ORDERS ON SPBS FROM GERMANY AND JAPAN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.²⁶ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.²⁷

The U.S. market share held by cumulated subject imports from Germany and Japan has decreased since the original investigation. While these two countries’ imports accounted for *** percent of the value of U.S. shipments in 1987, their market share in 1997 was 5.1 percent, and was 5.2 percent in 1998. The market shares held by U.S. producers and nonsubject imports both increased since the original investigation, with nonsubject imports gaining about *** percent of U.S. market share.²⁸

I note that the capacity utilization rates for the reporting German and Japanese producers ranged from *** percent to *** percent during the full years of the review period, although capacity utilization rates in the interim periods declined somewhat.²⁹ However, the record shows that the reporting Japanese producers are believed to account for the vast majority of SPB production in Japan and that the capacity utilization rates of those that accounted for most of the Japanese SPB exports to the United States during the review period were over *** percent in 1997 and 1998.³⁰

The record further shows that the home market and third-country markets account for nearly all SPB shipments by German producers and that, while export-oriented, they shipped only *** percent and

²⁶ 19 U.S.C. § 1675a(a)(2).

²⁷ 19 U.S.C. § 1675a(a)(2)(A)-(D).

²⁸ CR/PR at Table SPB-I-1.

²⁹ CR/PR at Tables SPB-IV-4, SPB-IV-5.

³⁰ Foreign producer questionnaire responses show the following capacity utilization rates for the Japanese producers accounting for most of Japanese SPB exports to the United States in the review period: Minebea, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, *** percent in interim 1999; NTN, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, *** percent in interim 1999; NSK, *** percent in all four periods. Nippon Thompson’s SPB exports to the United States accounted for approximately *** percent of the volume of subject Japanese imports into the United States in 1998. Based on 1998 data, even if Nippon Thompson increased its production to 100 percent of capacity and shipped every bearing produced above the current capacity utilization rate, such shipments would constitute less than *** percent of U.S. apparent consumption. I do not view that to be a likely scenario, especially in light of Nippon Thompson’s ***. CR/PR at Table SPB-IV-1; Minebea, NTN, NSK, and Nippon Thompson Foreign Producer Questionnaire Responses on SPBs.

*** percent of their SPB shipments to the United States in 1997 and 1998, respectively.³¹ The Japanese producers shipped most of their SPB production to their home market in the review period, 70.9 percent in 1997 and 63.1 percent in 1998, and only 2.2 percent in 1997 and 3.6 percent in 1998 of their SPB shipments to the United States.³² There are no reported third-country import barriers to German or Japanese shipments.³³ The machinery and equipment needed for SPB production are highly specialized and generally dedicated to SPBs. Therefore, there is little potential that German and Japanese producers would shift production from other types of bearings to SPBs.

Domestic SPB producers owned by subject producers Minebea and SKF accounted for *** percent of the value of total U.S. SPB shipments in 1998.³⁴ Since the original investigation, both Minebea and SKF have shifted from imports to domestic production to serve the U.S. market. Minebea, formerly the *** Japanese exporter of SPBs to the United States, shifted *** its SPB production for the U.S. market to ***.³⁵ SKF USA is owned by SKF Sweden, which also owns a subsidiary in Germany that produces SPBs. SKF USA Inc., which did not produce SPBs in the United States at the time of the original investigation, accounted for approximately *** percent of the value of U.S. SPB shipments in 1998;³⁶ while it *** during the review period, ***.³⁷ NHBB and SKF have both made substantial capital investments in U.S. SPB production since the orders were imposed.³⁸ During the review period, ***.³⁹ NHBB and SKF both state that their expansion of and investment in U.S. SPB production since the orders were imposed evidence that their U.S. production is well established and will not be abandoned in favor of imports should the orders be revoked.⁴⁰

Thus, the record indicates that subject German and Japanese producers have made substantial investments to firmly establish the domestic production of their U.S. affiliates, and that this commitment is unlikely to be reversed in the reasonably foreseeable future. I therefore find it unlikely that Minebea or SKF will increase export volumes to the United States in a manner that would be injurious to its related domestic producer. As discussed before, the domestic SPB industry is highly concentrated. In such a concentrated market, I find it unlikely that Minebea or SKF (which collectively accounted for more than *** percent of the value of domestic shipments in 1998) would be able to increase export volumes to the U.S. market in a manner that would not significantly impact its related domestic producer, but would materially injure the domestic industry as a whole.

I therefore conclude that the volume of SPB imports from Germany and Japan is not likely to increase significantly if the orders are revoked. Moreover, I find that, even should subject imports from

³¹ CR/PR at Table SPB-IV-4. As to ASK Kugellagerfabrik, its capacity is *** and its capacity utilization rate is ***. ASK Kugellagerfabrik Foreign Producer Questionnaire Response on SPBs.

³² CR/PR at Table SPB-IV-5.

³³ CR at SPB-IV-7, 9, PR at SPB-IV-5.

³⁴ CR/PR at Table SPB-I-6.

³⁵ JBI Posthearing Brief at 8, n.4.

³⁶ CR/PR at Table SPB-I-6.

³⁷ CR/PR at Table SPB-III-4.

³⁸ CR/PR at Table SPB-I-6, CR at SPB-II-1, PR at SPB-II-1.

³⁹ CR at SPB-III-10, PR at SPB-III-6.

⁴⁰ JBI Economic Report at IV-4-5; JBI Prehearing Brief at pp. 5-6; Response of SKF Group to Notice of Institution at pp. 6-7.

Germany and Japan increase somewhat over current levels if the orders are revoked, such an increase is not likely to have a significant effect, given the record evidence of strong and growing demand for SPBs in the U.S. market, the strong condition of the relatively concentrated domestic industry, and the generally specialized nature of SPBs.

B. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty orders are 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 prices of the domestic like product.⁴¹

In the original investigations, the Commission found that, while the specific pricing data for SPBs was generally inconclusive, given the dramatic surge in import volume and market share by subject imports, as well as the decline in the financial condition of the domestic industry, there was sufficient evidence of a causal connection between the subject imports and the material injury being experienced by the domestic industry.⁴²

The limited pricing data collected in these reviews generally show that subject imports from Germany and Japan oversold the domestic like product in the periods for which price comparisons were available. There were no periods of underselling by Japanese imports, and overselling occurred in 12 periods. The data for subject imports from Germany were mixed; SPB imports from Germany undersold the U.S. product in 13 periods, and oversold the U.S. product in 17 periods. I note that the average overselling margins for subject German imports were higher than the underselling margins.⁴³

I find that, given that SPBs are generally specialized, the growing importance of customization in SPB sales, and the fact that OEMs, the largest market segment, usually demand certification or pre-certification of suppliers, factors other than price, such as quality, availability, and service, are likely to remain important considerations in purchasing decisions.

As discussed above, Minebea and SKF are related to domestic producers -- Minebea, to the dominant producer -- and the domestic SPB industry is concentrated. I therefore find it unlikely that Minebea or SKF will engage in pricing behavior in a manner that would be injurious to its related domestic producer, and I also find it unlikely that either producer would be able to engage in pricing behavior that would not significantly impact its related producer, but would materially injure the domestic industry as a whole.

I therefore conclude that the record evidence does not indicate that subject imports from Germany and Japan would be likely to undersell significantly the U.S. product if the orders are revoked.⁴⁴

⁴¹ 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 p. 886.

⁴² USITC Pub. 2185 at pp. 71-72.

⁴³ CR/PR at Table SPB-V-8.

⁴⁴ In reaching my conclusion on likely price effects, I have weighed all the pertinent evidence on price and taken into account Commerce’s duty absorption findings on Germany and Japan (64 Fed. Reg. 60275, 64 Fed. Reg. 60309, (continued...))

Moreover, because I conclude that any increase in the volume of subject imports from Germany and Japan, given growing demand, is not likely to have a significant adverse effect, I find that subject imports from Germany and Japan would not be likely to depress or suppress U.S. prices to any significant degree. I therefore find that subject imports from Germany and Japan would not likely have an adverse price impact if the orders are revoked.

C. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders are 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.⁴⁵ 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.⁴⁶ As instructed by the statute, I have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.

In the 1989 determination, the Commission found that the dramatic surge in cumulated subject import volume and market share for a product whose demand was relatively unresponsive to price declines, and the high absolute level of market penetration, in combination with the severe decline in the financial condition of the domestic industry, provided sufficient evidence of a causal connection between the subject imports and the material injury being experienced by the domestic industry.⁴⁷

I find that the U.S. SPB industry is not currently in a vulnerable state. It has exhibited very strong, healthy expansion since the original investigation, in tandem with considerable growth in demand for SPBs. NHBB, the largest U.S. producer, has expanded its capacity by nearly *** percent since the

⁴⁴ (...continued)

64 Fed. Reg. 60321 (Nov. 4, 1999)), although I note the respondents' argument that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce's duty absorption findings with respect to certain transition orders. See JBI Posthearing Brief at pp. 9-10; SKF Group Posthearing Brief at p. xviii. However, since Commerce's findings do not, in my view, outweigh other evidence indicating the lack of significant effects on price, I do not need to reach respondents' objections to considering Commerce's duty absorption findings.

⁴⁵ 19 U.S.C. § 1675a(a)(4).

⁴⁶ 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 p. 887. In its final five-year review determination regarding SPBs from Germany and Japan, Commerce found the following sunset margins: Germany, 74.88 percent to 118.98 percent, and Japan, 84.26 percent to 92.00 percent. 64 Fed. Reg. 60309, 60313; 64 Fed. Reg. 60275, 60281 (November 4, 1999).

⁴⁷ USITC Pub. 2185 at pp. 71-72.

original determination, and overall domestic capacity utilization increased from only *** percent in 1987 to 85.3 percent in 1998.⁴⁸ In addition, employment in the domestic SPB industry has nearly *** in the past ten years, and capital expenditures rose from \$5,691,000 in 1997 to \$8,800,000 in 1998.⁴⁹ The value of U.S. producers' U.S. shipments increased from \$*** in 1987 to \$143,121,000 in 1998, and the value of their export shipments rose from \$*** to \$7,114,000 during the same period.⁵⁰ Domestically produced SPBs now account for over 87 percent of U.S. consumption.⁵¹ The industry's operating income margin was 10.4 percent in 1998, as compared to a *** in 1987.⁵²

Because of the absence of significant likely volume and price effects and the very healthy condition of the domestic industry and its dominant position, I find that revocation of the antidumping duty orders on SPB imports from Germany and Japan would not be likely to impact significantly the domestic industry's output, sales, market share, profits, or return on investment. I therefore find that revocation of the antidumping duty orders on SPB imports from Germany and Japan is not likely to lead to continuation or recurrence of material injury to the U.S. SPB industry within a reasonably foreseeable time.

III. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON SPBS FROM FRANCE IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Likely Volume of Subject Imports

There is limited information in the record concerning the SPB industry in France because SKF was the only French SPB producer to respond to the Commission's notice of institution and submit a foreign producer's questionnaire. The limited information the Commission was able to obtain indicates that there is excess available production capacity in France and that subject imports from France would be exported in significant quantities to the U.S. market.

Based on questionnaire data received, French SPB capacity in 1998 appears to be as much as *** SPBs and production appears to be *** SPBs (assuming SKF's estimate that its production accounted for *** percent of total French production).⁵³ Extrapolating from that level of capacity utilization, it would appear that excess SPB capacity in France totaled *** SPBs, which ***.⁵⁴

With no significant French production affiliated with domestic production, the information in the record reveals that the antidumping duty orders alone have restrained subject imports from France. For

⁴⁸ CR/PR at Table SPB-I-1.

⁴⁹ CR/PR at Table SPB-I-1, Table SPB-III-10.

⁵⁰ CR/PR at Table SPB-I-1.

⁵¹ CR/PR at Table SPB-I-1.

⁵² CR/PR at Table SPB-I-1.

⁵³ I note that a producer's estimate of its share of foreign country production is inherently imprecise. Nevertheless, even if SKF's estimate of its share of French production is substantially ***, SKF *** of French production.

⁵⁴ CR/PR at Appendix C, Table C-4.

example, the French producer SNFA has been subject to the high “all others” duty deposit rate.⁵⁵ Based on available information, I find that absent the discipline of the order, this large producer would export significant quantities to the U.S.⁵⁶

Consequently, based on the record evidence I conclude that, if the discipline of the order was removed, French SPB producers would significantly increase exports to the U.S. market, and that subject imports from France would rise to a significant level.

B. Likely Price Effects of Subject Imports

The record in these reviews contains no pricing data on the subject imports from France. Moreover, the average unit value data do not permit meaningful price comparisons with the domestic like product.⁵⁷

However, I find that the volume of subject imports from France would rise to significant levels if the order were to be revoked. I find it likely that subject producers from France would offer attractively low prices in order to gain that market share.⁵⁸ Because subject import volumes from France likely will increase to a significant level, and because the facts available with respect to subject imports from France indicate that the underselling to gain market share will affect purchasing decisions for SPBs, I conclude that the significant likely volume of subject imports will have significant price-depressing or price-suppressing effects.

C. Likely Impact of Subject Imports

The first step in my analysis of the likely impact of subject imports if the antidumping duty orders are revoked is to determine whether the domestic industry is in a vulnerable state. My views on the condition of the industry are discussed above in the portion of my opinion regarding SPBs from Germany and Japan. As stated therein, I do not find this industry to be vulnerable.

I have concluded, however, that revocation of the antidumping duty order with respect to France would lead to significant increases in the volume of subject imports that would undersell the domestic like product and significantly depress or suppress U.S. prices. Accordingly, subject imports from France likely would have a significant negative impact on the domestic industry and would likely cause it to lose revenues and/or market share. Based on the facts available, I conclude that if the antidumping duty order on SPBs from France were to be revoked, the domestic industry’s financial performance would be materially adversely affected by the significant volume of low-priced subject French imports.

⁵⁵ *Id.*

⁵⁶ I note that imports from France increased by *** percent in the interim period in the original investigation. Confidential Staff Report for Original Investigation at A-119.

⁵⁷ See CR/PR at Table IV-1.

⁵⁸ In its final five-year review determination regarding SPBs from France, Commerce found 39 percent margins. 64 Fed. Reg. 60325 (November 4, 1999). In reaching my conclusion on likely price effects, I have weighed all the pertinent evidence on price and taken into account Commerce’s duty absorption findings on France (62 Fed. Reg. 54043 (Oct. 17, 1997), although I note the respondents’ argument that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce’s duty absorption findings with respect to certain transition orders. See JBI Posthearing Brief at pp. 9-10; SKF Group Posthearing Brief at p. xviii.

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

Certain Bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom

Inv. Nos. AA1921-143 (Review) and 731-TA-341, 343-345, 391-397, and 399 (Review)

As noted in the Views of the Commission, I join the majority's discussion of the background, the definitions of domestic like products and domestic industries, and the legal standards (other than cumulation), in these grouped reviews. I further join the views of the majority with regard to tapered roller bearings from China, Japan, and Hungary (although, as noted, I additionally render an affirmative determination with regard to Romania). Finally, I join the views of the majority with regard to ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom (although, as noted, I additionally render affirmative determinations with regard to Romania and Sweden).

Because portions of my analysis with regard to the orders on tapered roller bearings ("TRBs") and ball bearings ("BBs") differ from the views of the majority, and because I render affirmative determinations with regard to the orders on cylindrical roller bearings ("CRBs") from France, Germany, Italy, and Japan, as well as spherical plain bearings ("SPBs") from France, Germany, and Japan, I provide my separate and dissenting views below.

I. TAPERED ROLLER BEARINGS

To begin, I note that I join the majority's discussion of the relevant conditions of competition in the domestic TRB industry (section IV.B). I do not, however, join the majority's analysis of cumulation in these grouped reviews; consequently, I provide my own cumulation analysis below.

Cumulation:

I have previously described the analytical framework that I employ to assess cumulation in the context of grouped sunset reviews.¹ The sequence of my analysis differs from that of my colleagues in that I first assess whether there is likely to be a reasonable overlap of competition in the event of revocation, before addressing whether revocation of any of the orders would be likely to have no discernible adverse impact on the domestic industry.

Likelihood of a Reasonable Overlap of Competition—

I note that the Commission cumulated subject imports in the original investigations, after finding a reasonable overlap of competition. Upon review of the record in these reviews, I am satisfied that, notwithstanding some differences in quality, there is likely to be a reasonable overlap of competition

¹ See Potassium Permanganate from China and Spain, *Separate and Dissenting Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews*, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245, at 27-30 (October 1999); see also Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, *Separate Views of Chairman Lynn M. Bragg Regarding Cumulation*, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290, at 27-32 (April 2000).

among subject imports and between subject imports and the domestic like product if the orders under review are revoked.

In particular, with respect to fungibility, the record indicates that domestic TRBs are generally interchangeable with subject imports from each of the four countries under review. The record also indicates that subject imports from each of the four countries are sold to OEMs and meet qualification requirements, although imports from Japan are sold primarily to high-end OEMs while OEM sales of subject imports from the three remaining countries are in low-end markets. On balance, however, I do not find a clear demarcation between segments of the TRB market served by Japanese producers versus the remaining subject producers.² I also find that all subject imports are likely to compete with each other and the domestic like product both simultaneously and in the same geographic markets. I therefore determine that there is likely to be a reasonable overlap of competition if the TRB orders are revoked.³

No Discernible Adverse Impact—

The next step in my cumulation analysis is to determine whether revocation of each of the TRB orders, individually, would be likely to have no discernible adverse impact on the domestic industry.

1. Japan

The record demonstrates there is extremely limited unused capacity in Japan; in addition, there continue to be substantial volumes of imports from Japan notwithstanding imposition of the orders.⁴ Moreover, the pricing data indicate that both the incidence of underselling and the volume of undersold TRB imports from Japan pale in comparison to the incidence and volume of overselling by Japanese TRB imports.⁵ Finally, the Japanese TRB industry does not exhibit a significant export orientation, with exports constituting only about one third of total shipments.⁶

Based upon the foregoing, I find that revocation of the finding and order on TRBs from Japan would create no incentive or opportunity for producers and exporters in Japan to increase significantly their volume of shipments to the United States, if at all, or to depart significantly from their pricing practices under the discipline of the finding and order, within a reasonably foreseeable time; in other words, revocation of the finding and order on Japan is likely to have no discernible adverse impact on the domestic industry.

2. Hungary

² The record indicates that a majority of the domestic industry's TRB shipments in 1998 were to end users and OEMs. Similarly, a majority of subject imports from the four countries under review were sold to end users and OEMs in 1998; however, substantial volumes of both domestic and subject TRBs, including TRBs from Japan, were also sold to distributors and aftermarket customers. *See* Confidential Report ("CR") at TRB-I-26, Public Report ("PR") at TRB-I-22.

³ *See* CR at TRB-I-23 to TRB-I-28 and TRB-II-7 to TRB-II-12, PR at TRB-I-20 to TRB-I-23 and TRB-II-4 to TRB-II-7.

⁴ CR and PR Table TRB-IV-5.

⁵ *See* CR and PR Tables TRB-V-2 through TRB-V-18.

⁶ CR and PR Table TRB-IV-5.

The record indicates that there is only one known Hungarian TRB producer, and that even if this one producer directed 100 percent of its production capacity to the U.S. market, this volume would be equivalent to only *** percent of apparent U.S. consumption during the period of review.⁷ If only unused capacity in Hungary is considered, this figure would be even lower. Based upon the foregoing, I find that revocation of the order on TRBs from Hungary would create no incentive or opportunity for the Hungarian producer to increase significantly its minuscule volume of shipments to the United States, if at all, and that any such increase would not have any effect on price levels in the U.S. market; in other words, revocation of the order on Hungary is likely to have no discernible adverse impact on the domestic industry.

3. China and Romania

With regard to both China and Romania, the record demonstrates that each has unused production capacity, coupled with a strong export orientation for the TRB industries in each country.⁸ In addition, I find significant the *** increase in exports from Romania to the United States evidenced between interim 1998 and interim 1999.⁹ Finally, I find that revocation of each of these orders, individually, would create an incentive for the TRB industries in China and Romania to redirect sizeable exports from third country markets to the United States. Based upon the foregoing, I find that revocation of the orders on TRBs from China and Romania, individually, would be likely to have a discernible adverse impact on the domestic industry.

4. Aggregate Analysis

Because I have determined that revocation of the finding and orders on TRBs from Japan and Hungary, individually, would be likely to have no discernible adverse impact on the domestic industry, I turn to the second stage of my analytical framework regarding cumulation. Upon review, I am satisfied that, even when considered in the aggregate, any increase in import volume from these two countries combined (if the finding and orders are revoked), is likely to be minimal, and that the likely pricing behavior of imports from Japan and Hungary following revocation would not affect price levels in the U.S. market. Consequently, upon considering likely imports from Japan and Hungary both individually and in the aggregate, I find that revocation of the finding and orders on TRBs from Japan and Hungary would be likely to have no discernible adverse impact on the domestic TRB industry.

Conclusion—

In light of my foregoing determinations, I have cumulatively analyzed the likely effects of revocation of the orders on TRBs from China and Romania. As noted in the views of the majority, I join in the majority's affirmative determination with regard to China (section IV.C), and I append my views and analysis with regard to Romania in footnotes therein.

Also, as noted, I join in the majority's negative determinations with regard to Japan (section IV.D) and Hungary (section IV.E). I note that my negative determinations stem largely from my conclusion that

⁷ See staff summary of foreign producer data (June 1, 2000).

⁸ See CR and PR Tables TRB-IV-3 and TRB-IV-6.

⁹ CR and PR Table TRB-IV-6.

revocation of the finding and orders on TRBs from Japan and Hungary, both individually and in the aggregate, would be likely to have no discernible adverse impact on the domestic TRB industry.

II. BALL BEARINGS

I note that I join the majority's discussion of the relevant conditions of competition in the domestic BB industry, to the extent noted (section V.B). I do not, however, join the majority's analysis of cumulation in these grouped reviews; consequently, I provide my own cumulation analysis below.¹⁰

Cumulation:

Likelihood of a Reasonable Overlap of Competition–

I note that the Commission cumulated subject imports in the original investigations, after finding a reasonable overlap of competition.¹¹ Upon review of the record in these reviews, I am satisfied that, notwithstanding some differences in quality, there is likely to be a reasonable overlap of competition among subject imports and between subject imports and the domestic like product if the orders under review are revoked.

In particular, with respect to fungibility, the record indicates that domestic BBs are interchangeable with subject imports from each of the eight countries under review. Specifically, according to data received in response to the Commission's purchaser questionnaire, the record indicates that the majority of purchasers view BBs manufactured in the subject countries as fully substitutable with the domestic like product.¹² Purchasers also found quality to be the most important factor in purchasing decisions;¹³ a majority of purchasers found the quality of subject imports to be comparable to that of the domestic like product.¹⁴

Ball bearings are sold both to OEMs and to distributors and other aftermarket customers. Specifically, the record indicates that in 1998 roughly 79 percent of the domestic industry's BB shipments were to end-users and OEMs, while 21 percent were to distributors and aftermarket customers. With regard to subject imports, 96 percent of shipments were to end-users and OEMs, while 4 percent were to distributors and aftermarket customers.

Finally, I note that subject imports from each of the eight countries have been present continuously in the U.S. market during the period of review and have been sold throughout the United States. Based upon the foregoing, I determine that there is likely to be a reasonable overlap of competition if the BB orders are revoked.¹⁵

No Discernible Adverse Impact–

¹⁰ See *supra* n.1.

¹¹ USITC Pub. 2185, at 64-65.

¹² CR at BB-I-31, PR at BB-I-26.

¹³ CR and PR Table BB-II-1.

¹⁴ CR at BB-II-10 to BB-II-15, PR at BB-II-6 to BB-II-10.

¹⁵ See CR at BB-I-27 to BB-I-35 and BB-II-7 to BB-II-15, PR at BB-I-24 to BB-I-29 and BB-II-4 to BB-II-10.

The next step in my cumulation analysis is to determine whether revocation of each of the BB orders, individually, is likely to have no discernible adverse impact on the domestic industry.

1. France, Italy, Japan, Singapore, and the United Kingdom

The record indicates that producers in each of these five subject countries have substantial production capacity, as well as significant unused capacity (ranging from *** percent to *** percent of apparent U.S. consumption in interim 1999).¹⁶ I further note that, except for Japan, there is a marked export orientation for the domestic industries in each of these subject countries (with exports ranging from *** percent to *** percent of total shipments for France, Italy, Singapore, and the United Kingdom in interim 1999, respectively).¹⁷ As for Japan, I note that Japanese producers account for the largest amount of unused capacity evidenced on the record among these five subject countries in interim 1999.¹⁸ Based upon the foregoing, I find that for each of the respective orders on BBs from France, Italy, Japan, Singapore, and the United Kingdom, revocation of the order would likely result in a discernible adverse impact on the domestic industry.

2. Germany

The record indicates that although there does not appear to be significant unused capacity among the German BB producers, Germany ranks third in global bearing production.¹⁹ In addition, I note that subject imports from Germany accounted for 4.8 percent of total imports in interim 1998 and 4.7 percent of total imports in interim 1999.²⁰ I further note that a majority of quarterly pricing comparisons involving subject imports from Germany during the period of review evidence underselling.²¹ Based upon the foregoing, I find that revocation of the order on Germany would likely result in a discernible adverse impact on the domestic industry.

3. Romania

The record indicates that unused capacity was equivalent to 2.0 percent of apparent U.S. consumption in interim 1999.²² In addition, I note that Romanian producers exhibit a marked export orientation, with exports accounting for 81.6 percent of total shipments in interim 1999.²³ I further note that the largest producer in Romania is a subsidiary of Koyo Seiko (the Japanese producer that also owns

¹⁶ See CR and PR Tables BB-IV-3, BB-IV-5, BB-IV-6, BB-IV-8, and BB-IV-10.

¹⁷ See *id.*

¹⁸ CR and PR Table BB-IV-6.

¹⁹ CR at BB-IV-9 and Table BB-IV-4, PR at BB-IV-6 and Table BB-IV-4.

²⁰ CR and PR Table BB-IV-1.

²¹ CR and PR Table BB-V-19.

²² See staff summary of foreign producer data (June 1, 2000).

²³ CR and PR Table BB-IV-7.

the U.S. producer Koyo Corporation USA).²⁴ Thus, even if the Koyo family of companies rationalizes global production efforts so as not to engage in import competition to the detriment of the affiliated U.S. producer Koyo (USA), revocation of the order on Romania would create an incentive for increased exports to the U.S. market, particularly if the order on BBs from Japan remains in place. Based upon the foregoing, I find that revocation of the order on Romania would likely result in a discernible adverse impact on the domestic industry.

4. Sweden

I note that the only known BB producer in Sweden, *i.e.* SKF, is also the world's largest bearings producer.²⁵ The record indicates that total BB production capacity in Sweden is relatively small, and unused capacity was equivalent to substantially less than *** percent of apparent U.S. consumption in interim 1999.²⁶ I further note, however, that there is a marked export orientation for the Swedish BB industry, with exports accounting for over *** percent of total shipments in interim 1999.²⁷ Moreover, SKF also owns BB production facilities in ***; in particular, SKF has transferred its production of *** from Sweden to ***.²⁸ SKF (Sweden) also owns the U.S. producer SKF (USA). Thus, even if the SKF family of companies rationalizes global production efforts so as not to engage in import competition to the detriment of the affiliated U.S. producer SKF (USA), revocation of the order on Sweden would create an incentive for increased exports to the U.S. market, particularly if the orders on BBs from *** remain in place. Based upon the foregoing, I find that revocation of the order on Sweden would likely result in a discernible adverse impact on the domestic industry.

5. Aggregate Analysis

Because I find that revocation of each of the BB orders, individually, would be likely to result in a discernible adverse impact to the domestic BB industry, I do not reach the second stage of my cumulation analysis.

Conclusion—

In light of my foregoing determinations, I have cumulatively analyzed the likely effects of revocation of the orders on BBs from all eight subject countries. As noted in the views of the majority, I join in the majority's affirmative determinations with regard to France, Germany, Italy, Japan, Singapore, and the United Kingdom (section V.C), and I append my views with regard to Romania and Sweden in footnotes therein.

III. CYLINDRICAL ROLLER BEARINGS

²⁴ CR at BB-IV-17, PR at BB-IV-9.

²⁵ CR at BB-IV-21, PR at BB-IV-11.

²⁶ See staff summary of foreign producer data (June 1, 2000).

²⁷ CR and PR Table BB-IV-9.

²⁸ CR at BB-IV-21, PR at BB-IV-11.

Cumulation:

Likelihood of a Reasonable Overlap of Competition—

I note that the Commission cumulated subject imports in the original investigations, after finding a reasonable overlap of competition.²⁹ Upon review of the record in these reviews, I am satisfied that there is likely to be a reasonable overlap of competition among subject imports and between subject imports and the domestic like product if the orders under review are revoked.

In particular, with respect to fungibility, the record indicates that domestic CRBs are interchangeable with subject imports from five of the six countries under review (*i.e.* all except Sweden). Specifically, according to data received in response to the Commission's purchaser questionnaire, the record indicates that the majority of purchasers view CRBs manufactured in the subject countries as fully substitutable with the domestic like product.³⁰ Purchasers also found that quality was the most important factor in purchasing decisions,³¹ and that the quality of subject imports is comparable to that of the domestic like product.³²

CRBs are sold principally to OEMs, with some sales to distributors and other aftermarket customers. Specifically, the record indicates that in 1998 roughly 97 percent of the domestic industry's CRB shipments were to end-users and OEMs, while 3 percent were to distributors and aftermarket customers; with regard to subject imports, 88.5 percent of shipments were to end-users and OEMs, while 11.5 percent were to distributors and aftermarket customers.³³

I also note that subject imports from five of the six countries (*i.e.* all except Sweden) have been present continuously in the U.S. market during the period of review and have been sold throughout the United States.³⁴

With regard to Sweden, I note that the only known bearings producer in Sweden, *i.e.* SKF, reported that there has been no production of CRBs in Sweden since the mid-1990s;³⁵ even during the original period of investigation, subject imports of CRBs from Sweden captured only *** percent of apparent U.S. consumption annually.³⁶ Notably, however, the record does not demonstrate that SKF is no longer capable of CRB production in Sweden if the order is revoked. Accordingly, to the extent revocation of the order on CRBs from Sweden would create an incentive for SKF to resume exports of CRBs from Sweden to the United States, I find such imports would be likely to compete with imports from the other five subject countries and with the domestic like product.

Based upon the foregoing, with regard to all six subject countries, I determine that there is likely to be a reasonable overlap of competition if the CRB orders are revoked.

No Discernible Adverse Impact—

²⁹ USITC Pub. 2185, at 64-65.

³⁰ CR at CRB-I-21, PR at CRB-I-18.

³¹ CR and PR Table CRB-II-1.

³² See CR at CRB-II-9, PR at CRB-II-5.

³³ CR at CRB-I-23, PR at CRB-I-19.

³⁴ CR and PR Table CRB-I-10.

³⁵ CR at CRB-IV-11, PR at CRB-IV-7.

³⁶ CR and PR Table CRB-I-1.

1. France, Germany, and Japan

I note that for each of these subject countries, capacity utilization rates during interim 1999 ranged from *** percent to *** percent.³⁷ I further note that production capacity in each of these countries is substantial; accordingly, I find that unused capacity in each of these countries evidences the ability to direct substantial volumes of CRBs to the U.S. market in the event of revocation. I therefore determine that revocation of each of the orders on CRBs from France, Germany, and Japan, would be likely to have a discernible adverse impact on the domestic industry.

2. Italy

I first note that on February 28, 1995, the antidumping duty order on CRBs from Italy was partially revoked with regard to CRBs produced by SKF in Italy. I further note that the CRB industry in Italy is heavily export oriented, with over *** percent of total reported CRB production exported in 1998; moreover, roughly *** of this subject production was exported to the U.S. market.³⁸ Industry-wide capacity utilization data for Italian producers still subject to the order are unavailable on the record; however, I note that one subject producer reported capacity utilization rates of *** percent in 1998 and *** percent in interim 1999. Based upon the foregoing, I find that revocation of the order on Italy would likely result in a discernible adverse impact on the domestic industry.

3. Sweden

As noted, SKF is the only known bearings producer in Sweden, and SKF reported that there has been no production of CRBs in Sweden since the mid-1990s; also, as noted, in February 1995, the order on CRBs from Italy was partially revoked with regard to SKF's exports from Italy, thereby affording SKF an incentive to switch CRB production from Sweden to Italy. Consequently, I am satisfied that revocation of the order on CRBs from Sweden would create no incentive for SKF to resume production of CRBs in Sweden because it can already export to the U.S. market from Italy without confronting the assessment of antidumping duties. I therefore determine that revocation of the order on CRBs from Sweden would be likely to have no discernible adverse impact on the domestic industry.

4. United Kingdom

SKF reported that ***, thus leaving ***.³⁹ The record indicates that in 1998, total capacity in the United Kingdom was equivalent to only *** percent of apparent U.S. consumption that year.⁴⁰ Based upon the foregoing, I determine that revocation of the order on CRBs from the United Kingdom would be likely to have no discernible adverse impact on the domestic industry.

5. Aggregate Analysis

³⁷ CR and PR Tables CRB-IV-3, CRB-IV-4, and CRB-IV-6.

³⁸ CR and PR Table CRB-IV-10.

³⁹ CR at CRB-IV-11, PR at CRB-IV-7.

⁴⁰ See staff summary of foreign producer data (June 1, 2000).

Because I have determined that revocation of the orders on CRBs from Sweden and the United Kingdom, individually, would be likely to have no discernible adverse impact on the domestic industry, I turn to the second stage of my analytical framework regarding cumulation. Upon review, I am satisfied that, even when considered in the aggregate, any increase in import volume from these two countries combined (if both orders are revoked), is likely to be so small as to be inconsequential in the U.S. market. Consequently, upon considering likely imports from Sweden and the United Kingdom both individually and in the aggregate, I find that revocation of the orders on CRBs from Sweden and the United Kingdom would be likely to have no discernible adverse impact on the domestic CRB industry.

Conclusion—

In light of my foregoing determinations, I have cumulatively analyzed the likely effects of revocation of the orders on CRBs from France, Germany, Italy, and Japan. In addition, I have engaged in country-specific analyses with regard to Sweden and with regard to the United Kingdom; my negative determinations with regard to these latter two countries stem largely from my conclusion that revocation of the orders on CRBs from Sweden and the United Kingdom, both individually and in the aggregate, would be likely to have no discernible adverse impact on the domestic CRB industry.

Conditions of Competition:

In assessing the likelihood of continuation or recurrence of material injury if the orders under review are revoked, I have considered the following conditions of competition in the CRB industry.⁴¹ CRBs are antifriction bearings that use cylindrical rollers as the rolling element, which permits heavy radial load capacity at high speeds. Additional characteristics include low drag and heat generation, making CRBs particularly suited for applications in the automotive, construction machinery, agricultural machinery, mining equipment, aerospace, and metal, pulp and paper mill industries. More specifically, *** percent of CRBs are used by *** OEMs; in addition, *** CRBs used in the aerospace, agricultural, and *** OEM segments are customized. CRBs are generally produced on dedicated machinery, and a producer cannot switch production of CRBs to other types of bearings without reconfiguration of production lines, which adds to costs.⁴²

Demand in the United States has grown significantly since the original investigations, and domestic shipments have kept pace with such growth, as have both subject and nonsubject imports. Increases in domestic CRB production and capacity are the result of direct foreign investment in the United States since imposition of the orders, particularly by German and Japanese firms, as well as investments and expansions to production facilities by U.S. producers. As with all types of antifriction bearings, the market for CRBs can be characterized as price-competitive, particularly for commodity-type bearings. The industries producing CRBs in several of the subject countries evidence a marked export orientation, particularly with regard to France, Germany, and Italy. Finally, for both subject imports and the domestic like product, the primary channel of distribution for CRBs in the United States is direct sales to OEMs, with some sales to distributors and other aftermarket customers.

Likelihood of Continuation or Recurrence of Material Injury:

To begin, I acknowledge that an individual foreign CRB producer with an established physical presence in the United States is unlikely to engage in export behavior to the detriment of its affiliated U.S. production operations. In my view, however, such rationalization of production within a family of affiliated companies, in and of itself, says nothing about the likely behavior of foreign imports as a whole in the event of revocation, nor does it provide an indication of the likely impact of such imports on unaffiliated producers (whether U.S. or foreign owned) within the domestic industry. Specifically with regard to CRBs, I note that certain domestic producers are affiliated with subject producers in Germany

⁴¹ See CR at CRB-I-20 to CRB-I-22, PR at CRB-I-15 to CRB-I-18.

⁴² Indeed, the record does not demonstrate that such product switching is done with any frequency in the CRB industry.

and Japan.⁴³ I further note that several large Japanese CRB producers do not have any affiliation with U.S. producers of the domestic like product.

Finally, as noted above, I have engaged in a cumulative analysis with regard to revocation of the orders on CRBs from France, Germany, Italy, and Japan, and country-specific analyses with regard to revocation of the orders on CRBs from Sweden and the United Kingdom, respectively.

Likely Volume—

1. France, Germany, Italy, and Japan

The record indicates that unused capacity in France, Germany, Italy, and Japan, is equivalent to over *** percent of apparent U.S. consumption in 1998, a substantial volume by any measure.⁴⁴ In addition, as noted, the industries in France, Germany, and Italy, each evidence a marked export orientation. With regard to Japan, several large Japanese CRB producers are unaffiliated with U.S. producers and thus are free to direct excess capacity to the U.S. market in the event of revocation. As for the two Japanese producers that are related to U.S. producers, even if production rationalization among affiliated producers is considered, such rationalization would not preclude the Japanese producers from directing excess capacity to the U.S. market in the event of revocation; the same is true of the two German producers that are affiliated with U.S. producers.

Based upon the foregoing, I find that absent the restraining effects of the orders, subject producers in France, Germany, Italy, and Japan, would direct significant volumes of CRB exports to the U.S. market within a reasonably foreseeable time.

2. Sweden and the United Kingdom

As noted, I have determined that revocation of the orders on Sweden and the United Kingdom would each be likely to result in no discernible adverse impact on the domestic industry. I therefore find that if the order on CRBs from Sweden were revoked, any volume of imports from Sweden, either in absolute terms or relative to U.S. production or consumption, would not be significant. Similarly, I find that if the order on CRBs from the United Kingdom were revoked, any volume of imports from the United Kingdom, either in absolute terms or relative to U.S. production or consumption, would not be significant.

⁴³ See CR and PR Overview Table 2.

⁴⁴ See staff summary of foreign producer data (June 1, 2000).

Likely Price Effects—⁴⁵

1. France, Germany, Italy, and Japan

I note that pricing data were collected for five CRB products accounting for *** percent of German imports; *** percent of Japanese imports; and 1.87 percent of U.S. shipments.⁴⁶ No pricing data were collected with regard to imports from France, Italy, Sweden, and the United Kingdom. With regard to Germany and Japan, the limited pricing data indicate predominant underselling by subject imports; specifically, in 17 quarterly pricing comparisons, subject imports undersold the domestic product in 12 comparisons, for a 70 percent incidence of underselling.⁴⁷ Moreover, the volume of undersold bearings far exceeded the volume of oversold bearings for each country.

The limited coverage of the pricing data is not surprising given the large variety of CRBs available. As noted, however, the CRB industries in France, Germany, Italy, and Japan, are poised to direct a significant volume of CRBs to the U.S. market if the orders are revoked. Consequently, a significant increase in the volume of fully substitutable CRBs, at prices likely to significantly undersell the domestic like product, would likely depress or suppress prices in the U.S. market to a significant degree. Accordingly, I find that revocation of the orders on CRBs from France, Germany, Italy, and Japan, would likely result in significant negative price effects in the U.S. market within a reasonably foreseeable time.

2. Sweden and the United Kingdom

As noted, I have determined that revocation of the orders on Sweden and the United Kingdom would each be likely to result in no discernible adverse impact on the domestic industry. I therefore find that if the order on CRBs from Sweden were revoked, any volume of imports from Sweden, either in absolute terms or relative to U.S. production or consumption, would not result in significant negative price effects in the U.S. market. Similarly, I find that if the order on CRBs from the United Kingdom were revoked, any volume of imports from the United Kingdom, either in absolute terms or relative to U.S. production or consumption, would not result in significant negative price effects in the U.S. market.

Likely Impact—

To begin, I note that although the number of U.S. producers posting operating losses increased slightly, from 0 out of 12 in 1997 to 1 out of 12 in interim 1999, the record does not support a finding that the domestic CRB industry as a whole currently is in a vulnerable condition; in particular, I note that the domestic industry captured a U.S. market share ranging from 76.0 percent in 1997 to 79.1 percent in interim 1999; operating margins ranging from 15.3 percent in 1997 to 12.0 percent in interim 1999; and

⁴⁵ In reaching my conclusions regarding the likely price effects in the event of revocation, I have considered all pertinent record evidence, including the Commerce Department's duty absorption findings on France, Germany, Japan, Sweden, and the United Kingdom. I note, however, that a recent decision of the U.S. Court of International Trade, *SKF USA Inc. v. United States*, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000), calls into question the validity of Commerce's duty absorption findings with respect to transition orders. I further note that I have not relied upon Commerce's duty absorption findings in rendering my determinations in these reviews.

⁴⁶ CR at CRB-V-4 to CRB-V-6, PR at CRB-V-3 to CRB-V-4.

⁴⁷ CR and PR Table CRB-V-5.

capacity utilization rates ranging from 82.4 percent in 1997 to 74.9 percent in interim 1999.⁴⁸ I also note, however, that these indicia each demonstrate an overall decline between 1997 and interim 1999.

1. France, Germany, Italy, and Japan

Nevertheless, I find that with regard to revocation of the orders on CRBs from France, Germany, Italy, and Japan, the likely influx of significant import volumes at prices that would likely have significant negative price effects in the U.S. market would have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues. These reductions in production, shipments, sales, market share, and revenues, would further result in a significant decline in the domestic industry's profitability and ability to raise capital and maintain necessary capital investments.

2. Sweden and the United Kingdom

As noted, I have determined that revocation of the orders on Sweden and the United Kingdom would each be likely to result in no discernible adverse impact on the domestic industry. I therefore find that if the order on CRBs from Sweden were revoked, any volume of imports from Sweden, either in absolute terms or relative to U.S. production or consumption, would not result in a significant adverse impact on the domestic CRB industry. Similarly, I find that if the order on CRBs from the United Kingdom were revoked, any volume of imports from the United Kingdom, either in absolute terms or relative to U.S. production or consumption, would not result in a significant adverse impact on the domestic CRB industry.

Conclusion:

For the foregoing reasons, I determine that revocation of the orders on CRBs from France, Germany, Italy, and Japan, would be likely to result in continuation or recurrence of material injury to the domestic CRB industry within a reasonably foreseeable time. I further determine that revocation of the orders on CRBs from Sweden and the United Kingdom would not be likely to result in material injury to the domestic industry within a reasonably foreseeable time.

IV. SPHERICAL PLAIN BEARINGS

Cumulation:

Likelihood of a Reasonable Overlap of Competition—

I note that the Commission cumulated subject imports from France, Germany, and Japan, in its original determinations, after finding a reasonable overlap of competition. Upon review of the record in these reviews, I am satisfied that there is likely to be a reasonable overlap of competition among subject imports and between subject imports and the domestic like product if the orders under review are revoked.

⁴⁸ CR and PR Tables CRB-I-11, CRB-III-1, and CRB-III-7.

In particular, the record indicates that with respect to fungibility, all responding purchasers consider subject imports to be interchangeable with the domestic like product.⁴⁹ These purchasers also indicated that interchangeability and qualification are more company-specific issues, rather than country-specific.⁵⁰ While the proportion of U.S. sales held by customized SPBs appears to be increasing, the record does not indicate that subject imports are unable to compete with the domestic product in the customized segment of the market.⁵¹

In addition, the record indicates that both subject imports and the domestic product move in the same channels of distribution and in comparable proportions (roughly 70 percent of shipments to end-users and OEMs compared with 30 percent of shipments to distributors and aftermarket customers).⁵² Based upon the foregoing, with regard to all three subject countries, I determine that there is likely to be a reasonable overlap of competition if the SPB orders are revoked.

No Discernible Adverse Impact—

1. France

I note that France accounted for 5.6 percent of total SPB imports into the United States in 1997; 6.3 percent in 1998; and 5.4 percent in interim 1999.⁵³ Only one French producer responded to the Commission's questionnaire, *i.e.* SKF, which is reported to account for minimal SPB production in France; indeed, two of the largest bearings producers in France, *i.e.* SNR and SNFA, did not provide the Commission with questionnaire responses.⁵⁴ SKF reported that revocation of the order ***.⁵⁵ Finally, SKF's questionnaire response indicates that its capacity increased in 1998, and that unused capacity is available which could be directed to the U.S. market if the order were revoked. Based upon the foregoing, I determine that revocation of the order on SPBs from France would be likely to have a discernible adverse impact on the domestic industry.

2. Germany

I note that Germany accounted for 26.4 percent of total SPB imports into the United States in 1997; 23.0 percent in 1998; and 14.8 percent in interim 1999.⁵⁶ The Commission sent 20 questionnaires to producers in Germany, and only two responses were received, one of which is from the largest German producer.⁵⁷ The data show that capacity utilization in Germany fell to *** percent in interim 1999, thus indicating the availability of unused capacity which could be directed to the U.S. market if the order were

⁴⁹ CR at SPB-I-13, PR at SPB-I-11.

⁵⁰ See CR at SPB-II-5 to SPB-II-7, PR at SPB-II-3 to SPB-II-4.

⁵¹ See CR at SPB-I-13 to SPB-I-14, PR at SPB-I-11 to SPB-I-12.

⁵² See CR at SPB-I-14, PR at SPB-I-12.

⁵³ CR and PR Table SPB-IV-1.

⁵⁴ CR at SPB-IV-5, PR at SPB-IV-1.

⁵⁵ *Id.*

⁵⁶ CR and PR Table SPB-IV-1.

⁵⁷ CR at SPB-IV-7, PR at SPB-IV-4.

revoked.⁵⁸ During the original investigations, imports from Germany accounted for *** percent of apparent U.S. consumption; this has since declined to 2.8 percent in 1998 and 2.0 percent in interim 1999.⁵⁹ Based upon the foregoing, I determine that revocation of the order on SPBs from Germany would be likely to have a discernible adverse impact on the domestic industry.

3. Japan

I note that Japan accounted for 18.2 percent of total SPB imports into the United States in 1997; 19.6 percent in 1998; and 31.5 percent in interim 1999.⁶⁰ The Commission sent 29 questionnaires to producers in Japan; five affirmative responses were received.⁶¹ The data show that capacity utilization in Japan fell to 62.5 percent in interim 1999, thus indicating the availability of unused capacity which could be directed to the U.S. market if the order were revoked.⁶² During the original investigations, imports from Japan accounted for *** percent of apparent U.S. consumption; this has since declined to 2.4 percent in 1998 and 4.2 percent in interim 1999.⁶³ Based upon the foregoing, I determine that revocation of the order on SPBs from Japan would be likely to have a discernible adverse impact on the domestic industry.

4. Aggregate Analysis

Because I find that revocation of each of the SPB orders, individually, would be likely to result in a discernible adverse impact on the domestic SPB industry, I do not reach the second stage of my cumulation analysis.

Conclusion—

In light of my foregoing determinations, I have cumulatively analyzed the likely effects of revocation of the orders on SPBs from all three subject countries.

Conditions of Competition:

In assessing the likelihood of continuation or recurrence of material injury if the orders under review are revoked, I have considered the following conditions of competition in the SPB industry.⁶⁴ SPBs are used to facilitate oscillatory or realignment motion between fixed and moving parts; in addition, they can support heavy loads at relatively low speeds. Consequently, SPBs are used in off-highway vehicles; construction machinery; agricultural machinery; mining equipment; logging equipment; aerospace applications; and hydraulic cylinders. SPBs are generally produced on dedicated machinery, and a

⁵⁸ CR and PR Table SPB-IV-4.

⁵⁹ CR and PR Table SPB-I-1.

⁶⁰ CR and PR Table SPB-IV-1.

⁶¹ CR at SPB-IV-9, PR at SPB-IV-5.

⁶² CR and PR Table SPB-IV-5.

⁶³ CR and PR Table SPB-I-1.

⁶⁴ See CR at SPB-I-13 to SPB-I-15, PR at SPB-I-11 to SPB-I-12.

producer cannot switch production of SPBs to other types of bearings without reconfiguration of production lines, which adds to costs.⁶⁵

All responding purchasers consider subject SPBs to be interchangeable with the domestic product. Roughly 80 percent of SPBs in the U.S. market are standardized, with the remaining 20 percent being customized; within the industry, customization of the product appears to be an increasing phenomenon. With regard to both the domestic industry's U.S. shipments and subject imports, roughly 70 percent were sold to end-users and OEMs, with the remaining 30 percent sold to distributors and aftermarket customers. Four of the nine U.S. producers accounted for *** percent of U.S. shipments in 1998.

As with all types of antifriction bearings, the market for SPBs can be characterized as price-competitive, particularly for commodity-type bearings. Currently, apparent U.S. consumption is roughly four times the levels evidenced during the original investigations, although the record evidences a 1.6 percent decline in apparent consumption between interim 1998 and interim 1999.⁶⁶ From 1987 to 1998, the value of SPB imports from the three subject countries increased by *** percent. Nonsubject imports now account for about half of total SPB imports into the U.S. market, with subject imports accounting for the remainder.

Likelihood of Continuation or Recurrence of Material Injury:

To begin, I acknowledge that an individual foreign SPB producer with an established physical presence in the United States is unlikely to engage in export behavior to the detriment of its affiliated U.S. production operations. In my view, however, such rationalization of production within a family of affiliated companies, in and of itself, says nothing about the likely behavior of foreign imports as a whole in the event of revocation, nor does it provide an indication of the likely impact of such imports on unaffiliated producers (whether U.S. or foreign owned) within the domestic industry. Specifically with regard to SPBs, I note that one U.S. producer is affiliated with a subject producer in Japan. I further note that several large Japanese SPB producers do not have any affiliation with U.S. producers of the domestic like product.

Finally, as noted above, I have engaged in a cumulative analysis with regard to revocation of the orders on SPBs from France, Germany, and Japan.

Likely Volume—

I note that during interim 1999, capacity utilization in the three subject countries stood at *** percent; accordingly, unused capacity among subject producers was equivalent to roughly *** percent of total production by the domestic industry during interim 1999, as well as *** percent of total U.S. capacity and over *** percent of apparent U.S. consumption.⁶⁷ The record thus demonstrates that, at a minimum, revocation of the orders invites a more than *** percent increase in supply in the U.S. market from

⁶⁵ Indeed, the record does not demonstrate that such product switching is done with any frequency in the SPB industry.

⁶⁶ CR and PR Table SPB-I-1.

⁶⁷ See CR and PR Tables SPB-IV-3, SPB-IV-4, and SPB-IV-5; see also staff summary of foreign producer data (June 1, 2000).

cumulated subject imports; moreover, this calculation does not account for the foreign producers that did not respond to the Commission's questionnaire (including five producers in France), and therefore is most likely to be somewhat understated. Finally, I note that the SPB industry in Germany evidences a marked export orientation. Based upon the foregoing, I find that absent the restraining effects of the orders, subject producers in France, Germany, and Japan, would direct significant volumes of SPB exports to the U.S. market within a reasonably foreseeable time.

*Likely Price Effects*⁶⁸

I note that pricing data were collected for four SPB products accounting for *** percent of German imports, *** percent of Japanese imports, and 1.22 percent of U.S. shipments, during the period of review. No pricing data was collected with regard to the minimal volume of imports from France accounted for by the one responding French producer.⁶⁹ The limited coverage of the pricing data is not surprising given the large variety of SPBs available.

In 42 quarterly pricing comparisons, subject imports from Germany and Japan undersold the domestic product in only 13 comparisons, for a 31 percent incidence of underselling.⁷⁰ Notwithstanding such evidence of predominant overselling, however, I again note that the SPB industries in France, Germany, and Japan, are poised to direct a significant volume of SPBs to the U.S. market if the orders are revoked. Consequently, a significant increase in the volume of fully substitutable SPBs would likely depress or suppress prices in the U.S. market to a significant degree; indeed, this is particularly so for the more commodity-type standardized bearings which constitute the majority of the market. Accordingly, I find that revocation of the orders on SPBs from France, Germany, and Japan, would likely result in significant negative price effects in the U.S. market within a reasonably foreseeable time.

Likely Impact

To begin, I note that although the number of U.S. producers posting operating losses increased from 1 out of 6 in 1997 to 2 out of 6 in interim 1999, the record does not support a finding that the domestic SPB industry as a whole currently is in a vulnerable condition; in particular, I note that the domestic industry captured a U.S. market share ranging from 88.5 percent in 1997 to 86.8 percent in interim 1999; operating margins ranging from 13.5 percent in 1997 to 11.7 percent in interim 1999; and capacity utilization rates ranging from 78.3 percent in 1997 to 78.8 percent in interim 1999.⁷¹

Nevertheless, I find that with regard to revocation of the orders on SPBs from France, Germany, and Japan, the likely influx of significant import volumes that would likely cause significant negative price effects in the U.S. market, would have a significant adverse impact on the domestic industry's production,

⁶⁸ In reaching my conclusions regarding the likely price effects in the event of revocation, I have considered all pertinent record evidence, including the Commerce Department's duty absorption findings on France, Germany, and Japan. I note, however, that a recent decision of the U.S. Court of International Trade, SKF USA Inc. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000), calls into question the validity of Commerce's duty absorption findings with respect to transition orders. I further note that I have not relied upon Commerce's duty absorption findings in rendering my determinations in these reviews.

⁶⁹ CR at SPB-V-4, PR at SPB-V-4.

⁷⁰ See CR and PR Table SPB-V-8.

⁷¹ CR and PR Tables SPB-I-1, SPB-I-8, SPB-III-1, and SPB-III-7.

shipments, sales, market share, and revenues. These reductions in production, shipments, sales, market share, and revenues, would further result in a significant decline in the domestic industry's profitability and ability to raise capital and maintain necessary capital investments.

Conclusion:

For the foregoing reasons, I determine that revocation of the orders on SPBs from France, Germany, and Japan, would be likely to result in continuation or recurrence of material injury to the domestic SPB industry within a reasonably foreseeable time.

V. SUMMARY OF DETERMINATIONS

I note that my analysis of the likely effects of revocation of the orders under review in this proceeding was driven in large part by the unused capacity among subject countries, which is available to direct significant volumes of exports to the U.S. market. To summarize the record evidence, with regard to tapered roller bearings, unused capacity in China and Romania was equivalent to *** percent of apparent U.S. consumption during interim 1999; with regard to ball bearings, unused capacity in France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, was equivalent to *** percent of apparent U.S. consumption during interim 1999; with regard to cylindrical roller bearings, unused capacity in France, Germany, Italy, and Japan, was equivalent to *** percent of apparent U.S. consumption during interim 1999; and with regard to spherical plain bearings, unused capacity in France, Germany, and Japan, was equivalent to *** percent of apparent U.S. consumption during interim 1999.⁷² Coupled with the fact that many of these foreign industries reflect a marked export orientation, and the fact that the data do not account for all foreign producers subject to the orders, I find these figures not only significant, but compelling.

Based upon all the foregoing, including those portions of the majority's views with which I join, I determine that revocation of the following orders would be likely to result in continuation or recurrence of material injury to the respective domestic industries within a reasonably foreseeable time: the orders on tapered roller bearings from China and Romania; the orders on ball bearings from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; the orders on cylindrical roller bearings from France, Germany, Italy, and Japan; and, the orders on spherical plain bearings from France, Germany, and Japan.

I further determine that revocation of the finding and orders on tapered roller bearings from Hungary and Japan would not be likely to result in continuation or recurrence of material injury to the domestic tapered roller bearing industry within a reasonably foreseeable time.

Finally, I determine that revocation of the orders on cylindrical roller bearings from Sweden and the United Kingdom would not be likely to result in continuation or recurrence of material injury to the domestic cylindrical roller bearing industry within a reasonably foreseeable time.

⁷² See staff summary of foreign producer data (June 1, 2000).

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER MARCIA E. MILLER

Based on the record in these five-year reviews, I determine under section 751(c) of the Tariff Act of 1930, as amended, that revocation of the antidumping finding on tapered roller bearings (TRBs) from Japan, and the antidumping duty orders on TRBs from China, Japan, and Romania, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I find that revocation of the order with respect to Hungary 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 determine under section 751(c) of the Tariff Act of 1930, as amended, that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Romania, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I find that revocation of the order with respect to Sweden 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 determine under section 751(c) of the Tariff Act of 1930, as amended, that revocation of the antidumping duty orders on cylindrical roller bearings (CRBs) from France, Germany, Italy, Japan, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I find that revocation of the order with respect to Sweden 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.

Finally, I determine under section 751(c) of the Tariff Act of 1930, as amended, that revocation of the antidumping duty orders on spherical plain bearings (SPBs) from France, Germany, and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Tapered Roller Bearings

A. Cumulation

In these reviews, the statutory requirement for cumulation that all of the tapered roller bearings reviews be initiated on the same day is satisfied. I find that subject imports from Hungary are likely to have no discernible adverse impact on the domestic industry if the order were revoked. I find that information relevant to the cumulation factors that I generally consider supports a decision to cumulate the likely volume and effect of subject imports from China, Japan, and Romania.

1. No Discernible Adverse Impact from Hungary

I find that subject imports from Hungary are likely to have no discernible adverse impact on the domestic industry if the order is revoked, and therefore, do not cumulate likely subject TRBs from Hungary with likely subject TRBs from China, Japan, and Romania. I base this decision on a significant decline in capacity to produce TRBs in Hungary and other changes that have occurred since the original investigation. At the time of the original investigation, MGM was the only Hungarian producer of tapered

roller bearings. In 1996, Daewoo Corporation acquired a majority share of MGM.¹ In 1986, MGM produced *** bearings. This production was reported to reflect *** utilization.² For the review period, Daewoo-MGM reported total capacity of *** bearings in 1998, and capacity utilization of about *** percent. Hungary supplied between *** and *** percent of domestic apparent consumption value during the original period examined, and continued to ship bearings to the United States until 1994, when the company was reorganized and privatized.³ Between 1994 and 1998, there were no direct exports of Hungarian bearings to the United States, although third parties exported small quantities to the U.S. market, never accounting for more than 0.05 percent, by value, of the U.S. market.⁴ During the original investigation, Hungarian bearings generally competed in a lower-quality segment of the market. At no point have they been reported to be qualified by original equipment manufacturers (OEMs). If any Hungarian bearings are exported to the United States, it is likely they would compete in the non-OEM segment of the U.S. market. In light of the limited capacity to produce tapered roller bearings in Hungary, the likely lower quality of these bearings, and a lack of competition with domestic bearings in the OEM and aftermarket,⁵ I find that, if the order is revoked, subject imports from Hungary are likely to have no discernible adverse impact on the domestic industry in the reasonably foreseeable future.⁶

2. Cumulation of Subject Imports from China, Japan, and Romania

In the original determination with respect to imports of TRBs from China, Hungary, Japan, and Romania, the Commission found that the subject imports from these countries competed with each other and with the domestic like product and cumulated the volume and price effects of those imports.⁷ In these reviews, those in support of continuation of the orders argue that there is reasonable overlap since the subject imports consist largely of standardized, highly substitutable bearings, noting that up to 80

¹ Prehearing brief of Daewoo-MGM Rt., March 10, 2000, pp. 20-21.

² Original Report on TRBs, p. A-62.

³ CR at TRB-IV-8; PR at TRB-IV-7.

⁴ In 1999, Daewoo-MGM reported ***. Prehearing Brief of Daewoo-MGM, p. 21.

⁵ I note that there were no prices reported for sales of TRBs from Hungary during the review period, and Timken, the predominate domestic producer, reported no major OEM or distributor accounts in which it faced competition from Hungarian bearings. Posthearing Brief of Timken, Response to Chairman Bragg, Question 1. ***. Prehearing Brief of Daewoo-MGM, p. 22, n.15.

⁶ Tehnoimportexport, the Romanian producer of TRBs, argued that imports from Romania are likely to have no discernible adverse impact if the order on Romania were revoked. However, I find that based on likely volume, price and impact of subject imports from Romania, and given the general fungibility of TRBs and the ownership of the primary Romanian company by a significant global producer, subject imports from Romania are likely to have a discernible adverse impact if the order were revoked.

Japanese producers also argued no discernible adverse impact based on no likely future increase in imports (JBIA Prehearing Brief on TRBs, p. 10). As set forth in my Separate Views in the reviews on *Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand*, Inv. Nos. 731-TA-278-282 (Review) and 731-TA-347-348 (Review) (USITC Pub. 3274, February 2000), I base my decision on no discernible adverse impact on the total volume of subject imports, not the likely change in that volume if the order were revoked. In any event, I determine that subject imports from Japan are likely to increase significantly if the order is revoked. Thus, given the likely volume of subject imports from Japan, I do not find that they are likely to have no discernible adverse impact on the domestic industry if the order is revoked.

⁷ USITC Pub. 1983, pp. 12-15.

percent of those sold in the United States consist of standard part numbers that any of the subject countries can produce.⁸ Those in support of revocation argue that subject imports from Japan should not be cumulated based on lack of a reasonable overlap of competition with other subject imports.

In these reviews, the record shows that there continues to be an overlap of competition between the subject imports from China and Romania based on their predominant presence in the segment of the OEM market not requiring pre-certification. More of an issue arises as to the extent of any overlap between TRBs from these two countries and Japan. In this regard, I note all three countries sell a majority of their TRBs into the OEM market.⁹ The generally lower-quality bearings from China and Romania tend to be focused in the segment of the OEM market not requiring certification, such as in the utility trailer and non-driving axles market; Japanese TRBs are found throughout the full range of OEM and aftermarket customers.¹⁰ While Japanese TRBs are sold primarily into the high-end OEM market requiring pre-certification,¹¹ and the Chinese and Romanian TRBs are reported never to have been pre-certified, Timken provided evidence of competition between subject imports from Japan and China at several important OEM customers, including automotive accounts.¹² Further, price data collected by the Commission shows competition between subject imports from China, Japan, and Romania for sales to distributors and end users.¹³ Thus, while there are certain limits to competition between TRBs imported from China, Japan, and Romania, I find that a reasonable overlap exists.¹⁴ Further, there is reported competition within each of the two U.S. markets (OEM and aftermarket) between TRBs from China, Japan, and Romania and the U.S. product;¹⁵ thus, there is a reasonable overlap of competition between TRBs from each of these countries and the domestic like product.

In addition to the reasonable, although limited, current overlap of competition between subject imports from China, Japan, and Romania, other factors also lead me to exercise my discretion to cumulate the subject imports. Prevalent throughout the bearings industries is the common ownership by U.S. and foreign-based corporations of facilities throughout the world. For example, Koyo operates TRB facilities in Japan, the United States, and Romania, NTN operates in Japan and the United States, and many companies present in the U.S. market are also affiliated with companies in China.¹⁶

B. Conditions of Competition

⁸ CR at TRB-I-25; PR at TRB-I-21. Timken reported that *** percent of its sales came from only *** percent of its part numbers. Questionnaire Response of Timken.

⁹ Posthearing brief of JBIA shows that *** percent of subject imports from China, *** percent of subject imports from Japan, and *** percent of subject imports from Romania, were sold into the OEM market.

¹⁰ See, generally, Tables TRB-V-2-V-11.

¹¹ This is primarily the automotive OEM market.

¹² Posthearing brief of Timken, Exhibit 2.

¹³ CR/PR at Tables TRB-V-2-3 and Tables TRB-V-5-11.

¹⁴ I note that other factors generally considered by the Commission, such as similar geographic markets and simultaneous presence in the U.S. market, were met both in the original investigations and in these current reviews for all three countries.

¹⁵ CR at TRB-II-12; PR at TRB-II-6; and Posthearing Brief of Timken at Response to Chairman Bragg, Question 1, p. 2.

¹⁶ Posthearing Brief of Timken, p. 15.

In evaluating the impact of subject imports on the domestic industry if an antidumping finding or order is revoked, the statute directs the Commission to evaluate all of the relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁷ Discussed below are the conditions of competition that weigh significantly in my determination that revocation of the finding and orders is likely to lead to continuation or recurrence of material injury to the TRB industry within a reasonably foreseeable time.

The products subject to these reviews are tapered roller bearings, which are unique among antifriction bearings in using tapered rollers as the roller element. Demand for TRBs has grown substantially since the original investigations. In 1986, U.S. apparent consumption was \$***, about *** of the current value of \$1.4 billion.¹⁸ The automotive sector accounts for the largest single share of demand, about 25 percent of total consumption. The U.S. share of consumption has fluctuated only slightly since the original investigations, accounting for about 80.2 percent in 1998, ***.

There are nine U.S. producers accounting for virtually all production and shipments; Timken is by far the largest, with nearly *** percent of U.S. production.¹⁹ Since the original investigations, foreign producers, primarily those based in Japan, have established or expanded U.S. operations.²⁰ Capacity to produce expanded since the original period, and capacity utilization rates are generally high for most producers. During the review period, the U.S. industry operated at better than 90 percent utilization, well above the rates during the original investigations.

Timken manufactures about *** types of bearings in the United States, whereas other producers tend to manufacture fewer bearings and import other sizes from overseas facilities. Bearings generally are interchangeable among producers, given the standardized geometries and tolerances for any particular type and size, and customized bearings tend to become standard the greater the production volume. Parties supporting revocation argue that customization of bearings is what differentiates their products from the U.S.-produced TRBs, lowering substitutability.

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation of the orders.

C. Whether Revocation of the Orders on Subject TRB Imports is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. China, Japan, and Romania

I determine that revocation of the antidumping duty orders on TRBs from China, Japan, and Romania would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

¹⁷ 19 U.S.C. § 1675a(a)(4).

¹⁸ CR/PR at Table TRB-I-1.

¹⁹ CR at TRB-II-1; PR at TRB-II-1.

²⁰ During the original investigations, Koyo and NTN had operations described as “finishing and assembly operations,” and NTN had just entered U.S. production with its purchase of Federal Mogul. Staff Report to the Commission on Inv. Nos. 731-TA-341, 344, and 345 (Final), p. A-19.

In the original investigations, in reaching an affirmative material injury determination, the Commission found a large and stable volume and market penetration of cumulated subject imports at the time of declining shipments by the domestic industry.²¹ The share of the market held by the subject imports increased over the period, and was about *** percent by value in 1986, with subject imports from Japan accounting for most of the subject imports.²² U.S. shipments of cumulated subject imports totaled \$87.6 million in 1997 and \$92.2 million in 1998. In 1998, the value of subject imports was 6.5 percent of U.S. apparent consumption.

In these reviews, Japanese respondents have argued that the existence of affiliated U.S. production facilities limits any potential increase in exports to the United States if the finding and order are revoked. They further argue that it makes it unlikely that they would ship significant volumes of imports to the United States in the event of revocation of the finding and order.

U.S. investments by these foreign producers since the original investigations, most notably by the Japanese producers, as well as foreign-based production facilities that were established prior to the original investigations, may in some cases suggest that subject imports are not likely to increase if the order is revoked. However, many of these facilities have held a long presence in the U.S. market and this has not acted to prevent rapid increases in subject import volumes in the past. While I recognize that rationalizing production globally and focusing production in a specific country on demand in that particular market or region may limit exports of some particular bearings to the United States, I do not find that such a presence in the U.S. market in this industry makes it unlikely that the commonly-owned foreign producers would not ship significant volumes of imports in the event of revocation of the orders. The level of U.S. investment for these companies is significant, as it was for many during the original investigations, and has increased since the original investigations. However, there are an enormous number of TRB types and sizes, and while production may be rationalized to those bearings most often requested, no single producer is able to manufacture all sizes and types and thus imports will be necessary to supplement U.S. production.²³ Thus, I do not believe that common ownership precludes an increase in import volume if the finding and order are revoked or indicates the likely future behavior of the producers in the subject countries.

Significantly, I note that Koyo, a major Japanese and U.S. producer, recently won a U.S. account for a type of bearing that Koyo manufactures in Japan.²⁴ Thus, despite relatively high capacity utilization, it is clear that Japanese producers continue to seek new sales in the U.S. market for products they import.

The record in these reviews shows relatively high capacity in each of the three countries, with all reporting the lowest utilization of the review period in January-September 1999.^{25 26} Also, producers in

²¹ USITC Pub. 1983 at 15-16. This determination analyzed cumulated subject imports from China, Japan, and Romania as well as Hungary, Italy, and Yugoslavia. The orders on Italy and Yugoslavia were revoked in 1996 and 1995, respectively. CR at Overview-5; PR at Overview-4.

²² The value share held by Japan in 1986 was *** percent, up substantially from its share of *** percent in 1973. The market share of China, Japan, and Romania was *** percent in 1986. CR/PR at Table TRB-I-1.

²³ JBJA Posthearing Brief, p. A-6.

²⁴ Transcript, pp. 48-49.

²⁵ Data published by the JBJA show Japanese TRB production substantially lower and exports as a percent of production higher, than in any year since 1994. Prehearing Brief of Timken, p. 59.

²⁶ Data on the record for Japan and Romania are virtually complete, but the Commission received data accounting for substantially less than half of Chinese production. Timken, which manufactures in China as Yantai Timken China,

Japan and Romania have established distribution systems in the United States, based on the common ownership of U.S. facilities, and thus have the ability to not only enter the U.S. market, but do so quickly through these established networks.²⁷

Given the nature of competition in this market, a relatively small increase in the volume of cumulated subject imports would be significant. I find that, based on excess capacity, the export orientation of producers in all three countries,²⁸ established distribution networks, and the generally fungible nature of TRBs, subject import volumes are likely to be significant if the finding and orders are revoked.

Pricing data in the original investigations showed decreasing prices and nearly constant underselling by the cumulated subject imports. While there are a substantial number of TRBs sold as customized products, a more significant share of the U.S. market is comprised of standard types and sizes, with competition for sales largely based on price.²⁹ In these reviews, the record reflects a mixed pattern of price trends and underselling with the orders in place. Subject imports from China and Romania undersold domestic TRBs in all comparisons, whereas Japanese TRBs showed greater overselling, but I note that the total volume of Japanese bearings underselling domestic TRBs increased throughout the review period.³⁰ Further, large differences in the volumes reported for the Commission's quarterly price data may explain to a certain degree the significantly higher prices for Japanese TRBs.³¹

Current U.S. prices are generally higher than prices in third-country markets, which provide significant incentive for foreign producers to increase their exports to the U.S. market.³² The record also indicates that price is an important factor in the purchasing decision. Purchasers generally indicated that once producers met quality, delivery and other requirements, price competition determined the supplier.³³ Thus, if the finding and orders are revoked, the likely significant increase in subject imports of TRBs is likely to have significant depressing and suppressing effects on domestic prices. This conclusion is supported by information gathered from purchasers. In responses to Commission questionnaires, numerous purchasers stated that revocation of the orders will result in lower prices.³⁴

I have also considered in my analysis the duty absorption findings by Commerce for subject imports from Japan.³⁵ The SAA explains that duty absorption may be an indicator that subject producers

estimates that there is *** worth of excess capacity in China. The China TRB Sunset Coalition estimated excess capacity at up to ***. CR at TRB-IV-6; PR at TRB-IV-1.

²⁷ Prehearing Brief of Timken, p. 70.

²⁸ Both China and Romania reported interim 1999 exports to the United States accounting for a significant share of total exports (27.7 percent for China and *** percent for Romania.) While the Japanese figure is substantially lower, the absolute volume of exports remains significant. CR/PR at Tables TRB-IV-3-5.

²⁹ Purchasers, in responding to Commission questionnaires, named price as one of the three most important factors in a purchase decision more often than any other factor. CR/PR at Table TRB-II-1.

³⁰ CR/PR at Table TRB-V-19.

³¹ I note that the price comparisons are based on limited total volumes of subject imports, ranging from *** percent for Japan to about *** percent for China. CR at TRB-V-4; PR at TRB-V-3.

³² CR at TRB-II-5; PR at TRB-II-3; Posthearing brief of Timken, pp. 4-5.

³³ Transcript, p. 303.

³⁴ CR at D-86-92; PR at D-5.

³⁵ 19 U.S.C. § 1675a(a)(1)(D). I recognize that a recent decision of the Court of International Trade (CIT) on antifriction bearings calls into question Commerce's authority to make duty absorption findings in these reviews.

or exporters would market aggressively if an order is revoked.³⁶ While I do not believe that duty absorption findings alone are determinative of the likely behavior of subject imports if the order and finding under review are revoked, such findings are consistent with other evidence in this review that subject imports from Japan would likely be priced aggressively in the U.S. market in the event of revocation of the order and finding on TRBs. The evidence of duty absorption, along with the history of price suppression and depression, and some underselling by the subject imports even with the order in place, and the nature of competition in this market leads me to conclude that the cumulated subject imports would likely undersell the domestic products and significantly suppress or depress prices if the order and finding are revoked.

In the original investigation on TRBs from Japan, in 1975, the Commission found that the U.S. industry had deteriorated since the LTFV import sales began, and given the market penetration and underselling by subject imports from Japan, that the domestic TRB industry would likely be injured by reason of the LTFV imports.³⁷ In the original investigations on cumulated subject imports that included those from China, Japan, and Romania, the Commission found that the large and stable volume and penetration of cumulated subject imports and increasing value at a time of declining U.S. industry shipments, along with evidence of underselling and declining prices, caused material injury to the domestic industry.³⁸

I have considered whether the domestic industry is vulnerable to material injury if the orders and finding are revoked. In these reviews, I note that the condition of the industry is stronger than during the 1987 cases when the orders were imposed, with positive operating margins in 1998, of *** percent, and *** percent in interim 1999, above those in any year of those previous investigations.³⁹ U.S. capacity utilization has remained above 90 percent since 1997, and domestic and export shipments are considerably larger than in 1983-86. Based on these industry indicators, I do not find that the domestic TRB industry is currently in a vulnerable condition.

Nevertheless, I find that revocation of the finding and orders is likely to lead to significant volumes of cumulated imports and to significant price effects, and therefore, that the subject imports are likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment. I conclude that if the finding and orders were revoked, the circumstances that led to material injury in the original investigations would recur. Accordingly, I find that revocation of the order and finding on TRBs from Japan would be likely to lead to continuation or recurrence of material injury to the domestic TRB industry within a reasonably foreseeable time.

2. Hungary

In 1983, the value of TRB imports from Hungary was \$1.8 million, increasing to \$2.9 million in 1986, or *** percent of U.S. consumption by value. In 1998, subject imports from Hungary were less than 0.05 percent of both total imports and total apparent consumption. In reaching my conclusion that

However, until final disposition of this issue has been reached, I believe it is appropriate to take Commerce's findings into account.

³⁶ SAA at 886.

³⁷ USITC Pub. 714, pp. 5-6.

³⁸ USITC Pub. 1983, p. 16.

³⁹ CR/PR at TRB-I-1.

imports from Hungary would have no discernible adverse impact on the U.S. industry, I noted its decreasing capacity and production, and its export orientation toward Europe. Further, there is no indication that Hungary would supply bearings into the OEM market, in which the other subject imports compete for pre-certified and other, more standard sales. Consistent with these conclusions, I find that the volume of subject imports from Hungary would not likely be significant within a reasonably foreseeable time if the order were revoked. I also find that significant price effects are not likely and that subject imports from Hungary would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment if the order were revoked. I therefore find that revocation of the antidumping duty order on TRB imports from Hungary would not be likely to lead to continuation or recurrence of material injury to the domestic TRB industry within a reasonably foreseeable time.

II. Ball Bearings

A. Cumulation

In these reviews, the statutory requirements that all ball bearings reviews be initiated on the same day is satisfied. I find that subject imports from Sweden are likely to have no discernible adverse impact on the domestic industry if the order were revoked. I find that information relevant to the cumulation factors that I generally consider supports a decision to cumulate the remaining subject imports from France, Germany, Italy, Japan, Romania, Singapore, and the United Kingdom.

1. No Discernible Adverse Impact

I find that subject imports from Sweden are likely to have no discernible adverse impact on the domestic industry if the order is revoked. During the original investigation period, 1985-87, subject imports from Sweden accounted for only a small share of the U.S. market, between 0.4 and 0.7 percent by value. Although antidumping duty margins applied to imports from Sweden have been generally low relative to other subject countries, these subject imports remained low during the review period, and in 1998 were 0.1 percent of the U.S. market, and 0.3 percent of total imports, by value. Production capacity in Sweden is small relative to the production of any other subject country, despite being the home country of AB SKF, the world's largest producer of bearings.^{40 41} SKF is the only known Swedish producer,⁴² and its current capacity to produce ball bearings has declined considerably since the original investigation, to less than one-quarter of its capacity at that time -- *** units in 1998 compared to *** bearings during the original period.⁴³ The very small capacity of the Swedish industry indicates that subject imports from Sweden would never represent more than a small fraction of total U.S. consumption. Thus, I find that subject imports from Sweden are likely to have no discernible adverse impact on the domestic producers of the domestic like product in the reasonably foreseeable future.

⁴⁰ CR/PR at Overview, Table 5; Also, compare CR/PR at Table BB-IV-9 to Tables BB-IV-3-8, 10.

⁴¹ CR at BB-IV-21; PR at BB-IV-11.

⁴² CR at BB-IV-21; PR at BB-IV-11.

⁴³ CR/PR at Table BB-IV-9; Original Staff Report at Table 33.

I do not conclude that subject imports from Romania are likely to have no discernible adverse impact on the domestic industry if the order is revoked. There are six producers in Romania, the largest being Koyo Romania, which is affiliated with Koyo Seiko (Japan), and which accounts for *** of 1998 production. While subject imports from Romania remained below 1 percent of the market during the original investigation, and have been small during the review period,⁴⁴ excess capacity exists, and the Romanian industry is heavily export-oriented. Finally, although it is argued that none of the subject imports from Romania have been pre-certified for sales to OEMs, record data show competition with domestic ball bearings.⁴⁵ Given the general fungibility of ball bearings of similar types, size and tolerances, I do not find that subject imports from Romania are likely to have no discernible adverse impact on the domestic industry in the reasonably foreseeable future if the order is revoked.

Subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom have maintained a presence in the U.S. market since the antidumping duty orders were imposed. Given the general export orientation of these countries and excess capacity in each of the countries, I do not find that subject imports from these countries are likely to have no discernible adverse impact in the reasonably foreseeable future if the orders were revoked.

2. Cumulation of Imports from France, Germany, Italy, Japan, Romania, Singapore, and the United Kingdom

In the original investigations, the Commission determined that subject imports from all subject countries competed with each other and with the domestic like product and cumulated subject imports from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom. The Commission noted in its determination that despite some limitations in competition across the full range of bearings sizes and types, competition existed among all subject imports and the domestic like product for each type, size, and precision rating.⁴⁶

Virtually all purchasers responding to Commission questionnaires stated that bearings produced in the subject countries are fully substitutable for U.S.-manufactured bearings. Despite arguments that ball bearings from Singapore are distinct from those in other subject countries and the United States,⁴⁷ I note that bearings of the size range imported from Singapore, 0-26mm, also were imported from France, Germany, Italy, Japan, and the United Kingdom.⁴⁸ Ball bearings are generally considered to be the most commodity-like of all bearings subject to review, with interchangeability having increased over time as manufacturers adopt common production specifications and similar manufacturing standards.⁴⁹ All nine purchasers who compared ball bearings from Singapore with U.S.-produced ball bearings, and other purchasers who compared subject imports to one another, found them to be interchangeable.⁵⁰

⁴⁴ CR/PR at Table BB-I-1.

⁴⁵ Eight of 10 purchasers rated ball bearings from Romania as interchangeable with U.S.-produced ball bearings. CR/PR at Table BB-II-3.

⁴⁶ USITC Pub. 2185, pp. 64-65.

⁴⁷ Prehearing brief of NMB Pelmeq Singapore/Pelmeq Industries Pte Ltd., pp. 1-2.

⁴⁸ Based on official Commerce statistics for HTS Nos. 8482105036 and 8482105044.

⁴⁹ CR at BB-I-32; PR at BB-I-27.

⁵⁰ CR/PR at Table BB-II-3; Staff Memorandum, INV-X-117.

OEMs and aftermarket customers comprise the two primary distribution channels for ball bearings. U.S. producers shipped 79.1 percent of their ball bearings to OEMs/end users in 1998, while 96.2 percent of subject imports were shipped in this channel. Given the high degree of fungibility between the subject imports and with the domestic like product, price is an important factor in a purchase decision after quality of the bearings has been found to be comparable.⁵¹

As discussed in my analysis of tapered roller bearings, I have also taken into account the extensive common ownership of ball bearing facilities in the United States and throughout the world by subject foreign producers. Overall, I find that subject imports from these countries would compete in the U.S. market under similar conditions of competition. Based on the foregoing, I exercise my discretion to cumulate likely subject imports from France, Germany, Japan, Italy, Romania, Singapore, and the United Kingdom.

B. Conditions of Competition

Ball bearings are generally considered to be commodity-like products. Domestic and imported bearings of similar size, type and tolerances are largely interchangeable, thus emphasizing price competition in sales. Ball bearings are employed in a wide range of end uses, similar to the end uses during the original investigation period. Important users of bearings include the automotive, machinery, aerospace, steel, paper, and computer industries.⁵² Demand has been strong in several of these industries in recent years, particularly for new and used automobiles.⁵³ Apparent consumption of ball bearings in 1998 was double that in 1987.

The domestic ball bearing market is substantially larger than that of the other bearings types under review. There are at least 36 domestic producers, and the four largest each account for between *** and *** percent of domestic market share. Most companies are global in nature, maintaining production facilities in numerous countries, either through direct ownership or as affiliated owners.⁵⁴ Companies tend to produce within a particular country based on demand in that country's market. However, given the large number of ball bearing types and sizes, production only for the local market is generally not feasible, and rationalization of production continues to occur, thus maintaining the need to import to meet demand in any one country.⁵⁵

OEMs and aftermarket accounts comprise the two basic channels of distribution for ball bearings, with both domestic ball bearings and subject imports sold primarily to OEMs. U.S. producers shipped 79.1 percent of their bearings to OEM accounts, while importers of subject bearings shipped 96.2 percent in this same channel.⁵⁶

⁵¹ CR at BB-I-35; PR at BB-I-29.

⁵² Ball bearings generally account for only a very small portion of the cost of the product in which they are used, and there are few, if any, substitutes in their end uses. CR at BB-II-5, PR at BB-II-4.

⁵³ CR at BB-II-5; PR at BB-II-3.

⁵⁴ CR/PR at Table BB-1-11.

⁵⁵ CR at BB-I-30; PR at BB-I-25-26.

⁵⁶ CR at BB-I-33; PR at BB-I-28.

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation of the orders with respect to ball bearings within the reasonably foreseeable future.

C. Whether Revocation of the Orders on Subject Ball Bearing Imports is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. France, Germany, Italy, Japan, Romania, Singapore, and the United Kingdom

I determine that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Romania, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

In the original investigations, the Commission found that the volume of subject imports was increasing and significant.⁵⁷ The share of the market held by the cumulated subject ball bearings during 1985-87, by value, increased from 20.2 to 23.8 percent. Despite the orders and substantial and increased investment by foreign-based producers in U.S. production,⁵⁸ subject imports have maintained a significant presence in the U.S. market. U.S. shipments of cumulated subject imports were \$507.8 million in 1997 and \$506.4 million in 1998.⁵⁹ In 1998, the share of the market held by subject imports was 15.6 percent.

In these reviews, respondents have argued that the existence of affiliated U.S. production facilities limits any potential increase in exports to the United States if the orders are revoked. U.S. investments by these foreign producers since the original investigations, most notably by the Japanese producers, as well as foreign-based production facilities that were established prior to the original investigations, may in some cases suggest that subject imports are not likely to increase if the orders are revoked. However, many of these facilities have held a long presence in the U.S. market and this has not acted to prevent rapid increases in subject import volumes in the past. While I recognize that rationalizing production globally and focusing production in a specific country on demand in that particular market or region may limit exports of some particular bearings to the United States, I do not find that such a presence in the U.S. market in this industry makes it unlikely that the commonly-owned foreign producers would not ship significant volumes of imports in the event of revocation of the orders. The level of U.S. investment for these companies is significant, as it was for many during the original investigations, and has increased since the original investigations. However, there are an enormous number of ball bearing types and sizes, and while production may be rationalized to those bearings most often requested, no single producer is able to manufacture all sizes and types and thus imports will be necessary to supplement U.S. production.⁶⁰ Thus, I do not believe that common ownership precludes an increase in import volume if an order is revoked or indicates the likely future behavior of the producers in the subject countries.

Those in favor of revocation of the orders have also argued that any potential increase in subject imports is limited because capacity utilization rates in the subject countries are generally high, and product

⁵⁷ USITC Pub. 2185, pp. 68-69.

⁵⁸ CR at BB-II-3; PR at BB-II-2.

⁵⁹ CR/PR at Table BB-I-1. Excluding Sweden, U.S. shipments of cumulated subject imports totaled \$504.7 million in 1997 and \$503.6 million in 1998.

⁶⁰ JBIA Posthearing Brief, p. A-6.

shifting among different types of bearings is difficult and rarely done. None of the subject producers reported barriers to imports of their products in other markets. While these factors may suggest limited ability of the subject countries to increase shipments to the United States if the orders are revoked, I find that subject import volumes are likely to be significant as a result of revocation. The ball bearing industry is mature and capital intensive. It is common for producers to run at high capacity utilization levels in order to cover costs.⁶¹ Further, in an industry where the domestic product can be readily substituted with subject imports, even small changes in the volume of subject product can be significant. The combined available capacity of the subject countries is equal to more than 20 percent of domestic consumption.⁶²

Many foreign-based suppliers have not only U.S.-based manufacturing facilities, but also affiliated importers. This would allow continued and increased access to the U.S. market through the affiliates' well-developed distribution networks in the United States.⁶³

Based on excess capacity in the subject foreign markets, the general export orientation of the foreign suppliers, established distribution networks, and the commodity-like nature of ball bearings, I find that the volume of subject imports upon revocation of the orders is likely to be significant in the reasonably foreseeable future.

Regarding the likely price effects of subject imports, I note that in the original determinations, the Commission found that subject imports were underselling domestic ball bearings and that prices for domestic ball bearings were suppressed.⁶⁴ Conditions of competition in the industry have changed little. Price competition continues to be a primary factor in purchase decisions, changes in demand have little impact on price, given the low cost share of the bearings in a final product, and ball bearings of similar size, type and tolerances are easily substitutable. Further, there are a large number of suppliers of ball bearings. Also, current U.S. prices are generally higher than priced in third-country markets, which provide significant incentive for foreign producers to increase their exports to the U.S. market.⁶⁵ In these market conditions, a significant increase in import supply is likely to cause price depression and suppression.⁶⁶

I have also considered Commerce's findings that duties were absorbed on subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom.⁶⁷ Those findings are reflected in the dumping margins that Commerce determined were likely to prevail if the orders were removed.⁶⁸ The SAA explains that duty absorption may be an indicator that subject producers or exporters would market aggressively if an order is revoked.⁶⁹ While I do not believe that duty absorption findings alone are

⁶¹ Prehearing brief of Torrington, pp. 7-8.

⁶² CR/PR at Tables BB-IV-3 - IV-10.

⁶³ Prehearing brief of Torrington, p. 69.

⁶⁴ USITC Pub. 2185, pp. 68-69.

⁶⁵ CR at BB-II-5; PR at BB-II-3; Posthearing brief of Torrington, pp. 2-3.

⁶⁶ The Commission received only limited price data for U.S. shipments of subject imported ball bearings. (CR at BB-V-5, PR at BB-V-4) Price trends varied among and within all the product categories, and margins of under and overselling varied widely. Underselling instances outnumbered overselling, occurring in more than half of all possible comparisons (CR/PR at Table BB-V-19). Overall, this information is consistent with the conclusion that subject imports would have significant adverse price effects if the orders are revoked. I note, however, that I put relatively little weight on information regarding the pricing of subject imports with the orders in place.

⁶⁷ 19 U.S.C. § 1675a(a)(1)(D).

⁶⁸ CR at BB-I-5-10; PR at BB-I-1-8.

⁶⁹ SAA at 886.

determinative of the likely behavior of subject imports if an order is revoked, such findings are consistent with other evidence in these reviews that subject imports would likely be priced aggressively in the U.S. market in the event of revocation of the orders on ball bearings. The evidence of duty absorption, along with the history of price suppression and depression, and some underselling by the subject imports even with the orders in place, and the nature of competition in this market leads me to conclude that the cumulated subject imports would likely undersell the domestic products and significantly suppress or depress prices if the orders are revoked.

For these reasons, I find that revocation of the antidumping duty orders would be likely to lead to significant underselling by the cumulated subject imports of the domestic like product as well as significant price depression and suppression, within a reasonably foreseeable time.

The Commission found in its original determinations that the significant volume and price effects of the subject imports had an adverse impact on the domestic industry, reflected in the consistent decline in the industry's profitability.⁷⁰ In these reviews, parties in favor of continuation of the orders argue that the domestic industry will continue to suffer injury upon revocation, based on the current state of production, employment and financial indicators. Alternatively, they argue that the domestic industry is currently vulnerable and that injury will recur upon revocation.⁷¹

In 1997, operating income of the domestic industry as a percent of net sales was 7.5 percent, and in 1998 it was 6.6 percent. Capacity utilization was moderate in both 1997 and 1998, at 76.1 percent and 70.1 percent, respectively. The U.S. share of the domestic market, at about 70 percent by value, was lower during the review period than at any time during the original investigations.⁷² While the domestic industry has not enjoyed strong operating results during the 1997-99 period, I do not consider the industry to be in a vulnerable condition. Nevertheless, given the nature of competition in this market, I find that the likely significant volume of subject imports, when combined with the expected adverse price effects of these imports, would have a significant adverse impact on the production, shipments, sales and revenue levels of the domestic industry. This reduction in the domestic industry's performance would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain needed capital investments.

Accordingly, I determine that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

2. Sweden

During the original investigation period, the value of subject imports from Sweden ranged between \$7.2 million and \$11.3 million, and accounted for, at most, 0.7 percent of the domestic market, and 0.3 percent of total imports. Subject imports from Sweden during the review period were well below these levels. Sweden's current capacity to produce ball bearings is *** units per year, compared to a capacity of *** bearings during the original period.⁷³ Capacity utilization in interim 1999 was *** percent.⁷⁴ I find that the likely volume of subject imports from Sweden should the antidumping duty order be revoked will not be

⁷⁰ USITC Pub. 2185, p. 69.

⁷¹ Prehearing Brief of Torrington, pp. 43-44.

⁷² CR/PR at Table BB-I-1.

⁷³ CR/PR at Tables IV-9.

⁷⁴ CR/PR at Table BB-IV-9.

significant in light of the low capacity levels and the relatively high utilization rates. I further find that the small volume of likely subject imports from Sweden would not be likely to have significant price effects in the domestic market. Thus, I find that subject imports from Sweden would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time if the order is revoked.

III. Cylindrical Roller Bearings

A. Cumulation

In these reviews, the statutory requirement for cumulation that all of the cylindrical roller bearings (CRBs) reviews be initiated on the same day is satisfied. I find that subject imports from Sweden would not be likely to have a discernible adverse impact on the domestic industry if the order were revoked. I find that information relevant to the cumulation factors that I generally consider supports a decision to cumulate the remaining subject imports of CRBs from France, Germany, Italy, Japan, and the United Kingdom.

1. No Discernible Adverse Impact

I find that subject imports of CRBs from Sweden are likely to have no discernible adverse impact on the domestic industry if the order is revoked, and therefore, do not cumulate subject CRBs from Sweden with subject CRBs from France, Germany, Italy, Japan, and the United Kingdom. SKF is the only producer of bearings in Sweden. It reports that it has not produced CRBs in Sweden since the mid-1990s.⁷⁵ Even if SKF were to resume production of CRBs, because SKF's Swedish capacity is small, I conclude that any imports of CRBs from Sweden are likely to have no discernible adverse impact on the domestic industry if the order on Sweden is revoked.

Subject imports from France, Germany, Italy, Japan and the United Kingdom have maintained a presence in the U.S. market since the antidumping duty orders were imposed, either holding or increasing their individual market shares. Accordingly, I find that current volumes of subject imports from France, Germany, Italy, Japan, and the United Kingdom, even with the orders in place, exceed levels that would satisfy the no discernible adverse impact provision.

2. Cumulation of Subject Imports from France, Germany, Italy, Japan and the United Kingdom

In its original determinations, the Commission found that subject imports of CRBs from France, Germany, Italy, Japan, and the United Kingdom competed with each other and with the domestic like product and cumulated CRBs from all countries. The record in these reviews indicates that purchasers continue to find that domestic and subject CRBs are generally fungible.⁷⁶ The record also shows that domestic and imported CRBs are sold predominantly through the same channels of distribution. Domestic producers shipped 96.7 percent of their CRBs to OEMS/end users in 1998, while importers shipped 88.5 percent to this same channel. All other CRBs were shipped to aftermarket customers.⁷⁷ Subject imports

⁷⁵ CR at CRB-IV-11; PR at CRB-IV-7.

⁷⁶ CR/PR at Table CRB-II-3.

⁷⁷ CR at CRB-I-23; PR at CRB-I-19.

from each of the five countries have had a continuous presence in the U.S. market and have been sold throughout the United States.⁷⁸

As in the TRB and ball bearing industries, I have also taken into account the extensive common ownership of CRB facilities in the United States and throughout the world by subject foreign producers. Overall, I find that subject imports from these countries would compete in the U.S. market under similar conditions of competition. Based on the foregoing, I exercise my discretion to cumulate likely subject imports from France, Germany, Italy, Japan, and the United Kingdom.

B. Conditions of Competition

The products subject to these reviews are cylindrical roller bearings, employing cylindrical rollers as the rolling element. U.S. apparent consumption of CRBs has grown considerably since the original investigations. In 1987, U.S. apparent consumption was \$205 million; the total value grew to \$622 million in 1998. As with certain other types of bearings under review, the automotive sector accounts for an important share of overall demand, as does the aerospace sector.⁷⁹

Three domestic producers account for *** percent of domestic shipments, with Torrington alone representing *** percent. During the original investigation period, Torrington accounted for *** percent of domestic shipments. The U.S. industry reports excess capacity, operating at a rate of 82.9 percent in 1998.⁸⁰ Foreign-owned domestic production is smaller than for other bearing categories, but has increased since the original investigation period.⁸¹

While CRBs may be, on the whole, a category of antifriction bearings characterized by greater customization than TRBs or ball bearings, worldwide standards such as ISO 9000 and QS 9000 have led to greater interchangeability among different suppliers of CRBs on a part-by-part basis.⁸² Responses to Commission questionnaires indicated broad interchangeability among U.S. CRBs and subject imports.⁸³

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation of the orders on CRBs.

C. Whether Revocation of the Orders on Subject Cylindrical Roller Bearing Import is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. France, Germany, Italy, Japan, and the United Kingdom

In its original determination, the Commission found that the absolute volume and market share of subject imports were significant and increasing. Data on the record for these current reviews show that the

⁷⁸ CR/PR at Table CRB-I-1.

⁷⁹ CR at CRB-II-4; PR at CRB-II-3.

⁸⁰ CR/PR at Table CRB-III-1.

⁸¹ Prehearing Economic Brief of Joint Respondents, p. V-3.

⁸² Transcript, pp. 123 and 158-59.

⁸³ CR/PR at Table CRB-II-3.

subject imports have increased significantly by both volume and value since the original investigation⁸⁴ despite the existence of the orders. The cumulated subject imports, in 1998, held 15.7 percent of the domestic market, by value, compared to 10.3 percent in 1987.⁸⁵

The record indicates few changes in the conditions of competition in the CRB industry since the original investigations. Foreign-based domestic producers have increased their investment in U.S. production since the original determination, but all also continue to import subject product.

In these reviews, respondents have argued that the existence of affiliated U.S. production facilities limits any potential increase in exports to the United States if the orders are revoked. U.S. investments by these foreign producers since the original investigations, as well as foreign-based production facilities that were established prior to the original investigations, may in some cases suggest that subject imports are not likely to increase if the order is revoked. However, many of these facilities have held a long presence in the U.S. market and this has not acted to prevent rapid increases in subject import volumes in the past. While I recognize that rationalizing production globally and focusing production in a specific country on demand in that particular market or region may limit exports of some particular bearings to the United States, I do not find that such a presence in the U.S. market in this industry makes it unlikely that the commonly-owned foreign producers would not ship significant volumes of imports in the event of revocation of the orders. The level of U.S. investment for these companies is significant, as it was for many during the original investigations, and has increased since the original investigations. However, there are an enormous number of CRB types and sizes, and while production may be rationalized to those bearings most often requested, no single producer is able to manufacture all sizes and types and thus imports will be necessary to supplement U.S. production.⁸⁶ While CRBs are considered to be less a commodity-like product than ball bearings or TRBs, production is rationalized to those bearings most often requested in a specific market; thus, imports are likely to supplement U.S. production.⁸⁷ Thus, in this industry, I do not believe that common ownership precludes an increase in import volume if an order is revoked or necessarily indicates the likely future behavior of the producers in the subject countries.

Other factors suggest that subject imports from these countries would increase significantly if the orders are revoked. Cumulated capacity to produce CRBs in these countries far exceeds apparent U.S. consumption. Both Germany and Japan, individually, have capacity that is *** times that of U.S. consumption in 1998. In addition, excess capacity exists in all countries, most significantly in the two large producers, Germany and Japan, with utilization rates in 1998 of *** and 80.7 percent, respectively. For France and Italy, the Commission received only limited information on the foreign industries. The record contains no data as to French production or capacity for the three producers that have export capability. For Italy, capacity data were incomplete. Nevertheless, based on the record from the original investigations, the level of current subject imports from these countries, and, in the case of Italy, current production data, I infer that the industries in France and Italy remain large and have excess capacity.⁸⁸ In

⁸⁴ CR/PR at Table CRB-IV-1.

⁸⁵ CR/PR at Table CRB-I-1.

⁸⁶ JBIA Posthearing Brief, p. A-6.

⁸⁷ See, for example, the Posthearing Brief of SKF, *et al*, p. xii, in which it notes that as the world's largest producer of bearings, including thousands of individual part numbers, "it is not surprising that SKF USA imports bearings in order to complement its domestic production."

⁸⁸ For France, only one of four producers, Nadella, a company related to U.S.-petitioner Torrington, reported data on production in France; it is believed to account for only a small share of CRB production in France, and it does not export to the United States. For Italy, while two companies responded, including Meter, which accounts for ***

addition to the excess capacity, the extent of cross ownership of CRB facilities in the subject countries suggests at least some ability to shift production between countries. These factors indicate that the volume of subject imports is likely to be significant if the orders are revoked.

In the original investigation, price data were described as generally inconclusive, but the data generally supported a finding that the subject imports had a price depressing impact. This was tied to the price inelastic demand for CRBs, which in the face of increasing import volumes, manifested itself by displacing domestic shipments and putting downward pressure on domestic prices.⁸⁹ Conditions of competition in the industry have changed little. CRBs are not unlike other antifriction bearings under review in that in a purchase decision, once quality considerations are satisfied, CRBs from different sources compete largely on price.^{90 91} The cost share of CRBs in a final product is low, thus changes in price have little impact on overall demand. As with other bearings, domestic and imported CRBs are easily substitutable on a product-by-product basis, and there are a large number of suppliers of CRBs. Finally, current U.S. prices are generally higher than prices in third-country markets, which provides significant incentive for foreign producers to increase their exports to the U.S. market.⁹² In these market conditions, a significant increase in import supply is likely to cause price depression and suppression.

I have also considered Commerce's findings that duties were absorbed on subject imports from France, Germany, Japan, and the United Kingdom.⁹³ Those findings are reflected in the dumping margins that Commerce determined were likely to prevail if the orders were removed.⁹⁴ The SAA explains that duty absorption may be an indicator that subject producers or exporters would market aggressively if an order is revoked.⁹⁵ While I do not believe that duty absorption findings alone are determinative of the likely behavior of subject imports if the orders are revoked, such findings are consistent with other evidence in these reviews that subject imports would likely be priced aggressively in the U.S. market in the event of revocation of the orders on CRBs. The evidence of duty absorption, along with the history of price suppression and depression, and some underselling by the subject imports even with the orders in place, and the nature of competition in this market leads me to conclude that the cumulated subject imports would likely undersell the domestic products and significantly suppress or depress prices if the orders are revoked.

Italian production, *** capacity data were not reported. CR/PR at Tables CRB-IV-3 - CRB-IV-7.

⁸⁹ USITC Pub. 2185, pp. 70-71.

⁹⁰ Torrington Prehearing brief, p. 8.

⁹¹ In these reviews, we again have limited pricing data, representing only a fraction of U.S. sales and providing comparisons for only two of the subject countries, Germany and Japan (CR at CRB-V-5; PR at CRB-V-3). Variation in prices, and swings in margins of under and overselling were larger than for the other bearing products under review. This may be attributable to variations in product specification, even within narrowly defined products. I note, however, that I put relatively little weight on information regarding pricing of subject imports with the orders in place.

⁹² CR at CRB-II-3; PR at CRB-II-2; Posthearing brief of Torrington, pp. 4-5.

⁹³ 19 U.S.C. § 1675a(a)(1)(D). I recognize that a recent decision of the Court of International Trade (CIT) on antifriction bearings calls into question Commerce's authority to make duty absorption findings in these reviews. However, until final disposition of this issue has been reached, I believe it is appropriate to take Commerce's findings into account.

⁹⁴ CR at CRB-I-5-8; PR at CRB-I-1-6.

⁹⁵ SAA at 886.

For these reasons, I find that revocation of the antidumping duty orders on CRBs would be likely to lead to significant underselling by the cumulated subject imports as well as significant price depression and suppression, within a reasonably foreseeable time.

In its original determinations, the Commission found that the significant and increasing volume and market share of the subject imports, along with price depression and the anemic profitability of the domestic industry, caused material injury to the domestic CRB industry.⁹⁶ During the review period, the domestic industry reported strong operating and financial performance, with an operating margin of 13.9 percent in 1998. Given this performance, I do not consider the domestic industry to be in a vulnerable condition. However, given the generally substitutable nature of domestic and subject imported CRBs, I find that the likely significant volume of subject imports, when combined with the expected adverse price effects of these imports, would have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the domestic industry's performance would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain needed capital investments.

Accordingly, I determine that, if the antidumping duty orders are revoked, the subject imports would be likely to have a significant adverse impact of the domestic industry within a reasonably foreseeable time.

2. Sweden

During the original investigation period, the value of subject imports from Sweden ranged between \$*** and \$***, and accounted for, at most, *** percent of the domestic market and *** percent of total imports.⁹⁷ SKF is the only bearings producer in Sweden, and reports no production in Sweden since the mid-1990s. I find that the likely volume of subject imports from Sweden should the antidumping order be revoked will not be significant in light of the current lack of production in Sweden and likely insignificant volumes if production resumed. I further find it unlikely that any possible increase in imports from Sweden would have a price effect in the domestic market, especially given the significant quantity of other subject and nonsubject CRBs available. Thus, I find that subject imports from Sweden would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time if the order were revoked.

IV. Spherical Plain Bearings

A. Cumulation of Subject Imports from France, Germany, and Japan

In these reviews, the statutory requirement for cumulation that all of the spherical plain bearings (SPB) reviews be initiated on the same day is satisfied. I find that information relevant to the cumulation factors that I generally consider supports a decision to cumulate the subject imports from France, Germany, and Japan. I do not find that subject imports from any of the three countries are likely to have no discernible adverse impact in the reasonably foreseeable future if the orders are revoked.

⁹⁶ USITC Pub. 2185, pp. 70-71.

⁹⁷ CR/PR at Table CRB-I-1. Data on the record show subject imports from Sweden during the review period that were *** these levels. However, given that SKF has reported it no longer has production in Sweden, it is unclear if these were shipped from inventory or are misclassified imports from other sources.

In the original determination with respect to imports of SPBs, the Commission found that the subject imports from France, Germany, and Japan competed with each other and with the domestic like product and cumulated the volume and price effects of those imports.⁹⁸ The record in these reviews shows that domestic SPBs are considered to be interchangeable with all subject imports.⁹⁹ Up to 80 percent of SPBs are standardized, according to parties supporting continuation of the orders, and customization of the remaining portion is generally relatively minor.¹⁰⁰ Differences between SPBs are generally thought to be company-specific, not country-wide.¹⁰¹ Domestic and subject SPBs are sold in the OEM and aftermarket distribution channels; domestic producers ship 70.9 percent of their SPBs to OEMs, while importers ship 68.1 percent to OEMs.¹⁰² Subject imports from each of the countries were present in the market throughout the review period, and have been sold throughout the United States.

Another factor that I have taken into account in determining to exercise my discretion to cumulate the subject imports from France, Germany, and Japan is the common ownership by U.S.- and foreign-based corporations of SPB facilities in the United States and throughout the world. Overall, I find that subject imports from these countries would compete in the U.S. market under similar conditions of competition. Based on the foregoing, I exercise my discretion to cumulate likely subject imports from France, Germany and Japan.

B. Conditions of Competition

The products subject to these reviews are spherical plain bearings, employing a spherically shaped sliding element, including spherical plain rod ends. Unlike the other bearings subject to review, SPBs do not contain rolling elements. SPBs are commonly used in off-highway vehicles, machinery used in construction, agriculture, mining and logging, and aerospace applications.¹⁰³ While the total value of apparent U.S. consumption of SPBs is well below that of certain other bearings types under review, it registered significant growth since the original investigations, increasing from \$*** in 1987 to \$163.2 million in 1998. The U.S. share of consumption increased from *** percent in 1987 to 87.7 percent in 1998, while subject imports fell from a *** percent share in 1987 to 12.3 percent in 1998.¹⁰⁴

Nine U.S. companies reported production of SPBs during the review period. New Hampshire Ball Bearing is the largest, accounting for *** percent of U.S. shipments in 1998, followed by Roller Bearing Corporation (RBC), with *** percent, and Alinabal and SKF with ***. Total U.S. capacity to produce SPBs increased from *** units in 1987 to 14.2 million units in 1998. The U.S. industry had excess capacity in each year of the review period.¹⁰⁵

⁹⁸ USITC Pub. 2185, pp. 60-65.

⁹⁹ CR/PR at Table SPB-II-3.

¹⁰⁰ Transcript, pp. 164-165.

¹⁰¹ CR at SPB-II-7-8, PR at SPB-II-5.

¹⁰² CR at SPB-I-14; PR at SPB-I-12.

¹⁰³ CR at SPB-I-13; PR at I-11.

¹⁰⁴ CR/PR at Table SPB-I-1.

¹⁰⁵ CR/PR at Table SPB-I-1.

Similar to the other types of bearings, OEM and aftermarket sales are the primary channels of distribution for SPBs. The record in these reviews shows that domestic SPBs are considered to be interchangeable with all subject imports.¹⁰⁶ Up to 80 percent of SPBs are standardized, according to parties supporting continuation of the orders, and customization of the remaining portion is generally relatively minor.¹⁰⁷

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation of these orders with respect to SPBs within the reasonably foreseeable future.

C. Whether Revocation of the Orders on Subject Spherical Plain Bearing Imports from France, Germany and Japan is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

I determine that revocation of the antidumping duty orders on SPBs from France, Germany, and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

In the original investigations, the Commission found that the volume of cumulated subject SPB imports had increased sharply and that the share of the market held by these imports was significant, increasing from *** percent in 1985 to *** percent, by value, in 1987.

The record indicates few changes in the conditions of competition in the SPB industry since the original investigations. Subject imports increased in value, reaching \$9.8 million in 1998, for a 6.0 percent share of the U.S. market.¹⁰⁸

In these reviews, respondents have argued that the existence of affiliated U.S. production facilities limits any potential increase in exports to the United States if the orders are revoked. The level of U.S. investment for these companies is significant, as it was for many during the original investigations, and has increased since the original investigations. U.S. investments by these foreign producers since the original investigations, as well as foreign-based production facilities that were established prior to the original investigations, may in some cases suggest that subject imports are not likely to increase if the orders are revoked. However, many of these facilities have held a long presence in the U.S. market and this has not acted to prevent rapid increases in subject import volumes in the past. While I recognize that rationalizing production globally and focusing production in a specific country on demand in that particular market or region may limit exports of some particular bearings to the United States, I do not find that such a presence in the U.S. market in this industry makes it unlikely that the commonly-owned foreign producers would not ship significant volumes of imports in the event of revocation of the orders. There are a large number of SPB types and sizes, and while production may be rationalized to those bearings most often requested, no single producer is able to manufacture all sizes and types and thus imports will

¹⁰⁶ CR/PR at Table SPB-II-3.

¹⁰⁷ Transcript, pp. 164-165.

¹⁰⁸ CR/PR at Table SPB-I-1 and INV-X-116. Subject imports by quantity increased sharply later in the review period, from a 3 percent market share in January-September 1998 to a 19.1 percent share in January-September 1999; the value share of subject imports for these periods increased from 5.7 percent in interim 1998 to 6.8 percent in interim 1999. The domestic industry fell from an 83.7 percent quantity share in interim 1998 to 71.6 percent in interim 1999. CR/PR at Table C-4.

be necessary to supplement U.S. production.¹⁰⁹ Thus, I do not believe that common ownership precludes an increase in import volume if an order is revoked or necessarily indicates the likely future behavior of the producers in the subject countries.

Other factors suggest that subject imports from these countries would increase significantly if the orders are revoked. The parties in favor of revocation of the orders have argued that the volume of SPB imports is not likely to reach significant levels within a reasonably foreseeable time if the orders are revoked, given the high rates of capacity utilization in the foreign markets, low inventory levels, an absence of barriers to entry in third countries, and no potential for product shifting from other types of bearings.¹¹⁰ In Japan, capacity equaled about one-third of U.S. consumption in 1998. Utilization was moderate in 1998, at 81.1 percent, but was considerably lower in interim 1999, at 62.5 percent. Japanese exports in 1998 accounted for just over one-third of total shipments.¹¹¹ For Germany, two responses were received, from SKF and a second smaller company, ASK Kugellagerfabrik. SKF reported that its largest competitor in Germany is INA, and believes the two companies are similar in size. SKF and ASK Kugellagerfabrik, which are believed to account for about *** of German production, reported capacity utilization in 1998 of *** percent, and *** percent in interim 1999. The companies export over *** percent of total shipments, of which exports to the United States accounted for only a small share. SKF reported that it transferred production of SPBs to the United States following imposition of the antidumping order in 1989. For the French industry there are no data for those companies believed to account for *** of capacity and production. Nevertheless, based on the record from the original investigation and the level of current subject imports from France, I infer that the SPB industry in France remains large and has excess capacity.¹¹²

While these factors may suggest limited ability of the subject producers to increase shipments to the United States if the orders are revoked, I find that subject import volumes are likely to be significant as a result of revocation. The SPB industry is mature and capital intensive, and it is common for producers to run at high capacity utilization levels in order to cover costs.¹¹³ Further, in an industry where the domestic product can be readily substituted with subject imports, even small changes in the volume of subject product can be significant.

Based on excess capacity in the subject foreign markets, the general export orientation of the foreign suppliers, established distribution networks, and the substitutability of SPBs from different sources, I find that the volume of subject imports upon revocation of the orders is likely to be significant in the reasonably foreseeable future.

In the original investigations, price data were considered to be generally inconclusive. SPBs are considered to be less a commodity-type product than ball bearings, but purchasers indicated that, along with quality considerations, price is an important factor in purchasing decisions.¹¹⁴ Changes in demand

¹⁰⁹ See, for example, the Posthearing Brief of SKF, *et al.*, p. xii, in which it notes that as the world's largest producer of bearings, including thousands of individual part numbers, "it is not surprising that SKF USA imports bearings in order to complement its domestic production."

¹¹⁰ Prehearing brief of JBIA, pp. 10-15 and Prehearing Brief of SKF, pp. 22-30.

¹¹¹ CR/PR at Table SPB-IV-5.

¹¹² SKF-France reported data, and stated that it accounted for *** of total SPB production in France. SNR and SNFA, two of the largest bearings producers in France, did not respond to Commission questionnaires. ***. CR at SPB-IV-7; PR at SPB-IV-1.

¹¹³ Prehearing brief of Torrington, pp. 7-8.

¹¹⁴ CR/PR at Table SPB-II-1.

have little impact on price, given the low cost share of the bearings in a final product, and SPBs of similar size, type and tolerances are easily substitutable. Further, there are a large number of suppliers of SPBs. Finally, U.S. prices are generally higher than prices in third-country markets, which provides significant incentive for foreign producers to increase their exports to the U.S. market.¹¹⁵ In these market conditions, a significant increase in import supply is likely to cause price depression and suppression.

I have also considered Commerce's findings that duties were absorbed on subject imports from France, Germany, and Japan.¹¹⁶ Those findings are reflected in the dumping margins that Commerce determined were likely to prevail if the orders were removed.¹¹⁷ The SAA explains that duty absorption may be an indicator that subject producers or exporters would market aggressively if an order is revoked.¹¹⁸ While I do not believe that duty absorption findings alone are determinative of the likely behavior of subject imports if the orders are revoked, such findings are consistent with other evidence in these reviews that subject imports would likely be priced aggressively in the U.S. market in the event of revocation of the orders on SPBs. The evidence of duty absorption, along with the history of price suppression and depression, and some underselling by the subject imports even with the orders in place, and the nature of competition in this market leads me to conclude that the cumulated subject imports would likely undersell the domestic products and significantly suppress or depress prices if the orders are revoked.

For these reasons, I find that revocation of the antidumping duty orders on SPBs would be likely to lead to significant underselling by the cumulated subject imports of the domestic like product as well as significant price depression and suppression within a reasonably foreseeable time.

The Commission found in its original determination on SPBs that the absolute level and increase in the cumulated subject import volume and market share, and significant price effects of the subject imports had an adverse impact on the domestic industry, reflected in the decline in the financial performance of the domestic industry. During the review period, the domestic industry reported strong operating and financial performance, with an operating margin of 10.4 percent in 1998. Given this performance, I do not consider the domestic industry to be in a vulnerable condition. However, given the generally substitutable nature of domestic and subject imported SPBs, I find that the significant volume of subject imports, when combined with the expected adverse price effects of these imports, would have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the domestic industry's performance would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain needed capital investments.

Accordingly, I determine that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

¹¹⁵ CR at SPB-II-3; PR at SPB-II-2; Posthearing brief of Torrington, pp. 4-5.

¹¹⁶ 19 U.S.C. § 1675a(a)(1)(D). I recognize that a recent decision of the Court of International Trade (CIT) on antifriction bearings calls into question Commerce's authority to make duty absorption findings in these reviews. However, until final disposition of this issue has been reached, I believe it is appropriate to take Commerce's findings into account.

¹¹⁷ CR at SPB-I-5-6; PR at SPB-I-1-5.

¹¹⁸ SAA at 886.

**SEPARATE AND DISSENTING VIEWS OF
COMMISSIONER JENNIFER A. HILLMAN**

I find that revocation of the dumping order on ball bearings (BBs) from Singapore is not likely to lead to recurrence or continuation of material injury to the domestic industry. I also find that revocation of the dumping order on spherical plain bearings (SPBs) from France, Germany, and Japan is not likely to lead to recurrence or continuation of material injury to the domestic industry.

I. BALL BEARINGS FROM SINGAPORE

A. Cumulation

I concur with my colleagues in finding that there is a likelihood of a discernible adverse impact on the domestic industry if the order on BBs from Singapore were lifted. However, I find that there is likely to be little competition between BBs from Singapore and both domestic BBs and other subject BBs. Therefore, I do not cumulate BBs from Singapore with those from France, Germany, Italy, Japan, and the United Kingdom.

The record indicates that, if the order were revoked, subject BBs from Singapore and both other subject BBs and domestic BBs would likely be simultaneously present in the market, sold in the same geographic markets, and sold through similar channels of distribution. However, the record also indicates substantially limited fungibility between subject imports from Singapore and domestic product as well as other subject imports. The record indicates that BBs produced in Singapore consist only of commodity-grade miniature and small BBs ***.¹ These bearings are further limited to ***.² The Singapore respondents have presented evidence that such commodity-grade small bearings are not produced domestically in any significant quantities, and the record contains no firm evidence to the contrary.³ Producers in other subject countries produce and export to the United States a much broader range of BBs.

BBs from Singapore are used mainly in low-value consumer products and automotive applications, whereas domestically produced BBs and other subject BBs are used in a wide range of applications, including precision and specialty applications.⁴ The typical end uses for BBs from Singapore are in ***.⁵ In contrast, even small bearings produced domestically are used in different end uses; the

¹ CR at BB-II-4, PR at BB-II-2. The Singapore producer produces only BBs, and its equipment limits it to BBs of 30 mm or less OD. Singapore Respondents' Prehearing Brief at 21.

² CR at BB-II-14, PR at BB-II-7.

³ The only evidence presented by domestic producers favoring continuation of the order on Singapore was a statement at the hearing by a witness that Timken Aerospace and Super Precision Bearings MPB Corporation faced competition from "miniature bearing[s] coming in from Singapore." Transcript at 205 (Demerling). However, Timken Aerospace produces only high-value, high-precision bearings. CR at D-11 to D-12, D-19 to D-20; PR at D-3. I thus find that this statement at the hearing is not sufficient to prove actual competition. Rather, it appears likely that any competition that Timken Aerospace faces from the Minebea Group, which owns the producer in Singapore, is from New Hampshire Ball Bearings, which is also owned by the Minebea Group, or imports from Minebea Group production facilities other than those in Singapore.

⁴ Singapore Respondents' Prehearing Brief at 10-11.

⁵ Singapore Respondents' Prehearing Brief at 10.

record indicates that miniaturized and small BBs produced domestically are for high-tech aerospace, medical, or other precision applications. Average unit values (AUVs) confirm that subject BBs from Singapore are concentrated in a much lower price segment of the market than other subject imports or domestic product.⁶

I find that these differences in fungibility indicate a likely lack of competition between BBs from Singapore and domestic BBs, as well as limited competition between BBs from Singapore and other subject BBs. Subject imports are to be cumulated in five-year reviews only if “such imports would be likely to compete with each other and with domestic like products in the United States market.”⁷ Therefore, I do not cumulate subject BBs from Singapore with subject BBs from any other country.

B. Conditions of Competition

In addition to the conditions of competition set forth in the Commission’s views, which I join with respect to France, Germany, Italy, Japan, and the United Kingdom, I find, as discussed in more detail above for cumulation, significant differences between BBs produced in Singapore and other BBs in the U.S. market, including domestic product. BBs produced in Singapore consist only of commodity-grade miniature and small BBs,⁸ products that are not produced domestically in any significant quantities. In contrast, BBs from other subject countries cover a broad range of sizes and types. BBs from Singapore are used mainly in low-value consumer products and automotive applications, whereas domestically produced BBs and other subject BBs are used in a wide range of applications.⁹

C. Revocation of the Order on Subject BB Imports from Singapore Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

Subject imports of BBs from Singapore have increased since the original investigation, rising from \$22.1 million in 1987 to \$45.5 million in 1997, but then falling to \$42.7 million in 1998. However, at the same time, the domestic market has similarly grown, so that subject BBs from Singapore currently hold the same approximate share of the market as they did during the original investigation, although this share has dropped slightly since 1997. Subject BBs from Singapore accounted for 1.3 to 1.4 percent of apparent consumption from 1985 to 1987; the share was 1.4 percent in 1997 and 1.3 percent in 1998 and it fell from 1.4 to 1.2 percent from interim 1998 to interim 1999.¹⁰ This market share remained steady

⁶ The AUV for BBs from Singapore was \$0.55 in 1997 and \$0.53 in 1998. AUVs for subject imports from France, Germany, Italy, Japan, and the United Kingdom ranged from \$1.01 to \$9.00. The AUV for domestic producers’ U.S. shipments was \$4.70 in 1997 and \$4.96 in 1998. CR/PR at Table BB-IV-1, Table C-2.

⁷ 19 U.S.C. 1675a(a)(7).

⁸ CR at BB-II-4, PR at BB-II-2.

⁹ Singapore Respondents’ Prehearing Brief at 10-11.

¹⁰ CR/PR at Table BB-I-1.

despite low dumping margins found by the Department of Commerce in its administrative reviews of the order.¹¹

The industry in Singapore has unused capacity and is export-oriented. Over *** percent of the Singapore industry's shipments are exported, with roughly *** of the industry's total shipments exported to the United States and *** to other countries. The Singapore industry's ratio of inventories to shipments has been low, falling from *** percent in 1997 to under *** percent for the rest of the review period.¹² The ratio of U.S. importers' inventories to imports has been higher but has been falling, going from *** percent in 1997 to *** percent in 1998, and from *** percent in interim 1998 to *** percent in interim 1999.¹³

Thus, the record shows that BBs from Singapore have retained a steady share of the U.S. market, despite low dumping margins and an export-oriented industry with unused capacity. These BBs are only in a particular market segment that is not served in significant part by domestic product. I conclude that the volume of subject BBs from Singapore is unlikely to increase significantly if the orders are revoked. Moreover, I find that, even should the volume of subject BBs from Singapore increase, any such increase is not likely to have a significant effect, given the very limited competition between BBs from Singapore and domestic product.

2. Likely Price Effects of Subject Imports

There were no imports from Singapore of any of the pricing products for which the Commission collected data. I find AUVs to be nonprobative on the issue of price effect given the substantial differences in product mix. However, based on my finding that there will be very limited competition between subject BBs from Singapore and the domestic product, I find that, if the order were revoked, subject BBs from Singapore would not be likely to have a significant price depressing or suppressing effect.

3. Likely Impact of Subject Imports

As stated above, the domestic industry does not produce in significant quantities the types of subject BBs produced in Singapore. Therefore, and in light of my finding of no likely volume or price effect, I do not find it likely that revocation of the order on BBs from Singapore is likely to lead to recurrence or continuation of material injury to the domestic industry in the reasonably foreseeable future.

II. SPHERICAL PLAIN BEARINGS

A. Cumulation

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

¹¹ CR/PR at Table BB-I-7.

¹² CR/PR at Table BB-IV-8.

¹³ CR/PR at Table BB-IV-2.

1. Likelihood of No Discernible Adverse Impact

I do not find that imports from any of the three subject countries are likely to have no discernible adverse impact in the reasonably foreseeable future if the orders are revoked.

Subject imports from France, Germany, and Japan have remained in the U.S. market in the years since the orders were imposed. The continuing presence of these subject imports in the domestic market indicates that subject foreign producers continue to have the contacts and channels of distribution necessary to compete in the U.S. market. The SPB industries in all three countries export significant proportions of their total SPB shipments.¹⁴ The record also shows that capacity utilization in all three countries decreased from 1997 to 1998.¹⁵ I therefore find it likely that subject imports from each of the three countries would have a discernible adverse impact within a reasonably foreseeable time if the orders were revoked.

2. Reasonable Overlap of Competition

In the original investigations, the Commission cumulated subject SPB imports from all the subject countries, based on a reasonable overlap of competition. With respect to fungibility, one of the four traditional cumulation factors, the record of these reviews shows that all responding purchasers consider U.S.-manufactured SPBs to be interchangeable with SPBs produced in all three subject countries.¹⁶ While most purchasers reported that, for SPBs, some type of qualification or pre-qualification was required and while most OEMs have a certification process, the purchasers also stated that interchangeability and qualification are more company-level than country-level issues.¹⁷ While the proportion of U.S. sales of customized SPB bearings, as opposed to standard bearings, may be increasing,¹⁸ the record does not indicate that subject country imports are not able to compete with U.S.-produced bearings in the customized segment of the market. The record also indicates U.S.-produced and subject country imports move in the same channels of distribution in comparable proportions.¹⁹

Overall, based on the traditional four competition factors, I find that there likely would be a reasonable overlap of competition among subject imports from France, Germany, and Japan, and between subject imports and the domestic like product if the orders are revoked. I find no other considerations that would indicate cumulation is not appropriate. I therefore exercise my discretion to cumulate subject SPB imports from all the subject countries.

B. Conditions of Competition

¹⁴ CR/PR at Table SPB-IV-3, Table SPB-IV-4, Table SPB-IV-5. I note that data on the industry in France is incomplete, with only one producer providing information to the Commission. However, I find that the information on the record regarding the industry in France is sufficient to support my decision to cumulate all subject countries. In particular, compete information on the industry in France would be unlikely to alter my finding of reasonable overlap of competition.

¹⁵ CR/PR at Table SPB-IV-3, Table SPB-IV-4, Table SPB-IV-5.

¹⁶ CR at SPB-I-13, SBP-II-8, Table SPB-II-3, PR at SPB-I-11, SPB-II-5, Table SPB-II-3.

¹⁷ CR at SPB-II-7-8, PR at SPB-II-5.

¹⁸ CR at SPB-II-8-9, PR at SPB-II-5.

¹⁹ CR at SPB-I-14, PR at SPB-I-12.

The demand for SPBs has grown considerably since the time of the original investigation. The value of U.S. apparent consumption of SPBs increased from *** in 1987 to \$163,226,000 in 1998.²⁰ The demand for SPBs is derived from the demand for end-use products, and agricultural and construction equipment manufacturers are two of the most important end-users. Although the demand for agricultural equipment was somewhat depressed during the review period, the demand for construction equipment has been strong.²¹

The U.S. SPB industry has experienced strong growth since the original investigation. The value of U.S. producers' U.S. shipments increased from *** in 1987 to \$143,121,000 in 1998. The value of U.S. producers' export shipments increased from *** in 1987 to \$7,114,000 in 1998. U.S. producers' dominance of the U.S. market grew, with market share rising from *** percent in 1987 to 87.7 percent in 1998. Subject imports' market share fell from *** percent in 1987 to 6.0 percent in 1998; nonsubject imports' market share rose from *** in 1987 to 6.3 percent in 1998.²²

The U.S. SPB industry is highly concentrated, with two producers accounting for *** percent of U.S. shipments by value and four producers accounting for *** percent. New Hampshire Ball Bearings, Inc. ("NHBB"), with *** percent of U.S. shipments, is owned by Minebea Co., Ltd., of Japan, a producer of SPBs.²³

The SPB industry is capital intensive, and producers cannot easily switch to other markets or to the production of other types of bearings or products.²⁴ SPB manufacturers must produce at high capacity utilization rates to recover their fixed costs and maximize their return on investment.

Sales of SPBs in the United States, by both U.S. and foreign producers, are concentrated in the OEM/end-user market. U.S. producers shipped 70.9 percent of their U.S. shipments of SPBs to end users/OEMs in 1998, and the remaining 29.1 percent to distributors/aftermarket customers. Similarly, importers shipped 68.1 percent of their U.S. SPB shipments to end users/OEMs in 1998, and the remaining 31.9 percent to distributors/aftermarket customers.²⁵ The U.S. SPB market is concentrated in a relatively small number of high volume part numbers and a handful of major OEM accounts.²⁶ Sales to OEMs are generally by three-to-five year contracts.

SPBs are the least "commodity-like" of the four like products. In addition, purchasers' demand for customized SPB bearings appears to be important and growing. For example, one U.S. producer, ***, reported that *** percent of its 1998 sales were of custom-made bearings and its custom-made sales had increased since 1997 because of growth in several OEM applications. In both the OEM market, which accounted for the vast majority of total SPB shipments in 1998, and in the aftermarket, *** percent of SPB shipments reportedly are of customized bearings.²⁷ Factors in addition to price, then, such as quality, availability, existence of pre-arranged contracts, and service, appear to be important in SPB purchasers'

²⁰ CR/PR at Table SPB-I-1.

²¹ CR at SPB-II-3, PR at SPB-II-2.

²² CR/PR at Table SPB-I-1.

²³ CR/PR at Table SPB-I-6. I note the contrast to the BB industry, in which the largest four producers account for only *** percent of U.S. shipments by value.

²⁴ CR at SPB-II-1, PR at SPB-II-1.

²⁵ CR at SPB-I-14, PR at SPB-I-12.

²⁶ See CR at SPB-I-18, PR at SPB-I-15; Torrington Prehearing Brief at 6-11; Torrington Posthearing Brief at Commissioner Bragg Answers, p. 1-8.

²⁷ JBIA Posthearing Brief at 4-8.

decisions.²⁸ Purchasers generally view SPBs from the subject countries as interchangeable with the U.S. product, although most purchasers require some type of qualification or pre-qualification before buying SPBs from a particular supplier.²⁹

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

C. Revocation of the Orders on Subject SPB Imports from France, Germany, and Japan Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

In the original investigations, the Commission found that the volume of cumulated subject SPB imports had increased dramatically throughout the period of investigation, that import value increased by more than *** percent from 1985 to 1987, and that market penetration by subject imports was equally dramatic, with imports capturing more than one quarter of domestic consumption by interim 1988.³⁰

The U.S. market share held by cumulated subject imports has decreased since the original investigation. While subject imports accounted for *** percent of the value of U.S. shipments in 1987, their market share in 1997 was 5.7 percent, and 6.0 percent in 1998. The market shares held by U.S. producers and nonsubject imports both increased since the original investigation, with nonsubject imports gaining about *** percent of U.S. market share.³¹

Capacity utilization rates for the reporting foreign producers ranged from *** percent to *** percent during the full years of the review period,³² although capacity utilization rates in the interim periods declined somewhat for the German and Japanese producers.³³ However, the record shows that the reporting Japanese producers are believed to account for the vast majority of SPB production in Japan and that, of these, the capacity utilization rates for the companies that accounted for most of the Japanese SPB exports to the United States during the review period were over *** percent in 1997 and 1998.³⁴

²⁸ CR at SPB-II-5, PR at SPB-II-3-4.

²⁹ CR at SPB-II-8, PR at SPB-II-5.

³⁰ USITC Pub. 2185 at 71.

³¹ CR/PR at Table SPB-I-1.

³² I note that data on the industry in France is incomplete, with only one producer providing information to the Commission. However, SPBs from Germany and Japan account for the vast majority of current subject imports, as they did in the original investigation (subject imports from France accounted for *** percent by value of domestic consumption during the original investigation). Thus, I do not consider it likely that the missing data on producers in France would lead me to a different conclusion regarding cumulated subject imports. Moreover, my determination that revocation is not likely to lead to recurrence or continuation of material injury to the domestic industry is based primarily on the conditions of competition in this industry, most notably the strong demand for SPBs and limited price-based competition, and on the very strong condition of the domestic industry. Therefore, even a different conclusion on likely volume would not lead me to reach an affirmative determination regarding likelihood of recurrence or continuation of material injury.

³³ CR/PR at Tables SPB-IV-3, SPB-IV-4, SPB-IV-5.

³⁴ Foreign producer questionnaire responses show the following capacity utilization rates for the Japanese producers accounting for most of Japanese SPB exports to the United States in the review period: Minebea, ***

The record further shows that the home market and third-country markets account for nearly all SPB shipments by German producers and that, while export-oriented, they shipped only *** percent and *** percent of their SPB shipments to the United States in 1997 and 1998, respectively.³⁵ The Japanese producers shipped most of their SPB production to their home market in the review period, 70.9 percent in 1997 and 63.1 percent in 1998, and only 2.2 percent in 1997 and 3.6 percent in 1998 of their SPB shipments to the United States.³⁶ Shipments from the reporting French producer were concentrated in its home market.³⁷ There are no reported import barriers to French, German, or Japanese shipments to third-country markets.³⁸ I further note that, given that the machinery and equipment needed for SPB production are highly specialized and generally dedicated to SPBs, there is little potential that French, German, or Japanese producers would shift production from other types of bearings to SPBs.

Domestic SPB producers owned by subject producers Minebea and SKF accounted for *** percent of the value of total U.S. SPB shipments in 1998.³⁹ Since the original investigation, both Minebea and SKF have shifted from imports to domestic production to serve the U.S. market. Minebea, formerly the *** Japanese exporter of SPBs to the United States, shifted *** its SPB production for the U.S. market to ***.⁴⁰ SKF USA is owned by SKF Sweden, which owns subsidiaries in Germany and France that produces SPBs (SKF's French subsidiary was the only responding French producer). SKF USA Inc., which did not produce SPBs in the United States at the time of the original investigation, accounted for approximately *** percent of the value of U.S. SPB shipments in 1998;⁴¹ while it *** during the review period, ***.⁴² NHBB and SKF have both made substantial capital investments in U.S. SPB production since the orders were imposed.⁴³ During the review period, ***.⁴⁴ NHBB and SKF both state that their expansion of and investment in U.S. SPB production since the orders were imposed indicate that their U.S. production is well established and will not be abandoned in favor of imports should the orders be revoked.⁴⁵

Thus, the record indicates that Minebea and SKF each have a strong interest in U.S. production, and that this commitment is unlikely to change in the reasonably foreseeable future. I therefore find it unlikely that Minebea or SKF would increase export volumes to the United States in a manner that would

percent in 1997, *** percent in 1998, *** percent in interim 1998, *** percent in interim 1999; NTN, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, *** percent in interim 1999; NSK, *** percent in all four periods. Nippon Thompson's SPB exports to the United States accounted for approximately *** percent of the volume of subject Japanese imports into the United States in 1998. CR/PR at Table SPB-IV-1; Minebea, NTN, NSK, and Nippon Thompson Foreign Producer Questionnaire Responses on SPBs.

³⁵ CR/PR at Table SPB-IV-4.

³⁶ CR/PR at Table SPB-IV-5.

³⁷ CR/PR at Table SPB-IV-3.

³⁸ CR at SPB-IV-7, 9, PR at SPB-IV-5.

³⁹ CR/PR at Table SPB-I-6.

⁴⁰ JBIA Posthearing Brief at 8, n.4.

⁴¹ CR/PR at Table SPB-I-6.

⁴² CR/PR at Table SPB-III-4.

⁴³ CR/PR at Table SPB-I-6, CR at SPB-II-1, PR at SPB-II-1.

⁴⁴ CR at SPB-III-10, PR at SPB-III-6.

⁴⁵ JBIA Economic Report at IV-4-5; JBIA Prehearing Brief at 5-6; Response of SKF Group to Notice of Institution at 6-7.

be injurious to its related domestic producer. As discussed before, the domestic SPB industry is highly concentrated, with NHBB *** the largest producer. In such a concentrated market, it is unlikely that Minebea or SKF would be able to increase export volumes to the U.S. market in a manner that would not significantly impact its related domestic producer but would significantly impact the industry as a whole.

I therefore conclude that the cumulated volume of SPB imports from France, Germany, and Japan is not likely to increase significantly if the orders are revoked. Moreover, I find that, even should cumulated subject imports increase over current levels if the orders are revoked, any increase is not likely to have a significant effect, given the strong and growing demand for SPBs in the U.S. market and the strong condition of the domestic industry.

2. Likely Price Effects of Subject Imports

In the original investigations, the Commission found that, while the specific pricing data for SPBs was generally inconclusive, given the dramatic surge in import volume and market share by subject imports, as well as the decline in the financial condition of the domestic industry, there was sufficient evidence of a causal connection between the subject imports and the material injury being experienced by the domestic industry.⁴⁶

The limited pricing data collected in these reviews generally show that subject imports from Germany and Japan oversold the domestic like product in the periods for which price comparisons were available (there were no reported imports from France of any of the pricing products). SPB imports from Germany undersold the U.S. product in 13 periods, and oversold the U.S. product in 17 periods. There were no periods of underselling by Japanese imports, and overselling occurred in 12 periods. The average overselling margins for both countries were higher than the underselling margins.⁴⁷

Due to the fact that SPBs are not particularly “commodity-like,” the growing importance of customization in SPB sales, and the fact that OEMs, the largest market segment, usually demand certification or pre-certification of suppliers, I conclude that factors other than price, such as quality, availability, engineering support, and service, are likely to remain important considerations in purchasing decisions.

As discussed above, Minebea and SKF are related to domestic producers -- Minebea to the dominant producer -- and the domestic SPB industry is fairly heavily concentrated. I therefore find it unlikely that Minebea or SKF will engage in pricing behavior in a manner that would be injurious to its related domestic producer, and I also find it unlikely that either producer would be able to engage in pricing behavior that would not significantly impact its related domestic producer but would significantly impact the industry as a whole.

I therefore conclude that the record evidence does not indicate that subject imports from France, Germany, and Japan would be likely to undersell significantly the U.S. product if the orders are revoked.⁴⁸

⁴⁶ USITC Pub. 2185 at 71-72.

⁴⁷ CR/PR at Table SPB-V-8.

⁴⁸ In reaching my conclusion on likely price effects, I have weighed all the pertinent evidence on price and taken into account Commerce’s duty absorption findings on France, Germany, and Japan (64 Fed. Reg. 60275, 64 Fed. Reg. 60309, 64 Fed. Reg. 60321 (Nov. 4, 1999)), although I note the respondents’ argument that a recent CIT decision (SKF USA Inc., et al. v. United States, CIT No. 99-08-00473, Slip Op. 00-28 (March 22, 2000)) calls into question the validity of Commerce’s duty absorption findings with respect to certain transition orders. See JBIA Posthearing Brief at 9-

Moreover, because I conclude that any increase in the volume of cumulated subject imports, given growing demand, is not likely to be significant, I find that cumulated subject imports would not be likely to depress or suppress U.S. prices to any significant degree. I therefore find that subject imports would not likely have an adverse price impact if the orders are revoked.

3. Likely Impact of Subject Imports

In the 1989 determination, the Commission found that the dramatic surge in cumulated subject import volume and market share for a product whose demand was relatively unresponsive to price declines, and the high absolute level of market penetration, in combination with the severe decline in the financial condition of the domestic industry, provided sufficient evidence of a causal connection between the subject imports and the material injury being experienced by the domestic industry.⁴⁹

I find that the U.S. SPB industry is not currently in a vulnerable state. It has exhibited very strong, healthy expansion since the original investigation, in tandem with considerable growth in demand for SPBs. NHBB, the largest U.S. producer, has expanded its capacity by nearly *** percent since the original determination, and overall domestic capacity utilization increased from only *** percent in 1987 to 85.3 percent in 1998.⁵⁰ In addition, employment in the domestic SPB industry has nearly *** in the past ten years, and capital expenditures rose from \$5,691,000 in 1997 to \$8,800,000 in 1998.⁵¹ The value of U.S. producers' U.S. shipments increased from \$**** in 1987 to \$143,121,000 in 1998, and the value of their export shipments rose from \$**** to \$7,114,000 during the same period.⁵² Domestically produced SPBs now account for over 87 percent of U.S. consumption.⁵³ The industry's operating income margin was 10.4 percent in 1998, as compared to a *** in 1987.⁵⁴

Because of the very healthy condition of the domestic industry and its dominant position, as well as the absence of significant likely volume and price effects, I find that revocation of the antidumping duty orders on SPB imports from France, Germany, and Japan would not be likely to impact significantly the domestic industry's output, sales, market share, profits, or return on investment. I therefore find that revocation of the antidumping duty orders on SPB imports from France, Germany, and Japan is not likely to lead to continuation or recurrence of material injury to the U.S. SPB industry within a reasonably foreseeable time.

10; SKF Group Posthearing Brief at xviii. However, since Commerce's findings do not, in my view, outweigh other evidence indicating the lack of significant effects on price, I do not need to resolve respondents' objections to considering Commerce's duty absorption findings.

⁴⁹ USITC Pub. 2185 at 71-72.

⁵⁰ CR/PR at Table SPB-I-1.

⁵¹ CR/PR at Table SPB-I-1, Table SPB-III-10.

⁵² CR/PR at Table SPB-I-1.

⁵³ CR/PR at Table SPB-I-1.

⁵⁴ CR/PR at Table SPB-I-1.