

UNITED STATES INTERNATIONAL TRADE COMMISSION

Certain Industrial Belts From Germany, Italy, Japan, and Singapore
Investigations Nos. 731-TA-413-415 and 419 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3341, August 2000)

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Investigations Nos. 731-TA-413-415 and 419 (Review)

CERTAIN INDUSTRIAL BELTS FROM GERMANY, ITALY, JAPAN, AND SINGAPORE

DETERMINATIONS

On the basis of the record¹ developed in these 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 certain industrial belts from Germany, Italy, Japan, and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on June 1, 1999 (64 F.R. 29342) and determined on September 3, 1999, that it would conduct full reviews (64 F.R. 50106, September 15, 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 February 10, 2000 (65 F.R. 6627). Since all requests by interested parties to appear at the hearing were withdrawn before its scheduled date, no hearing was held in these reviews.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on August 18, 2000. The views of the Commission are contained in USITC Publication 3341 (August 2000), entitled *Certain Industrial Belts from Germany, Italy, Japan, and Singapore: Investigations Nos. 731-TA-413-415 and 419 (Review)*.

By order of the Commission.

Donna R. Koehnke
Secretary

Issued:

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

² Commissioner Lynn M. Bragg dissenting with respect to Italy, Japan, and Singapore.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders covering certain industrial belts from Germany, Italy, Japan, and Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.^{3 4}

I. BACKGROUND

In May of 1989, the Commission made final determinations in the original antidumping investigations of subject industrial belts from eight countries.⁵ The Commission made negative injury determinations on subject imports from four countries: Israel, South Korea, Taiwan, and the United Kingdom.⁶ The Commission made an affirmative determination on subject imports from Japan.⁷ For the remaining countries, the Commission reached affirmative determinations on only part of the subject imports. The Commission reached an affirmative determination on V-belts and synchronous belts from Italy, but a negative determination on belts other than V-belts and synchronous belts (“other” belts) from that country.⁸ The Commission made an affirmative determination on V-belts from Singapore, but a negative determination on synchronous and “other” belts from that country.⁹ As to subject imports from Germany, the Commission reached an affirmative determination on “other” belts, and a negative determination on V-belts and synchronous belts.¹⁰ Accordingly, on June 14, 1989, Commerce imposed antidumping duty orders on all belts from Japan, V-belts and synchronous belts from Italy, V-belts from Singapore, and “other” belts from Germany.¹¹

On June 1, 1999, the Commission instituted these reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on certain industrial belts

³ Commissioner Bragg dissenting as to Italy, Japan, and Singapore. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

⁴ Commissioner Askey concurs in the determinations of the Commission, but writes separately to discuss her views on cumulation, the likelihood of no discernible adverse impact if the orders are revoked, and whether revocation of the orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. See Concurring Views of Commissioner Thelma J. Askey. She joins sections I, II, III.A, IV.A and IV.B of these views, however.

⁵ Unless otherwise indicated, “belts” refers to industrial belts in these views.

⁶ Industrial Belts from Israel, Italy, Japan, Singapore, South Korea, Taiwan, the United Kingdom, and West Germany, Inv. Nos. 701-TA-293 (Final) and 731-TA-412 through 419 (Final) USITC Pub. 2194 at 2-3 (May 1989) (“Original det.”). The Commission also reached a negative determination on belts from Israel that Commerce determined to be subsidized. Id. at 1.

⁷ Id. at 3.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ 54 Fed. Reg. 25316 (June 14, 1989) (Germany), 54 Fed. Reg. 25313 (June 14, 1989) (Italy), 54 Fed. Reg. 25314 (June 14, 1989) (Japan), and 54 Fed. Reg. 25315 (June 14, 1989) (Singapore).

from Germany, Italy, Japan, and Singapore would likely lead to continuation or recurrence of material injury.¹²

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses of interested parties 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.¹³ 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.

The Commission received responses to the notice of institution from four domestic belts producers: Dayco Products, Inc. ("Dayco"), Gates Rubber Co. ("Gates"), HBD Industries, Inc. ("HBD"), and MBL (USA) Corp. ("MBL"). Three producers of subject belts also responded: Bando Chemical Industries, Ltd. ("Bando Japan"), Mitsuboshi Belting Ltd. ("Mitsuboshi Japan"), and Mitsuboshi Belting (Singapore) Pte. Ltd. ("Mitsuboshi Singapore"). The Commission also received responses from U.S. importers MBL (also a producer, as mentioned above) and Bando American, Inc. ("Bando American").¹⁴

Based on the responses received, the Commission determined that the domestic interested party group response was adequate. The Commission also determined that the respondent interested party group responses were adequate with respect to the orders on Japan and Singapore, and inadequate with respect to the orders on Italy and Germany. The Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act, both in the interest of administrative efficiency and because of potentially significant like product issues.^{15 16}

Gates and Dayco, which together represented *** percent of reported domestic production in 1999, indicated in their responses to the notice of institution that they opposed the revocation of the orders.¹⁷ After the Commission determined to conduct full reviews, however, the companies informed the Commission that they *** revocation of the orders. Gates and Dayco now *** on the revocation of the four orders, except that ***.¹⁸ Gates also informed the Commission that it had requested the Department of Commerce to conduct changed

¹² 64 Fed. Reg. 29342 (June 1, 1999).

¹³ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

¹⁴ Several of the responses were filed jointly. MBL filed joint responses both with Mitsuboshi Japan and with Mitsuboshi Singapore. Bando Japan filed jointly with Bando American.

¹⁵ 64 Fed. Reg. 50106 (Sept. 15, 1999).

¹⁶ Explanation of Commission Determination on Adequacy. Appendix A to the confidential version of the staff report ("CR") and the public version of the staff report ("PR").

¹⁷ Figure calculated based on Gates' 1999 reported production and Dayco's 1999 inferred production. Table I-5 & n.2, CR at I-26 and PR at I-17.

¹⁸ CR at I-22, I-24 & n.21 and PR at I-16 & n.21.

circumstances reviews of the orders.¹⁹ After indicating their change in position on revocation, Gates continued to provide information requested by the Commission, but Dayco did not.²⁰

In the original investigations, the Commission identified Goodyear as *** domestic producer of belts. In these reviews, however, Goodyear did not respond to the Commission's requests for information, nor did it indicate its position on the revocation of the orders.²¹

Among the seven known smaller producers, *** support revocation of all the orders, *** take no position, *** oppose revocation, and ***.²² Those firms opposing revocation accounted for approximately *** percent of reported domestic production in 1999.²³

The Commission received only two briefs during the reviews, a joint filing by Bando Japan and Bando American and another by Mitsuboshi Japan, Mitsuboshi Singapore, and MBL. Both briefs supported the revocation of the orders. No hearing was held due to lack of interest by any of the parties to the reviews.²⁴

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making determinations under section 751(c), the Commission defines “the domestic like product” and the “industry.”²⁵ 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.”²⁶

The four orders under review variously cover part or all of the following:

industrial V-belts and synchronous belts and other industrial belts, used for power transmission, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loops) belts, or in belting in lengths or links. . . . the orders exclude conveyor belts and automotive belts as well as front engine drive belts found on

¹⁹ CR at I-24 and PR at I-16.

²⁰ CR at I-24 and PR at I-16.

²¹ CR at I-24 and PR at I-16.

²² Table I-5, CR at I-26 and PR at I-17.

²³ Table I-5, CR at I-26 and PR at I-17. Although they account for about *** percent of reported production, the producers opposing revocation of the order constitute an even smaller share of actual production, because two large domestic producers did not respond to the Commission's requests for information. CR at I-24 and PR at I-16.

²⁴ CR at I-24 and PR at I-16.

²⁵ 19 U.S.C. § 1677(4)(A).

²⁶ 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (CIT 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).

equipment powered by internal combustion engines, including trucks, tractors, buses, and lift truck[s].²⁷

The order on subject merchandise from Japan includes all of the above. The order on subject merchandise from Italy includes only V-belts and synchronous belts. The order on subject merchandise from Singapore includes only V-belts and the order on subject imports from Germany includes only “other” belts.²⁸

In the original determinations, a plurality of three Commissioners found a single domestic like product. Two others found separate like products for V-belts, synchronous belts, and “other” belts, while a sixth Commissioner found separate like products consisting of V-belts and round belts, synchronous belts, and flat belts.²⁹ ³⁰ Four Commissioners included automotive belts in the domestic like product, while two did not.³¹

The record in these reviews indicates no significant changes since the original investigations indicating that the plurality decision to find a single like product and majority decision to include automotive belts should be revisited. The only parties that actively participated in these reviews and that expressed views on like product argue that automotive belts should be included in the domestic like product, and take no position on whether the Commission should find a single or multiple like products.³² Accordingly, we define, for each of the four reviews, a single domestic like product consisting of industrial and automotive belts.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the domestic “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³³ In

²⁷ See 64 Fed. Reg. 73511, 73511-12 (Dec. 30, 1999) and 65 Fed. Reg. 18963 (April 10, 2000).

²⁸ 64 Fed. Reg. 73511, 73512 (Dec. 30, 1999) and 65 Fed. Reg. 18963 (April 10, 2000).

²⁹ Commissioners Eckes, Newquist, and Lodwick found a single domestic like product. Original det. at 7-8 and 152-55. Chairman Brunsdale and Commissioner Rohr found separate like products for V-, synchronous, and “other” belts. *Id.* at 34, 59-60. Vice Chairman Cass found separate like products consisting of V-belts and round belts, synchronous belts, and flat belts. *Id.* at 82.

³⁰ The Commission’s original determinations reflect the three separate like products as defined by Commissioner Rohr because his vote, along with the votes of Commissioners Eckes and Newquist, was necessary to constitute the three vote majority.

³¹ Chairman Brunsdale, Vice Chairman Cass, and Commissioners Rohr and Lodwick included automotive belts, while Commissioners Eckes and Newquist did not. Original det. at 8, 31, 61, 96, 152-55.

³² Prehearing Brief of Bando Japan and Bando American at 10-17 (arguing to include automotive), 11 n.4 (taking no position on single or multiple like products). At the time they opposed revocation of the orders, Gates and Dayco took no issue with a finding of separate like products for V-belts, synchronous belts, and “other” belts, but they argued that automotive belts should not be included. However, because they failed to provide any detailed argument in support of their initial contention, we give little weight to their cursory comments on the like product definition. Responses of Gates and Dayco to the Commission’s notice of institution of reviews, at 56-58 and 16, respectively.

³³ 19 U.S.C. § 1677(4)(A).

defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.³⁴ The Commission bases its analysis on a firm's production-related activities in the United States.³⁵ Consistent with our definition of the like product, we find a single domestic industry consisting of all domestic producers of industrial and automotive belts.

In defining the domestic industry in these reviews, we have considered whether any U.S. producers of industrial and automotive belts should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry for the purposes of an injury determination producers that are related to an exporter or importer of the subject merchandise, or that are themselves importers.³⁶ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.³⁷

³⁴ See, e.g., Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 at 8-9 (July 1999); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.19 (Nov. 1995) ("the Commission has generally included toll producers that engage in sufficient production-related activity to be part of the domestic industry"). See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

³⁵ The Commission typically considers six factors: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product. See Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 at 8-9 (Jan. 2000).

³⁶ 19 U.S.C. § 1677(4)(B).

³⁷ 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). 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

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

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 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., Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand, Inv. Nos. 731-TA-308-310 and 520-521 (Review), USITC Pub. 3263 at 5-7 (Dec. 1999); Stainless Steel Plate from Sweden, Inv. No. AA1921-114 (Review), USITC Pub. 3204 at 10 (July 1999); Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups from Canada, Inv. Nos. 104-TAA-7 (Review), AA1921-198-200 (Review), and 731-TA-3 (Review), USITC Pub. 3238 at 14 (Sept. 1999). See also S. Rep. No.

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Four domestic producers -- Gates, TBMC, MBL, and Bando Manufacturing of America (“Bando Manufacturing”) -- come within the related parties definition.³⁸ No party presented argument on whether appropriate circumstances exist to exclude any of the four from the domestic industry. We find that appropriate circumstances do not exist to exclude any of these producers. The primary interest of each company is in domestic production rather than importation.³⁹ None of the four related producers imports the subject merchandise in quantities that are substantial in relation to its domestic production.⁴⁰ Additionally, nothing in the current financial performance of these producers suggests that appropriate circumstances exist to exclude any of these companies from the industry.⁴¹

III. CUMULATION

A. Framework

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that

³⁷ (...continued)
249, 96th Cong., 1st Sess. 83 (1979).

³⁸ TBMC is *** owned by Jason Industrial, an importer of *** belts. CR at I-25 & n.26 and PR at I-17 & n.26. MBL is *** percent owned by Mitsuboshi Japan, a foreign producer of subject belts, and is under common control with Mitsuboshi Singapore, another producer of subject belts. CR at I-25 and PR at I-17. MBL also imports subject belts itself. CR at I-26 and PR at I-18. Bando Manufacturing is *** percent owned by Bando Japan, a producer of subject merchandise, and is under common control with Bando American, an importer of subject merchandise. CR at I-25 to I-27 and PR at I-17 to I-18. Gates imports small amounts of subject belts. CR at I-27 and PR at I-18.

³⁹ Chairman Koplun and Commissioners Miller and Hillman do not find that the related parties currently are benefiting significantly from their relationships or are substantially shielded from the effects of import competition. They also find that the related parties are not likely to benefit substantially from subject imports upon revocation of the orders.

⁴⁰ In 1999, imports of subject merchandise amount to *** percent of Bando Manufacturing’s domestic production, and *** percent of MBL’s domestic production. CR at I-26 and PR at I-18. Gates reports that the quantity of its subject imports is also small. CR at I-27 and PR at I-18. TBMC ***. Although TBMC’s parent company ***, Compare TBMC’s production questionnaire response at question II-9 with parent Jason Industrial’s ***. Moreover, TBMC was opened in 1990 to produce industrial synchronous belts following the imposition of antidumping duties, indicating that its primary, if not sole, interest is in manufacturing. CR at I-25 and PR at I-17.

⁴¹ In 1999, TBMC had the *** operating income as a ratio of net sales out of eight reporting producers. However, we do not attribute that ranking to its relationship to subject merchandise because TBMC ***, and *** percent of TBMC’s domestic production. Gates, MBL, and Bando Manufacturing ranked ***, ***, and *** of the eight responding producers on the same measure. Table III-6, CR at III-9 and PR at III-3.

such imports are likely to have no discernible adverse impact on the domestic industry.⁴²

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.⁴³ 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.⁴⁴ 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.^{45 46}

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.⁴⁷ Only a “reasonable overlap” of competition is required.⁴⁸ In five-year reviews, the

⁴² 19 U.S.C. § 1675a(a)(7).

⁴³ 19 U.S.C. § 1675a(a)(7).

⁴⁴ SAA, H.R. Rep. No. 103-316, vol. I (1994).

⁴⁵ 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) USITC Pub. 3274 (Feb. 2000). 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. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

⁴⁶ 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).

⁴⁷ 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).

⁴⁸ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at

(continued...)

relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission's traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are revoked. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.⁴⁹

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied.⁵⁰

B. Likelihood of No Discernible Adverse Impact⁵¹

No party presented argument on the likelihood of no discernible adverse impact. We find that the subject imports from Germany are likely to have no discernible adverse impact on the domestic industry if that order is revoked. We do not so find with respect to the subject imports from Italy, Japan, or Singapore.

Subject imports from Germany made up only *** percent of apparent U.S. consumption in the years before the imposition of the order and less than *** percent of the market in 1998 and 1999.⁵² Although German capacity utilization rates were *** in recent years, significant increases in subject volumes from that country are unlikely in the reasonably foreseeable future. First, German "other" belt capacity is ***. German producer ContiTech estimates that it accounts for *** percent of German production, yet its capacity is only *** units per year.⁵³ By comparison,

⁴⁸ (...continued)

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). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom. Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁴⁹ 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).

⁵⁰ Mitsubishi Japan and MBL urged the Commission not to exercise its discretion to cumulate subject imports in these reviews. Response of Mitsubishi Japan and MBL to the Commission's notice of institution of reviews at 2. Before indicating it no longer opposes revocation of the orders, Gates asserted that the Commission should cumulate the subject imports. Gates' response to the Commission's notice of institution of reviews at 37-38.

⁵¹ Commissioner Askey does not join parts B and C of this section of these views.

⁵² Table I-1, CR and PR at I-3. In value, subject imports from Germany never exceeded *** percent of apparent U.S. consumption prior to the imposition of the orders. Id.

⁵³ CR at IV-8 to IV-9 and PR at IV-2 (including table IV-7).

reported annual apparent U.S. belts consumption was over *** units in recent years.⁵⁴ In addition, the home market absorbed *** percent of ContiTech's shipments in 1998 and 1999, suggesting both a domestic marketing focus by that company and that a significant shift toward export sales is unlikely in the near term.⁵⁵ Moreover, even in the highly unlikely event that ContiTech (and any other German producer) were to operate at 100 percent capacity, and export all that production to the United States, that volume would account for less than *** percent of reported recent apparent U.S. consumption.⁵⁶ We have also considered that the order on subject imports from Germany covers only "other" belts, which make up a much smaller share of domestic production than either V-belts or synchronous belts.⁵⁷ Based on the above, we find a likelihood that the subject imports from Germany would have no discernible adverse impact on the domestic industry if the order were revoked.

We do not reach the same conclusion about the other subject imports. Subject imports from Japan held a *** percent share of apparent U.S. consumption in 1988.⁵⁸ That share was *** percent in 1998, and *** percent in 1999.⁵⁹ Japanese production capacity is now higher than during the original investigation, although capacity utilization is ***, slightly exceeding *** percent in both 1998 and 1999.⁶⁰ The percentage of Japanese production shipped to the home market was over *** percent in 1998 to 1999.⁶¹ The order on subject imports from Japan covers all belts, with the result that subject belts from that country compete with all domestic industrial belt production. Based on the above, we do not find that the subject imports from Japan would be likely to have no discernible adverse impact on the domestic industry if the order is revoked.

Prior to the orders, subject imports from Italy held less than a *** percent share, and subject imports from Singapore held less than a *** percent share of the domestic market, and each accounted for less than *** percent of domestic consumption in 1998 and 1999.⁶² No Italian producer responded to the Commission's questionnaires, and only one Singaporean producer responded, which estimates that it accounts for about *** percent of V-belt production in that country.⁶³ Because these orders cover V-

⁵⁴ Table I-1, CR and PR at I-3. As noted, reported consumption is likely considerably lower than actual consumption, because not all domestic producers responded to the Commission's requests for information.

⁵⁵ Table IV-7, CR at IV-9 and PR at IV-2.

⁵⁶ Compare CR at IV-8 to IV-9 and PR at IV-2 (ContiTech's capacity) with table I-1, CR and PR at I-3 (reported apparent U.S. consumption).

⁵⁷ Table III-1, CR at III-2 and PR at III-1.

⁵⁸ Table I-1, CR and PR at I-3. In value, subject imports from Japan reached *** percent of apparent U.S. consumption in 1988. *Id.*

⁵⁹ Table I-1, CR and PR at I-3. As noted, actual market share is somewhat smaller. In value, subject imports from Japan held market shares of *** and *** percent in 1998 and 1999, respectively.

⁶⁰ Tables IV-8 to IV-10, CR at IV-11 to IV-13 and PR at IV-3, and CR at IV-10 and PR at IV-3.

⁶¹ Tables IV-8 to IV-10, CR at IV-11 to IV-13 and PR at IV-3, and CR at IV-10 and PR at IV-3.

⁶² Table I-1, CR and PR at I-3. In value, subject imports from Italy never exceeded a *** percent share prior to the imposition of the orders, and subject imports from Singapore never exceeded *** percent of the domestic market.

⁶³ CR at IV-8 to IV-10 and IV-14 and PR at IV-3 to IV-4. Singaporean producer Mitsuboshi Singapore reports a
(continued...)

belts in the case of Singapore, and V-belts and synchronous belts in the case of Italy, the subject imports from these countries compete with the bulk of domestic industrial belt production.⁶⁴ For the reasons provided below in our discussion of the likely volume of the cumulated subject imports from Italy, Japan, and Singapore, we do not find a significant increase in the volume of subject imports from Italy or Singapore to be likely in the reasonably foreseeable future. However, because of the lack of information from possible producers in Italy and Singapore, and in the absence of sufficient information on the record that would support such a finding, we do not find that there is a likelihood that subject imports from Singapore or Italy would have no discernible adverse impact on the domestic industry if the orders were revoked.

C. Reasonable Overlap of Competition and Other Considerations

Five of the six Commissioners cumulated the subject imports in the original investigations, based on evidence of competition between belts of the same type, regardless of where manufactured, as well as on similarities among the subject imports and between them and the domestic like product in channels of distribution, geographic market availability, and simultaneous presence in the market.⁶⁵ Because the Commission reached negative determinations on certain types of the subject belts, the orders on subject imports from Singapore and Italy are now narrower than the scope of the subject imports during the original investigations, which then included all industrial belts. However, the narrower scope of those orders excludes only a very small volume of subject belts from the two countries.⁶⁶

In determining whether to exercise our discretion to cumulate subject imports, we examine whether, upon revocation of the orders, subject imports from Italy, Japan, and Singapore would likely compete in the U.S. market under similar conditions of competition relative to each other and to the domestic like product.⁶⁷ As an initial matter, we considered the likelihood of a reasonable overlap of competition among the subject imports and domestic products. Belts within a particular category, such as V-belts, compete with each other regardless of the country in which they are made.⁶⁸ Each of the three orders covers V-belts, and the orders on both Japan and Italy cover synchronous belts as well. V-belts and synchronous belts also make up the bulk of domestically produced belts.⁶⁹ Accordingly, we find a relatively high degree of fungibility among

⁶³ (...continued)
capacity utilization rate of *** percent, and its home market shipments were less than *** percent in 1998 and 1999. Table IV-11, CR at IV-15 and PR at IV-4.

⁶⁴ See table III-1, CR at III-2 and PR at III-1.

⁶⁵ Original det. at 15-16, 51 n.1, 110-111, 157. Commissioner Rohr, who cast one of the three affirmative votes, did not reach cumulation for purposes of present material injury, and did not cumulate for purposes of his threat analysis. *Id.* at 43 n.68 and 44 n.72.

⁶⁶ Table 23 from the staff report in the original investigation, confidential version at a-111 and public version at a-68.

⁶⁷ The subject imports from Germany are not eligible for cumulation because we have found them likely to have no discernible adverse impact on the domestic industry if the order were revoked.

⁶⁸ CR at II-13 to II-16 and PR at II-7 to II-9.

⁶⁹ Table III-1, CR at III-2 and PR at III-1.

the subject imports from these three countries, and between them and the domestic like product. Domestic belts and subject imports from Japan are sold through the same channels of distribution, and in the same geographic markets.⁷⁰ There is little record information bearing on these two factors for subject imports from Italy and Singapore, possibly due to the current very small subject volumes from these two countries. Subject imports from all countries as well as domestic belts were present in the market simultaneously.⁷¹ Based on the above, we find there will likely be a reasonable overlap of competition both among the subject imports from Italy, Japan, and Singapore, and between these subject imports and the domestic product if these orders were revoked.⁷²

Based on the foregoing, we exercise our discretion to cumulate the subject imports from Italy, Japan, and Singapore in these reviews. We do not cumulate the subject imports from Germany based on our likelihood of no discernible adverse impact finding.

⁷⁰ CR at II-1 to II-2 and PR at II-1 to II-2 (channels of distribution); domestic producer questionnaire responses of Gates, Bando, HBD, and MBL at question IV-B-8 and importer questionnaire responses of Bando and MBL at question III-B-8 (same geographic markets).

⁷¹ Tables III-2, IV-1, and IV-2; CR at III-3, IV-2, and IV-3 and PR at III-1 and IV-1.

⁷² Nothing in the record indicates that the subject imports compete under different conditions of competition in the market.

IV. NO LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ORDERS ON GERMANY, ITALY, JAPAN, AND SINGAPORE ARE REVOKED

A. Legal Standard In A Five-Year Review⁷³

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷⁴ 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 or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁷⁵ Thus, the likelihood standard is prospective in nature.⁷⁶ The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁷⁷ 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].”^{78 79}

⁷³ Commissioner Askey joins sections IV.A and IV.B of these views.

⁷⁴ 19 U.S.C. § 1675a(a).

⁷⁵ 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). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

⁷⁶ 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.

⁷⁷ 19 U.S.C. § 1675a(a)(5).

⁷⁸ 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.

⁷⁹ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán 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 or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by

(continued...)

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated.”⁸⁰ 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 or the suspension agreement under review, and whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated.^{81 82}

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.⁸³ We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”⁸⁴ In these reviews, a number of domestic and respondent interested parties did not provide questionnaire responses and/or participate. Accordingly, we have relied on the facts available in these reviews, which consist primarily of the information collected by the Commission since the institution of these reviews, and information submitted by the cooperating domestic producers, respondent parties, 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 the production or consumption in the United States.⁸⁵ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or

⁷⁹ (...continued)

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.

⁸⁰ 19 U.S.C. § 1675a(a)(1).

⁸¹ 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.

⁸² Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption findings with respect to these reviews. CR at I-9 and PR at I-7.

⁸³ 19 U.S.C. § 1675(e).

⁸⁴ SAA at 869.

⁸⁵ 19 U.S.C. § 1675a(a)(2).

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.⁸⁶

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 the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.⁸⁷

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.⁸⁸ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁸⁹ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.⁹⁰

For the reasons stated below, we determine that termination of the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore would not be likely to

⁸⁶ 19 U.S.C. § 1675(a)(2)(A)-(D).

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

⁸⁸ 19 U.S.C. § 1675a(a)(4).

⁸⁹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited reviews regarding the subject imports, Commerce found that revocation of the orders would be likely to lead to continuation or recurrence of dumping at the margins of 100.60 percent for Optibelt Corporation and all other Germany manufacturers/exporters, 74.90 percent for Pirelli and all other Italian manufacturers/exporters, 31.73 percent for Mitsubishi Singapore and all other Singaporean manufacturers/exporters, and 93.16 percent for Bando Japan and all other Japanese manufacturers/exporters. 64 Fed. Reg. 73511, 73515 (Dec. 30, 1999).

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

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

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, 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.”⁹¹

The following conditions of competition in the industrial and automotive belts industry are relevant to our determinations. Demand for industrial and automotive belts is derived from the demand for the equipment and automobiles in which they are used. In general, there are no immediate substitutes for industrial and automotive belts, because once the machine or automobile is designed for use with a particular type of belt, use of a belt-substitute requires re-design and the attendant expense.⁹² Demand for belts is essentially price inelastic, because belts make up only a small portion of the overall cost of the end product, and immediate substitutes are generally not available.⁹³

Although reported belts consumption has been lower in recent years than prior to the imposition of the orders, it is uncertain whether actual demand is lower, because two large domestic producers did not respond to the Commission’s questionnaires.⁹⁴ Despite lower reported consumption in terms of units, the value of reported consumption for 1998 and 1999 is about *** as it was prior to the orders.⁹⁵ The higher value in relation to quantity is a result of higher unit values, which approximately *** from the years prior to the orders to 1998 and 1999.⁹⁶

Another condition of competition is that production of industrial and automotive belts for the domestic market remains highly concentrated. In the original investigations, domestic producers *** accounted for about 85 percent of domestic production.⁹⁷ In recent years, Gates and Dayco alone collectively accounted for about *** percent of reported domestic production.⁹⁸ During both the original investigations and these reviews, the domestic industry held about a ***

⁹¹ 19 U.S.C. § 1675a(a)(4).

⁹² CR at II-10 and PR at II-6. If contemplated at the design stage, several substitutes exist for belts, including roller chain. CR at II-10 to II-11 and PR at II-6 to II-7.

⁹³ CR at II-17 and PR at II-10.

⁹⁴ Table I-1, CR and PR at I-3, CR at I-24 and PR at I-16.

⁹⁵ Table I-1, CR and PR at I-3.

⁹⁶ Table I-1, CR and PR at I-3.

⁹⁷ CR at I-24 and PR at I-16.

⁹⁸ Calculated from table I-5 & n.2, CR at I-26 and PR at I-17 (indicating that, assuming the Dayco produced the same quantity in 1999 as it did in 1998, it and Gates accounted for *** and *** percent of reported production, respectively). Goodyear did not respond to the Commission’s requests for information. If it had, the three domestic producers would probably account for an even greater share of domestic production ***.

percent share of the domestic market.⁹⁹ Production technology is mature, with few innovations reported.¹⁰⁰

Purchasers of industrial and automotive belts ranked quality, price, and availability as the most important factors in their purchasing decisions.¹⁰¹ A majority of purchasers indicated that price was sometimes or usually the main factor.¹⁰²

We find that the foregoing conditions of competition are likely to remain unchanged 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.

⁹⁹ Table I-1, CR and PR at I-3.

¹⁰⁰ CR at II-4 and PR at II-2, response of Gates to the Commission's notice of institution at 54-55.

¹⁰¹ CR at II-13 and PR at II-7 to II-8.

¹⁰² CR at II-13 and PR at II-8.

C. Revocation of the Antidumping Orders on Subject Imports from Italy, Japan, and Singapore Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time¹⁰³

1. Likely Volume of Cumulated Subject Imports

The cumulated volume of subject imports from Italy, Japan, and Singapore was less than *** percent in 1998 and 1999, and was *** percent or less in the years prior to the imposition of the orders.¹⁰⁴ Current capacity utilization rates for Japanese subject belts is ***, and the home market accounts for the *** of the Japanese industry's sales. The sole responding Singaporean producer reported *** capacity utilization, and *** home market sales, although it exported *** percentage of production to the United States in recent years.¹⁰⁵ No information is available on the Italian belts industry. Reported subject inventories from Japan and Singapore were significant in relation to exports to the United States, but *** in relation to reported subject production.¹⁰⁶ We believe that the ability of foreign producers to shift from the production of other products to subject belts is not high, due to the expense involved.¹⁰⁷

Moreover, as already noted, producers representing the *** of domestic production do not oppose revocation of the orders. The only domestic producer to file a brief with the Commission supported revocation and argued that revocation of the orders will not materially affect the volume of subject imports.¹⁰⁸ We find that these actions indicate that the domestic industry as a whole believes that the volume of subject imports would not likely be significant if the orders were revoked. Moreover, nothing in the record indicates that we should reach a conclusion contrary to that expressed by the domestic industry.

Based on the foregoing, we find it likely that the cumulated volume of subject imports from Italy, Japan, and Singapore would not rise to a significant level if the orders were removed.

2. Likely Price Effects

Two of the Commissioners casting affirmative votes in the original determination found evidence of substantial underselling and lost revenues, and concluded that the cumulated subject imports had significant price suppressive effects.¹⁰⁹ The third Commissioner voting in the affirmative did not address price effects for purposes of present material injury because he found

¹⁰³ Commissioner Askey does not join the remainder of these views.

¹⁰⁴ Table I-1, CR and PR at I-3.

¹⁰⁵ CR at IV-10, IV-14, and IV-15 and PR at IV-3 and IV-4 (including table IV-11).

¹⁰⁶ Tables IV-4 to IV-11, CR at IV-5 to IV-7, IV-9, IV-11 to IV-13, and IV-15 and PR at IV-2 to IV-4. There were no reports of barriers to the importation of subject merchandise to countries other than the United States in responses received to Commission questionnaires.

¹⁰⁷ CR at II-16 to II-17 and PR at II-10.

¹⁰⁸ Prehearing Brief of Mitsubishi Japan, Mitsubishi Singapore, and MBL at 12.

¹⁰⁹ Original det. at 20-21 (Views of Commissioners Eckes and Newquist).

the domestic industry was not experiencing material injury.¹¹⁰ In his affirmative threat determinations, the Commissioner found evidence of price depression and price suppression by the subject imports from Italy, underselling and price suppression by the subject imports from Japan, and evidence relating to price that supported an affirmative threat determination for subject imports from Singapore.¹¹¹

Evidence from these reviews indicates that belts compete on the basis of price as well as other factors.¹¹² As noted previously, the domestic industry's lack of interest in maintaining the orders indicates that it does not anticipate likely significant price effects if the orders are revoked. Moreover, because we find that the volume of cumulated subject imports from Italy, Japan, and Singapore are not likely to rise to a significant level if the orders were revoked, we find it unlikely that they would have any significant price effects on the domestic market if the orders were revoked. Thus, we find that revocation of the orders would not lead to significant underselling by the subject imports from Italy, Japan, and Singapore, or to significant price depression or suppression.

3. Likely Impact

In the original investigations, two of the Commissioners that cast affirmative votes found that the subject imports' price suppressive effect prevented domestic producers from recovering increases in their cost of goods sold, and so reduced the domestic industry's profitability to an injurious level.¹¹³ They found further that the price effect, coupled with the imports' growing market share, demonstrated that the subject imports are a cause of material injury to the domestic industry.¹¹⁴ The third Commissioner that cast an affirmative vote (who found three separate domestic like products) found that the subject imports presented a real and imminent threat of material injury to the domestic industries producing V-belts, synchronous belts, and other belts.¹¹⁵ However, he found that these industries were not currently experiencing material injury.¹¹⁶

Record information on the present state of the domestic industry is not complete because Dayco and Goodyear failed to respond to the Commission's requests for information. However, the data collected demonstrate that the operating income as a percentage of net sales of the rest of the domestic industry was over *** percent in 1998 and 1999.¹¹⁷ The cost of goods sold as a percent of sales was *** percentage points lower in 1998 and 1999 than in 1988 or 1987.¹¹⁸ Unit

¹¹⁰ Original det. at 38, 40, 42 (Views of Commissioner David B. Rohr).

¹¹¹ Original det. at 45-46, 48 (Views of Commissioner David B. Rohr) and remand determination of David B. Rohr at 13, 19-20. (Commissioner Rohr's remand determination is available for review in the law library of the Commission in "Countervailing (Remands)," 701-TA-224 to 701-TA-302, no. TC9.C71.)

¹¹² CR at II-13 to II-14 and PR at II-8.

¹¹³ Original det. at 21 (Views of Commissioners Eckes and Newquist).

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 45-46, 48 (Views of Commissioner David B. Rohr).

¹¹⁶ *Id.* at 38, 40, 42-43.

¹¹⁷ Tables I-1 and III-5, CR at I-5 and III-7 and PR at I-5 and III-2.

¹¹⁸ Table I-1, CR and PR at I-5.

U.S. shipment values in 1998 and 1999 were approximately *** what they were in 1986-88.¹¹⁹ We interpret the domestic industry’s general lack of interest in maintaining the orders, and the failure of a significant part of it to cooperate with our data requests, to mean that the domestic industry does not view itself as being vulnerable to the effects of the subject imports if the order is revoked. We conclude that the domestic industry is not in a “weakened state,” as contemplated by the vulnerability criterion of the statute.¹²⁰

As instructed by the statute, we have also considered the extent to which any improvement in the state of the industry is related to the antidumping duty orders at issue. The improvement appears attributable in large part to higher unit values for domestic belts. Although the reduction in volume of subject imports after the imposition of the orders likely contributed to higher prices to some extent, we do not attribute the increases primarily to the effect of the orders. Our finding is consistent with the domestic industry’s lack of interest in maintaining the orders.

We do not find it likely that revocation of the orders on subject imports from Italy, Japan, and Singapore would result in an increase in the volume of subject imports to significant levels, or result in significant price effects on the domestic market. In addition, the domestic industry’s lack of interest in maintaining the orders indicates that it does not anticipate a likely significant adverse impact. Accordingly, based on the record in these reviews we conclude that, in the event of revocation of the orders on Italy, Japan, and Singapore, the cumulated subject imports likely would not have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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

As discussed above, we find that subject imports from Germany are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order is revoked. We have considered the *** volume of subject imports from Germany, both prior to the imposition of the order and in recent years. We have also considered the *** production and capacity figures reported for the German “other” belt industry. In addition, the home market accounts for a *** percentage of production and inventories are *** in relation to production. Even in the very unlikely event that the German industry increased capacity utilization to 100 percent and exported all its production to the United States, the domestic market share of the subject imports from Germany would still be less than *** percent.¹²¹ As also discussed above, the domestic industry’s

¹¹⁹ Table I-1, CR and PR at I-5. Comparisons of other factors, such as the number of production workers, do not provide meaningful information because of incomplete information provided about the domestic industry for recent years.

¹²⁰ 19 U.S.C. § 1675a(a)(1)(C). See SAA at 885 (“The term ‘vulnerable’ relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order.”).

¹²¹ We find that any potential for product-shifting in Germany or any barriers to the importation of the subject
(continued...)

lack of interest in maintaining the orders indicates to us that it does not anticipate significant volumes of subject merchandise if the order is revoked. Based on the foregoing, we find it likely that the volume of subject imports from Germany would not rise to a significant level if the order were removed.

As noted in our discussion of the likely price effects of the cumulated subject imports from Italy, Japan, and Singapore, price is an important factor in purchasing decisions. However, because we find that the volume of subject imports from Germany would not likely rise to a significant level if the order were revoked, we find it unlikely that the subject imports from that country would have any significant price effects on the domestic market if the order were revoked. We also take into account the domestic industry's lack of interest in the order. Thus, we also find that revocation of the order would not lead to significant underselling by the subject imports from Germany, or to significant price depression or suppression, within a reasonably foreseeable time.

As also discussed above in relation to the cumulated subject imports, we find that the domestic industry is not in a "weakened state," and we do not attribute the current state of the domestic industry to the order in primary part. In accordance with our findings regarding the likely volume and price effects of the subject imports from Germany, we conclude that, in the event of revocation of the order, subject imports from Germany likely would not have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on subject imports from Germany, Italy, Japan, and Singapore would not be likely to lead to continuation or recurrence of material injury to the U.S. industrial and automotive belts industry within a reasonably foreseeable time.

¹²¹ (...continued)
merchandise from Germany into countries other than the United States do not materially affect our analysis.

CONCURRING VIEWS OF COMMISSIONER THELMA J. ASKEY

I concur in the Commission's determination that revocation of the antidumping duty orders covering subject imports of certain industrial belts from Germany, Italy, Japan, and Singapore would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. However, I write separately because I find that the subject imports from all four subject countries are likely to have no discernible adverse impact on the domestic industry if the antidumping duty orders were revoked.¹²²

I. CUMULATION

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.¹²³ 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 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.¹²⁴ 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.¹²⁵

A. Likelihood of No Discernible Adverse Impact

No party presented argument on the likelihood of no discernible adverse impact. However, I find that the subject imports from Germany, Italy, Japan and Singapore are likely to have no discernible adverse impact on the domestic industry if the orders are revoked.

The subject imports from Germany accounted for only *** percent of apparent U.S. consumption during the years before the imposition of the order and accounted for less than *** percent of the market in

¹²² Commissioner Askey joins in sections I, II, III(A), and IV(A) and (B) of the Views of the Commission.

¹²³ 19 U.S.C §1675a(a)(7).

¹²⁴ Section 752(a)(7) of the Act, 19 U.S.C. 1675a(a)(7)

¹²⁵ I discussed the rationale for my approach in more detail in my Additional Views in Potassium Permanganate from China and Spain, Invs. 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).

1998 and 1999.¹²⁶ Although German capacity utilization rates were *** in recent years, I find that more than minimal volume increases of subject merchandise from that country are unlikely in the reasonable foreseeable future. First, total German production capacity for the subject merchandise is ***. German producer ContiTech estimates that it accounts for *** percent of German production, yet its capacity is only *** units per year.¹²⁷ By comparison, reported annual apparent U.S. belts consumption was over *** units in recent years.¹²⁸ Thus, even if ContiTech were to operate at 100 percent capacity utilization, and export all that production to the United States, that volume would account for less than *** percent of reported apparent U.S. consumption. Moreover, German home market sales absorbed *** percent of ContiTech's shipments in 1998 and 1999, indicating that ContiTech focuses its efforts *** on its home market.¹²⁹ Given this, I believe that the German industry is unlikely to shift a significant amount of production to export sales in the reasonably foreseeable future. Based on the above, I find it unlikely that the subject imports from Germany will increase above their current minimal levels and that they are likely to have no discernible adverse impact on the domestic industry if the order were revoked.

With respect to Italy, the only known Italian producer of subject merchandise during the original investigations divested its operations ten years ago, and two other possible producers indicated to the Commission that they do not produce the subject belts.¹³⁰ The record indicates that Dayco, who withdrew from participation in these reviews and now *** with respect to the orders, may have purchased Pirelli's production facilities in 1999. Therefore, it is unclear whether Italy still contains any manufacturers of the subject merchandise. However, if Dayco Europe does in fact produce the subject merchandise, it is not clear to me that they would ship any product to the U.S. market, given that Dayco already has two production facilities in the United States to service this region. Accordingly, I believe it is unlikely that Dayco Europe would ship additional subject merchandise from Italy because that merchandise would be competing against that of its parent company, Dayco Products, Inc. Moreover, demand in Europe for industrial belts is strong, so much so that Dayco Europe operates five production facilities throughout Europe.¹³¹ This provides another disincentive for the company to ship merchandise to the United States. Finally, the subject imports from Italy never captured more than *** percent of the domestic market during the original investigations and accounted for less than *** percent in 1998 and 1999.¹³² Accordingly, I find it unlikely that the Italian producers will ship any additional merchandise to the United States upon revocation and that the subject imports from Italy will be likely to have no discernible adverse impact on the domestic industry if the order were revoked.

With respect to Japan, the two Japanese producers of industrial belts, Bando Japan and Mitsubishi Japan, have consistently operated at capacity utilization rates in excess of *** percent during the period of review and have shipped the *** of their production to their home market.¹³³ As a result, the Japanese

¹²⁶ Table I-1, CR at I-3 and PR at I-3. In value, subject imports from Germany never exceeded *** percent of apparent U.S. consumption prior to imposition of the orders.

¹²⁷ CR at IV-8-9 & Table IV-7, PR at IV-2 & Table IV-7.

¹²⁸ Table I-1, CR at I-3 and PR at I-3. As noted, reported consumption is likely considerably lower than actual consumption, because not all domestic producers responded to the Commission's requests for information.

¹²⁹ Table IV-7, CR at IV-9 and PR at IV-2.

¹³⁰ CR at IV-10, PR at IV-3.

¹³¹ "Good Timing: Synchronous Belts take market share," Rubber & Plastics News, June 6, 1994; Bando's Prehearing Brief, Ex. 4-7.

¹³² CR and PR at Table I-1.

¹³³ CR and PR at Tables IV-8 & IV-9.

share of apparent U.S. consumption was equal to only *** percent in 1999.¹³⁴ Moreover, since imposition of the order, Bando Japan and Mitsubishi Japan have localized production in the United States, which serves to limit the incentive to ship additional volumes of subject merchandise from Japan. As discussed above, the record indicates that the primary interest of each of the related domestic producers is in domestic production rather than importation. Therefore, absent the order, it is unlikely that either Bando Japan or Mitsubishi Japan will divert shipments from their home market to the United States. Moreover, given the *** capacity utilization rates at which the Japanese industry is currently operating, it is highly unlikely that the Japanese producers will be able to increase production in order to increase shipments to the United States. Based on the above, I find it unlikely that the subject imports from Japan would have a discernible adverse impact on the domestic industry if the order were revoked.

Finally, subject imports from Singapore accounted for only *** percent of the U.S. industrial and automotive market in 1988 and less than *** percent of the market in 1998 and 1999.¹³⁵ Although Mitsubishi Singapore reported that it accounts for approximately *** percent of production of subject merchandise in that country,¹³⁶ it appears to be the only company that has exported subject merchandise to the United States. Moreover, when Mitsubishi Singapore filed its foreign producer questionnaire, it listed *** as Singaporean competitors but made no reference to *** which petitioners cite as the only other possible producer of subject merchandise other than Mitsubishi Singapore. Neither *** reported having production facilities in Singapore in their questionnaire responses. Therefore, the record suggests that Mitsubishi Singapore is the only producer of subject merchandise in Singapore who is likely to export its product to the United States. The record does indicate that Mitsubishi Singapore has *** of unused capacity. However, to re-enter the U.S. market, Mitsubishi Singapore would compete against its affiliate, Mitsubishi Belting Corporation, which has invested substantial capital to produce industrial belts in the United States. Based on the foregoing, I find it unlikely that the subject Singaporean manufacturers would ship any additional subject merchandise to the domestic market. I therefore find it unlikely that the subject Singaporean imports would have a discernible adverse impact on the domestic industry if the order were revoked.

II. REVOCATION OF THE ANTIDUMPING DUTY ORDERS ON CERTAIN INDUSTRIAL BELTS FROM GERMANY, ITALY, JAPAN, AND SINGAPORE IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME¹³⁷

As discussed above, I determine that the subject imports from Germany, Italy, Japan, and Singapore are each not likely to have a discernible adverse impact on the domestic industry if the antidumping duty orders covering these imports were revoked. Consequently, in accordance with the language of section 1675a(a)(7) of the Act, I have not cumulated the subject imports for purposes of my review analysis. Moreover, for the same reasons that I discussed above, I find that subject imports from Germany, Italy, Japan and Singapore are not likely to have a significant volume, price or other impact on the domestic industry after revocation of the antidumping duty orders. Accordingly, I find that revocation

¹³⁴ CR and PR at Table I-1.

¹³⁵ CR and PR at Table I-1. In value, subject imports from Singapore never exceeded *** percent of apparent U.S. consumption prior to imposition of the orders.

¹³⁶ CR at IV-14, PR at IV-4.

¹³⁷ As required by the statute, I have taken into account in my analysis the likely dumping margins announced by the Department of Commerce. Moreover, I have considered the Commission's findings in the original investigations.

of the antidumping duty orders on certain industrial belts from Germany, Italy, Japan and Singapore is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

Further, as required by the statute, I have considered whether the industry is vulnerable. The record data collected in these reviews demonstrate that the industry's operating income as a percentage of net sales of the industry was over *** percent in 1998 and 1999.¹³⁸ Moreover, the industry's cost of goods sold as a percent of sales was *** percentage points lower in 1998 and 1999 than in 1987 or 1988.¹³⁹ Therefore, I conclude that the domestic industry is not in a "weakened state," as contemplated by the vulnerability criterion of the statute.¹⁴⁰

CONCLUSION

For the foregoing reasons, I determine that revocation of the antidumping duty orders on certain industrial belts from Germany, Italy, Japan and Singapore would not be likely to lead to continuation or recurrence of material injury to the U.S. industrial belt industry within a reasonably foreseeable time.

¹³⁸ Tables I-1 and III-5, CR at I-5 and III-7 and PR at I-5 and III-2.

¹³⁹ Table I-1, CR and PR at I-5.

¹⁴⁰ 19 U.S.C. § 1675a(a)(1)(C). See SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order.").

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

Although I concur with the majority in reaching a negative determination with regard to the review of the antidumping duty order on subject imports from Germany, I render affirmative determinations with regard to the orders on Italy, Japan, and Singapore. Accordingly, I provide my separate and dissenting views below. As an initial matter, I note that subsequent to the Commission's decision to conduct full reviews, the two largest responding domestic producers indicated either that they no longer opposed revocation of certain of the orders, or that they would not respond to Commission questionnaires. Nevertheless, there remain several smaller domestic producers that have indicated support for continuation of the orders.¹⁴¹ Consequently, in reaching my determinations, I have applied my standard analytical framework for sunset reviews to the record developed in this proceeding.¹⁴²

• DOMESTIC LIKE PRODUCT AND INDUSTRY DEFINITIONS

Notably, the Commission's original determination did not result in a majority or plurality definition of the domestic like product(s) in the underlying investigations. Specifically, I note that:

- Two Commissioners defined three domestic like products comprised of: (1) all V-type power belts; (2) all synchronous type power belts; and (3) all other types of power belts.
- Two Commissioners defined one like product comprised of all industrial belts, excluding automotive belts.
- One Commissioner defined three domestic like products comprised of: (1) all V-type and round type power belts; (2) all synchronous type power belts; and (3) all flat type power belts.
- One Commissioner defined a single like product comprised of all power belts.

I begin my analysis by examining the domestic production corresponding to the scopes of these reviews. Upon review, notwithstanding some differences among various belt products, I am satisfied that there are no sufficiently clear dividing lines among the various belts warranting a distinction in like product definitions, and thus that the continuum of belt products itself constitutes a single domestic like product. I further determine not to expand this definition beyond the scope (as defined by Commerce) to include automotive belts. Consequently, I define a single domestic like product coextensive with the scopes of these reviews.

Based upon the foregoing like product definition, I further define a single domestic industry comprised of all domestic producers of industrial belts.

As for related parties, I note that four domestic producers satisfy the definition of a related party under the statute; specifically, Gates imported small quantities of subject belts; TBMC is *** by Jason Industrial, an importer of subject belts; and MBL is *** percent owned by Mitsuboshi (Japan) and is under common control with Mitsuboshi (Singapore). MBL also imported subject belts. Finally, Bando Manufacturing is *** percent owned by Bando (Japan) and is under common control with Bando American, an importer of subject merchandise.

I also note that none of the parties who participated in these reviews addressed the issue of whether any domestic producer should be excluded as a related party. In light of this and upon my own review of

¹⁴¹ Confidential Report ("CR") and Public Report ("PR") Table I-5.

¹⁴² All data relied upon in these dissenting views may be found in the Commission's Report, primarily at CR and PR Table B-5.

the record in this proceeding regarding these relationships, I find that appropriate circumstances do not exist to exclude any domestic producer from the domestic industry.

II. CUMULATION¹⁴³

Likely Reasonable Overlap of Competition—

Although I have defined a single domestic like product, I believe that in addressing the likelihood of a reasonable overlap of competition in the event of revocation, it is important to note what is currently “subject” merchandise from each of the countries under review. The following table summarizes the subject imports, by type:

<u>COUNTRY</u>	<u>Industrial V-Belts</u>	<u>Industrial Synchronous Belts</u>	<u>“Other” Industrial Belts</u>
GERMANY	No	No	Yes
ITALY	Yes	Yes	No
JAPAN	Yes	Yes	Yes
SINGAPORE	Yes	No	No

Upon review, I am satisfied that there is likely to be a reasonable overlap of competition among subject imports from Italy, Japan, and Singapore, and between subject imports from these three countries and the domestic like product, in the event of revocation.

With regard to Germany, however, I note that while 100 percent of subject German production is comprised of “other” industrial belts, only Japan among the three remaining subject countries has subject production of “other” industrial belts. Moreover, in 1999, little more than *** percent of subject imports from Japan were comprised of “other” industrial and automotive belts, while almost *** percent were comprised of V-belts and *** percent were comprised of synchronous belts. In terms of production, I further note that in 1999, only *** percent of Japanese industrial belt production was comprised of “other” industrial belts, while *** percent was comprised of industrial V-belts and the remaining *** percent was comprised of industrial synchronous belts.¹⁴⁴

Based upon the foregoing, I find that there is not likely to be a reasonable overlap of competition among imports from Germany on the one hand, and imports from Italy, Japan, and Singapore on the other hand, in the event of revocation. Accordingly, I find that imports from Germany are not amenable to

¹⁴³ For a complete statement of the analytical framework that I employ to assess cumulation in the context of grouped sunset reviews, 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).

¹⁴⁴ In comparison, during 1999, about *** percent of domestic production was comprised of “other” industrial and automotive belts, while almost *** percent was comprised of V-belts and almost *** percent was comprised of synchronous belts.

cumulation with imports from any other subject country in these reviews, and therefore engage in a country-specific analysis of the likely effects of revocation of the order on Germany.

Likelihood of No Discernible Adverse Impact—

Italy:

Although information on the record regarding the industry in Italy is limited, I note that subject import volumes from Italy during the period of review were ***, and that the only known producer of subject merchandise during the original investigations, *i.e.* Pirelli, divested itself of its belt production operations some ten years ago. In addition, two other possible producers in Italy indicated to the Commission that they do not produce subject belts.

I further note, however, that Pirelli's belt production operations were purchased by Dayco Products Inc. to form Dayco Europe, which is headquartered in Italy.¹⁴⁵ The U.S. producer Dayco and the Italian firm Dayco Europe are under common control.¹⁴⁶ Although it is reasonable to assume that these related firms would not engage in the exportation of belts from Italy to the United States to the detriment of U.S. producer Dayco, this says nothing about the impact of such potential exports on the remaining U.S. producers. I further note that during the original investigation, Pirelli reported total production capacity of *** units for 1988.

Finally, I note that neither Dayco nor Dayco Europe participated in these reviews. Based upon all the foregoing, I determine that likely import volumes from Italy in the event of revocation would likely have a discernible adverse impact on the domestic industry.

Japan:

To begin, I note that reported capacity utilization rates in Japan during 1998 and 1999 (for total subject belt production) indicate that *** additional capacity is available in Japan to direct additional exports to the U.S. market if the order is revoked. Unused capacity during interim 2000, however, is equivalent to over *** percent of apparent U.S. consumption during that period; moreover, the increase in unused capacity appears to be the result of declining production and not expanding capacity, thus indicating that producers in Japan confront declining sales prospects (particularly in home and third country markets given the relatively *** share of production exported to the United States).

I also note that total production capacity in Japan is ***, equaling almost *** apparent U.S. consumption in 1999. In addition, total reported exports by Japanese producers (to all markets including the United States) are equivalent to roughly *** percent of apparent U.S. consumption in 1999.

Finally, I note that Bando and Mitsuboshi, the two largest Japanese producers, now have established relationships with U.S. affiliates (*i.e.* Bando American, Inc. and MBL (USA) Corp., respectively). Bando American and MBL were in the start-up phase of production during the Commission's original investigation, and thus were not included in the domestic industry in the Commission's original determination. Now, however, they are established producers in the U.S. market with established channels of distribution. Although it is reasonable to conclude that Bando and Mitsuboshi would not export to the U.S. market to the detriment of their established affiliates in the United States, this says nothing about the impact of such potential exports on the remaining U.S. producers.

Based upon all the foregoing, I determine that likely import volumes from Japan in the event of revocation would likely have a discernible adverse impact on the domestic industry.

¹⁴⁵ "Good Timing: Synchronous Belts Taking Market Share," Rubber & Plastics News (June 6, 1994).

¹⁴⁶ Mark IV Industries, Inc. of Buffalo, N.Y., is their parent company.

Singapore:

I note that in the original investigation, Mitsuboshi (Singapore) reported a 1998 capacity of *** units. In these reviews, Gates identified two producers in Singapore: Mitsuboshi and Fenner Drives Ltd. Although Fenner did not respond to the Commission's questionnaire, Mitsuboshi reported that it accounts for *** percent of V-belt production in Singapore. Unused production capacity reported by Mitsuboshi for 1999 is equivalent to *** percent of apparent U.S. consumption that year. In addition, I note that subject imports from Singapore have maintained a presence in the U.S. market throughout the period of review, indicating the availability of established channels of distribution for such imports. Based upon all the foregoing, I determine that likely import volumes from Singapore in the event of revocation would likely have a discernible adverse impact on the domestic industry.

Conclusion–

In sum, I find it appropriate to engage in a cumulative analysis of the likely effects of revocation of the orders on Italy, Japan, and Singapore. In addition, I find that imports from Germany are not amenable to cumulation, and therefore engage in a country-specific analysis of the likely effects of revocation of the order on Germany.

III. ANALYSIS

Likely Volume–

Italy, Japan, and Singapore:

With regard to Italy, I infer that annual production capacity is, at a minimum, *** units as evidenced in the original investigation. With regard to Japan and Singapore, I note that the record in these reviews indicates total production capacities of over *** units and *** units, respectively, during 1999. Together, aggregate production capacity in these three countries is equivalent to more than *** apparent U.S. consumption in 1999.

Upon review, I determine that revocation of the orders on these three countries will result in significant volumes of imports, by means of both the diversion of exports to the United States from third country markets as well as the utilization of unused capacity in these countries to direct additional exports to the U.S. market. In this regard I note again that the record indicates that importers in Japan and Singapore have ready access to established channels of distribution in the U.S. market.

Germany:

I note that the record in these reviews indicates annual production capacity of *** units, and unused capacity equivalent to *** units, in Germany during 1999. Although all subject imports from Germany are of "other" industrial belts, I believe it is appropriate to measure likely imports against the single domestic like product I have defined encompassing all industrial belts subject to these reviews. This comparison demonstrates that unused capacity in Germany is equivalent to only *** percent of apparent U.S. consumption of industrial belts in 1999. Based upon the foregoing, I find that revocation of the order on Germany will not likely result in significant volumes of imports into the U.S. market.

Likely Price Effects–

Italy, Japan, and Singapore:

Although it is reasonable to conclude that subject producers in these three countries will not engage in export practices to the detriment of their affiliated U.S. producers, this says nothing about the impact of such potential exports to the U.S. market on other domestic producers. In addition, although the limited pricing data in the record indicate subject imports from these countries largely oversell the domestic like product, as noted, I find that revocation of the orders is likely to result in significant volumes of imports. Based upon the likely influx of significant volumes of imports in the event of revocation (which I find likely would result in a supply imbalance in the U.S. market), I find that these import volumes are likely to have significant negative price effects, particularly in light of the largely stagnant domestic price levels evidenced on the record during the period of review.

Germany:

I note that the average unit values of the limited volumes of subject imports from Germany during the period of review do not indicate that such imports are likely to enter the U.S. market at prices that will have significant depressing or suppressing effects in the event of revocation. In addition, as noted, I find that significant import volumes are not likely in the event the order on Germany is revoked. Based upon the foregoing, I find that revocation of the order on Germany is not likely to result in significant negative price effects in the U.S. market.

Likely Impact—

To begin, I note that although the record is somewhat mixed, it does not appear that the domestic industry currently is in a weakened state as contemplated by the vulnerability criterion of the statute; in particular, although capacity utilization for the domestic industry hovered between *** percent and *** percent during the period of review (even as total capacity increased modestly), the domestic industry enjoyed operating margins of *** percent in 1998; *** percent in 1999; and *** percent during interim 2000.

Italy, Japan, and Singapore:

As noted, I have found that significant import volumes are likely if the orders on these three countries were revoked. Particularly in light of the *** levels of capacity utilization evidenced for the domestic industry, I find that these significant import volumes would have a significant adverse impact on the domestic industry, primarily in the form of reduced U.S. shipments and declining price levels in the U.S. market. These conditions would further result in likely declines in the domestic industry's production and revenue levels, with ensuing declines in employment and profitability levels as well as an inability to make and maintain necessary capital investments.

Germany:

As noted, I have determined that significant import volumes are not likely in the event the order on Germany is revoked, and that any such imports are not likely to have significant negative price effects in the U.S. market. Accordingly, I determine that notwithstanding the *** levels of capacity utilization in the domestic industry, revocation of the order on Germany would not be likely to result in a significant adverse impact on the domestic industry's production, sales, revenues, profitability, employment, and ability to make and maintain necessary capital investments.

IV. CONCLUSION

For the foregoing reasons, I determine that revocation of the orders on Italy, Japan, and Singapore, would be likely to result in continuation or recurrence of material injury to the domestic industrial belts industry within a reasonably foreseeable time. I further determine that revocation of the order on Germany would not be likely to result in continuation or recurrence of material injury to the domestic industrial belts industry within a reasonable foreseeable time.