

UNITED STATES INTERNATIONAL TRADE COMMISSION

CHROME-PLATED LUG NUTS FROM CHINA AND TAIWAN

Investigation Nos. 731-TA-474 and 475 (Review)

DETERMINATIONS AND VIEWS OF THE COMMISSION

(USITC Publication No. 3362, OCTOBER 2000)

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-474 and 475 (Review)

## CHROME-PLATED LUG NUTS FROM CHINA AND TAIWAN

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in these subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on chrome-plated lug nuts from China and Taiwan 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 August 2, 1999 (64 FR 41949) and determined on March 22, 2000, that it would conduct full reviews (65 FR 16632, March 29, 2000). 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 June 14, 2000 (65 FR 37408). The hearing, originally scheduled for August 31, 2000, was canceled due to lack of interest by the parties.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on October 25, 2000. The views of the Commission are contained in USITC Publication 3362 (October 2000), entitled *Chrome-Plated Lug Nuts from China and Taiwan: Investigations Nos. 731-TA-474 and 475 (Review)*.

By order of the Commission.

Donna R. Koehnke  
Secretary

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

## VIEWS OF THE COMMISSION

Based on the record in 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 chrome-plated lug nuts from China and Taiwan 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.<sup>1</sup>

### I. BACKGROUND

In September 1991, the Commission determined that an industry in the United States was materially injured by reason of imports of chrome-plated lug nuts from China and Taiwan that were being sold in the United States at less than fair value (“LTFV”).<sup>2</sup> On September 20, 1991, Commerce imposed antidumping duty orders on chrome-plated lug nuts from China and Taiwan.<sup>3</sup>

On August 2, 1999, the Commission instituted these reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty orders on chrome-plated lug nuts from China and Taiwan would likely lead to continuation or recurrence of material injury.<sup>4</sup>

In five-year reviews, the Commission 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 each of 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.<sup>5</sup> 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 only response the Commission received to the notice of institution came from a domestic producer, Consolidated International Automotive, Inc. (“Consolidated”). No respondent interested party filed a response. Based on Consolidated’s response, the Commission determined that the domestic interested party group response was adequate but that the respondent interested party group response was inadequate.<sup>6</sup> The Commission determined that it would conduct expedited reviews pursuant to section

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<sup>1</sup> Commissioner Bragg concurs in the determinations of the Commission, but writes separately to discuss her views on cumulation, and whether revocation of the orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. See Separate and Concurring Views of Commissioner Lynn M. Bragg. She joins sections I and II of these views.

<sup>2</sup> Chrome-Plated Lug Nuts from China and Taiwan, Invs. Nos. 731-TA-474 and 475, USITC Pub. 2427 (Sept. 1991) (“Original Determinations”).

<sup>3</sup> 56 Fed. Reg. 47736 (Sept. 20, 1991) (China), 56 Fed. Reg. 47737 (Sept. 20, 1991) (Taiwan).

<sup>4</sup> 64 Fed. Reg. 41949 (August 2, 1999).

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

<sup>6</sup> Explanation of Commission Determination on Adequacy in Chrome-Plated Lug Nuts from China and Taiwan, Invs. Nos. 731-TA-474 and 475 (Review). See also 64 Fed. Reg. 62687 (November 17, 1999).

751(c)(3)(B) of the Act.<sup>7</sup> However, on March 22, 2000, the Commission determined that it would proceed with full reviews pursuant to section 751(c)(5) of the Act in order to address issues relating to the domestic like product and the composition of the industry.<sup>8</sup>

After the Commission determined to conduct full reviews, Consolidated withdrew from participation in these reviews. Since Consolidated's withdrawal, no domestic producer has participated as a party in these reviews. \*\*\*, a major domestic producer of lug nuts, was the only domestic producer to return a questionnaire response.<sup>9</sup> \*\*\* has stated that \*\*\*.<sup>10</sup>

One importer, Amcor, filed a notice of appearance shortly after Consolidated's withdrawal but subsequently withdrew from participation in the case as well. Except for Amcor's filing of a notice of appearance, no importer, foreign producer, or exporter of subject merchandise has participated as a party in these reviews. Only one foreign producer, \*\*\*, a Taiwan producer, submitted a questionnaire response. Importers \*\*\*.

No hearing was held due to lack of interest on the part of any party.<sup>11</sup> Moreover, because a number of domestic and foreign interested parties failed to submit data in these reviews, the Commission has a limited amount of data concerning the market, including data relating to consumption and market shares, domestic production, and the industry's condition.

## **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."<sup>12</sup> 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."<sup>13</sup>

Commerce has defined the subject merchandise in these reviews as follows:

[O]ne-piece and two-piece chrome-plated and nickel-plated lug nuts from China and Taiwan. The subject merchandise includes chrome-plated and nickel-plated lug nuts, finished or unfinished, which are more than 11/16 inches (17.45 millimeters) in height and which have a hexagonal size of at least 3/4 inches (19.05 millimeters) but not over one inch (25.4 millimeters), plus or minus 1/16 of an inch (1.59 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject

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<sup>7</sup> Now-Chairman Koplun and Commissioner Askey voted to conduct full reviews.

<sup>8</sup> Explanation of Commission Determination to Conduct Full Reviews, Invs. Nos. 731-TA-474 and 475 (Review). Then-Chairman Bragg did not concur with the decision of the Commission to conduct a full review in these investigations. Appendix A to the confidential version of the staff report ("CR") and the public version of the staff report ("PR"). See 65 Fed. Reg. 16632 (March 29, 2000).

<sup>9</sup> CR at I-14, PR at I-13.

<sup>10</sup> Staff interview with \*\*\*.

<sup>11</sup> See 65 Fed. Reg. 52786 (August 30, 2000).

<sup>12</sup> 19 U.S.C. § 1677(4)(A).

<sup>13</sup> 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).

merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Excluded from the orders are zinc-plated lug nuts, finished or unfinished, stainless steel capped lug nuts, and chrome-plated lock nuts. The merchandise under review is currently classifiable under item 7318.16.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the subject merchandise remains dispositive.<sup>14</sup>

In its final expedited sunset review, Commerce noted that it had made several scope rulings on the subject merchandise from China and Taiwan since issuance of the orders, and that certain hex size nuts, certain nickel-plated lug nuts, and imported zinc-plated lug nuts which are chrome plated in the United States were within the scope of the order.<sup>15 16</sup>

In its original determinations, the Commission determined that the domestic like product included U.S. produced chrome-plated and stainless steel-capped lug nuts, even though stainless steel-capped lug nuts were excluded from Commerce’s scope.<sup>17</sup> In these reviews, the only party to express a view on like product, Consolidated, advocated including stainless steel-capped lug nuts in the domestic like product as well as nickel-plated lug nuts and zinc-plated lug nuts that are chrome-plated in the United States.<sup>18</sup> We find that the record in these reviews indicates that there have been no significant changes since the original investigations that warrant revisiting the Commission’s decision to include both chrome-plated and stainless steel-capped lug nuts within the same domestic like product. Moreover, we include nickel-plated lug nuts and zinc-plated lug nuts that are to be chrome-plated within the same domestic like product as chrome-plated and stainless steel-capped lug nuts, primarily because these products are semifinished products that are dedicated for use in chrome-plated lug nuts.

Based on the record in these reviews, we define a single domestic like product consisting of all lug nuts comparable to those described in Commerce’s scope, as well as stainless steel-capped lug nuts.

## **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.”<sup>19</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.<sup>20</sup> The

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<sup>14</sup> 65 Fed. Reg. 11762, 11762-63 (March 6, 2000).

<sup>15</sup> 65 Fed. Reg. 11762, 11763 (March 6, 2000). 59 Fed Reg 54888 (November 2, 1994) (certain hex size lug nuts); 62 Fed. Reg. 9176, 9177 (February 28, 1997) (certain decorative nickel-plated lug nuts); 63 Fed. Reg. 59544 (November 4, 1998) (imported zinc-plated lug nuts which are chrome-plated in the United States).

<sup>16</sup> Commerce’s definition of subject merchandise in its expedited review includes nickel-plated lug nuts, which differs from the original orders, but is consistent with its post-order scope rulings.

<sup>17</sup> Original Determinations at 6.

<sup>18</sup> Consolidated’s Response at 20-22.

<sup>19</sup> 19 U.S.C. § 1677(4)(A).

<sup>20</sup> 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),

Commission bases its analysis on a firm's production-related activities in the United States.<sup>21</sup> Consistent with our definition of the like product, we find a single domestic industry consisting of all domestic producers of chrome-plated lug nuts described in Commerce's scope (which now includes zinc-plated lug nuts that will be chrome-plated and nickel-plated lug nuts) as well as all domestic producers of stainless steel-capped lug nuts.<sup>22</sup>

### **III. CUMULATION**<sup>23</sup>

#### **A. Framework**

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>24</sup>

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.<sup>25</sup> 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

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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).

<sup>21</sup> 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, Invs. Nos. 701-TA-387-391 (Final) and 731-TA-816-821 (Final), USITC Pub. 3273 at 8-9 (Jan. 2000).

<sup>22</sup> We have considered, pursuant to 19 U.S.C. § 1677(4)(B), whether Consolidated is a related party and if so, whether appropriate circumstances exist to exclude it from the domestic industry. We note Consolidated indicated that it is an importer, or at the least, related to an importer, as it was in the original investigations. Original Determinations at 10, citing to Original Preliminary Determinations at 15-18. Consolidated has not, however, provided us with domestic producer or importer questionnaire responses. Accordingly, we do not have sufficient data to assess whether appropriate circumstances exist to exclude Consolidated from the domestic industry.

<sup>23</sup> Commissioner Bragg does not join the remainder of these views.

<sup>24</sup> 19 U.S.C. § 1675a(a)(7).

<sup>25</sup> 19 U.S.C. § 1675a(a)(7).

discernible adverse impact” on the domestic industry.<sup>26</sup> 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.<sup>27 28</sup>

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.<sup>29</sup> Only a “reasonable overlap” of competition is required.<sup>30</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are

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<sup>26</sup> SAA, H.R. Rep. No. 103-316, vol. I (1994).

<sup>27</sup> 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, Invs. 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, Invs. 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).

<sup>28</sup> 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, Invs. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999).

<sup>29</sup> 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).

<sup>30</sup> See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). 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, Invs. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom.*, Ranchers-Cattleman 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, Invs. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

revoked. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.<sup>31</sup>

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied. The Commission instituted both reviews on August 2, 1999.

## **B. Likelihood of No Discernible Adverse Impact**

No party presented argument on the likelihood of no discernible adverse impact. We do not find that the subject imports from China and Taiwan are likely to have no discernible adverse impact on the domestic industry if the orders are revoked. In the original investigations, U.S. imports from China almost doubled in terms of quantity from 1988 to 1990, and imports from Taiwan increased more than four-fold in the same period.<sup>32</sup> In addition, producers in China and Taiwan currently have a demonstrated interest and established position in the U.S. market. Despite the presence of the orders, there are currently considerable imports in the U.S. market from both China and Taiwan, and they have increased during the last year of the period of review.<sup>33</sup>

Moreover, although we have capacity information from only one foreign producer, and that producer's reported capacity utilization rate is at or near \*\*\*, Consolidated reported that there are more foreign producers in the subject countries now than in the original investigations.<sup>34</sup> Given these additional producers, we find that the Chinese and Taiwan producers may retain the ability to produce and export additional volumes of chrome-plated lug nuts to the United States.

Based on the above, we do not find a likelihood that the subject imports from China and Taiwan would have no discernible adverse impact on the domestic industry if the orders were revoked.

## **C. Likelihood of Reasonable Overlap of Competition and Other Considerations**

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<sup>31</sup> 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).

<sup>32</sup> Table I-1, CR at I-7. U.S. imports of chrome-plated lug nuts from China increased from 3.2 million lug nuts in 1988 to 6.2 million lug nuts in 1990. U.S. imports of chrome-plated lug nuts from Taiwan increased from 3.1 million lug nuts in 1988 to 14.2 million lug nuts in 1990. Id.

<sup>33</sup> Imports from China of chrome-plated lug nuts increased steadily over the review period from \$2.0 million in 1997, to \$2.9 million in 1998 and \$3.8 million in 1999. Imports from Taiwan of chrome-plated lug nuts declined over the review period, but were at levels generally comparable to those of the imports from China, falling from \$3.1 million in 1997 to \$2.2 million in 1998 and rebounding somewhat to \$2.5 million in 1999. Table IV-1, CR at IV-4, PR at IV-2.

<sup>34</sup> Consolidated's Response at 15-16. \*\*\* capacity utilization rates were \*\*\* percent in 1997, \*\*\* percent in 1998 and \*\*\* percent in 1999. In the original investigations, the Commission received information from one exporter from China whose supplier accounted for \*\*\* percent of Chinese production and exports to the United States. \*\*\* of its supplier's production during 1988 to 1990 was exported to the United States. In the original investigations, the Commission received information from three producers from Taiwan, including \*\*\*. Table IV-2, CR/PR at IV-6. CR at IV-5-6; PR at IV-3-4. Confidential OINV Memorandum INV-O-170, dated August 26, 1991 ("Original CR") at A-37-39 & Tables 16 and 17.

The Commission cumulated the volume and effects of the subject imports of chrome-plated lug nuts in the original investigations. The Commission was not persuaded that there was no meaningful competition among imports and the domestic like products. The Commission characterized the two-piece, case-hardened lug nuts from Taiwan and the one-piece, non-case-hardened lug nuts from China as “virtually identical in appearance” and “for the most part completely fungible.” Further, the Commission found that imports of chrome-plated lug nuts from China and Taiwan competed with each other and the domestic chrome-plated lug nuts in the same channels of distribution, and that the subject imports and the domestic like product were marketed in the same geographic areas within a reasonably coincident period.<sup>35</sup>

In determining whether to exercise our discretion to cumulate subject imports, we examine whether, upon revocation of the orders, subject imports from China and Taiwan likely would compete in the U.S. market under similar conditions of competition relative to each other and to the domestic like product. As an initial matter, we consider the likelihood of a reasonable overlap of competition among the subject imports and the domestic like products. We find that there is likely to be a reasonable, although limited, overlap in competition among chrome-plated lug nuts from China and Taiwan and domestic chrome-plated lug nuts and stainless steel-capped lug nuts.<sup>36</sup>

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<sup>35</sup> Original Determinations at 15.

<sup>36</sup> Vice Chairman Okun finds that there is not likely to be a reasonable overlap of competition between subject imports of chrome-plated and nickel-plated lug nuts and U.S.-produced chrome-plated, nickel-plated, and stainless steel-capped lug nuts. She notes that in 1990 the domestic like product consisted largely (\*\*\*) of stainless-steel-capped lug nuts produced by U.S. manufacturers \*\*\* and sold to OEMs. Subject imports, like the entire domestic like product produced by U.S. manufacturers \*\*\*, were chrome-plated and sold virtually exclusively to the automotive aftermarket. At that time, producers and importers that sold to the OEM market tended not to sell to the automotive aftermarket (and vice versa). Original CR at A-10-14.

The principal changes in the U.S. market since the imposition of the antidumping duty orders have lessened the already limited competitive overlap between the domestic like product and the subject merchandise. Consolidated phased out its production of chrome-plated lug nuts this year in favor of imports from China and Taiwan. CR at I-22-23 and n.36, PR at I-20 and n.36. Franzco (formerly the \*\*\*-largest producer of chrome-plated lug nuts) characterized its current production of chrome-plated lug nuts as \*\*\*, and there is a suggestion that the firm is \*\*\*. CR at I-22 n.31, PR at I-19 n.31 and Oct. 3, 2000 Staff Memorandum. The remaining aftermarket supplier, McGard, a specialist in racing applications, \*\*\*. CR at I-22, PR at I-19 and Original CR at A-11. Based on the record of the original investigations, Franzco and McGard accounted for only \*\*\* of production of the domestic like product. Original CR at A-11, A-14.

The two U.S. producers of original equipment lug nuts (primarily stainless steel-capped), Key and \*\*\*, although \*\*\*. Oct. 3, 2000 Staff Memorandum citing questionnaire from original equipment purchaser \*\*\*. \*\*\* sales of lug nuts make it the \*\*\* (\*\*\*) percent \*\*\*. In the first quarter of 2000, stainless steel-capped lug nuts accounted for \*\*\* percent of \*\*\* sales. \*\*\* has a \*\*\*. CR at I-24 n.41, PR at I-20, n.41. Importer \*\*\* and purchaser \*\*\* also share the view that \*\*\*. Oct. 3, 2000 Staff Memorandum identifying \*\*\*. Horizon, based on the record in the original investigations, sold only stainless steel-capped lug nuts, almost entirely to \*\*\*. Original CR at A-12, n. 9.

Vice Chairman Okun concurs that the lug nuts in question are sold throughout the United States and that such lug nuts are simultaneously present in the U.S. market. In light of the large and increasing absolute and relative volume of OEM sales of the domestic like product (primarily stainless steel-capped lug nuts) and the strong indication subject imports of chrome-plated lug nuts will continue to be concentrated in the automotive aftermarket, however, she finds that there is not likely to be a reasonable

With regard to fungibility, lug nuts from all sources perform the same basic function. Questionnaire respondents stated that domestically produced lug nuts and subject import lug nuts can generally be used interchangeably, although they disagreed as to whether there are any quality differences between the domestic versus the imported products or between the imported products.<sup>37</sup> However, fungibility is limited by the fact that subject imports consist only of chrome-plated lug nuts and the domestic like product consists of both chrome-plated and stainless steel-capped lug nuts. Moreover, domestic production of chrome-plated lug nuts has declined in recent years, while domestic production of stainless steel-capped lug nuts has increased.<sup>38</sup>

In addition, notwithstanding their similarities, some purchasers prefer a particular type of lug nut, with chrome-plated lug nuts apparently more popular in the aftermarket and stainless steel-capped lug nuts more common in the domestic OEM market.<sup>39</sup> Most domestic OEMs prefer stainless steel-capped lug nuts, which are generally supplied to them by domestic producers, most commonly \*\*\*.<sup>40</sup> \*\*\* maintains that customers prefer stainless steel-capped lug nuts because of their better corrosion resistance over chrome-plated lug nuts.<sup>41</sup> There is evidence in these reviews that some domestic OEMs purchase lug nuts from U.S. suppliers because of \*\*\*.<sup>42</sup> Some domestic OEMs, however, do purchase chrome-plated lug nuts. At

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overlap of competition between subject imports of chrome-plated and nickel-plated lug nuts and U.S.-produced chrome-plated, nickel-plated, and stainless steel-capped lug nuts. Accordingly, she does not cumulate the likely volume and effects of the subject imports.

<sup>37</sup> CR at II-4-5-6, CR at IV-1; PR at II-3 -4, PR at IV-1.

<sup>38</sup> In 1999,\*\*\*. Table III-2, CR/PR at III-4. Consolidated has now ceased producing chrome-plated lug nuts and Franzco has reported \*\*\*. CR at I-22-23 & n.31. PR at I-19 & n.31. Consolidated's data are not represented in the domestic producer data because the data it furnished covered only 1998, and the product coverage is unclear. In its Response, Consolidated represented that its U.S. shipments for 1998, apparently for chrome-plated lug nuts, were \*\*\* valued at \*\*\* Consolidated's Response at 17.

<sup>39</sup> When asked how demand for chrome-plated lug nuts was different from the demand for stainless steel lug nuts, the most common response given by non-OEM purchasers in the original investigations was that chrome-plated lug nuts were the most popular with customers. Ten out of fourteen non-OEM purchasers stated that their customers did not buy both stainless steel-capped and chrome-plated lug nuts. Original CR at A-57-58. Although this indicates a clear preference for chrome-plated lug nuts in the aftermarket, it also indicates that at least at the time of the original investigations, there were some sales of stainless steel-capped lug nuts in the aftermarket. See also Original Determinations at 7 (“[T]he record suggests that automobile dealers frequently purchase decorative wheels to upgrade the vehicles they are selling and that these dealers use either type of lug nut to secure the wheel.”) The limited information in these reviews does not indicate the exact extent to which U.S.-produced stainless steel-capped lug nuts are sold in the aftermarket, but it appears to be a very small percentage of overall U.S. stainless steel-capped lug nut production.

<sup>40</sup> Staff Memorandum to the Commission dated October 3, 2000. \*\*\*. CR at I-24, n.41, PR at I-20, n. 41. Staff interview with \*\*\*, August 22, 2000.

<sup>41</sup> CR at I-21; PR at I-18.

<sup>42</sup> Staff Memorandum to the Commission dated October 3, 2000. See also purchaser responses by \*\*\*. CR at II-3-4; PR at II-2-3.

the time of the original investigations, MacLean (then Key) produced chrome-plated lug nuts to sell to some of the domestic OEMs, and \*\*\*.<sup>43</sup>

As for the aftermarket, subject imports compete in this market against each other, and the limited evidence available in these reviews indicates that some domestic producers still appear to be competing in the aftermarket selling chrome-plated lug nuts, although domestic sales are diminishing.<sup>44</sup> On balance, we find that there is sufficient evidence of fungibility between the domestic like product and the subject imports, although it is limited, to warrant finding a likely reasonable overlap of competition.

With regard to channels of distribution, chrome-plated and stainless steel-capped lug nuts are generally bought by different purchasers, in different markets. Subject chrome-plated lug nuts are sold to the aftermarket, while the domestic like product, increasingly stainless steel-capped lug nuts, is largely sold to OEMs,<sup>45</sup> with possibly some sales to the aftermarket.

Domestically produced chrome-plated and stainless steel-capped lug nuts are sold throughout the United States.<sup>46</sup> Subject imports from China and Taiwan, as well as domestically produced chrome-plated lug nuts and stainless steel-capped lug nuts, were present in the U.S. market simultaneously.<sup>47</sup> It is likely therefore that the subject imports will be present simultaneously in the nationwide market with each other and the domestic merchandise upon revocation of the orders.

Nothing in the record indicates that the subject imports from China and Taiwan compete under different conditions of competition in the U.S. market. Based on the above, we find there will likely be a reasonable overlap of competition both among the subject imports from China and Taiwan, and between the subject imports and the domestic product if these orders were revoked. Accordingly, we exercise our discretion to cumulate the subject imports from China and Taiwan in these reviews.

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<sup>43</sup> MacLean began producing chrome-plated lug nuts for OEMs, and sold chrome-plated lug nuts to \*\*\* during the original investigations. Original CR at A-9, n.5, A-12-13. CR at III-2-3. PR at III-1-2. \*\*\* stated that they imported lug nuts from Japan. CR at IV-2; PR at IV-1.

<sup>44</sup> McGard produced chrome-plated lug nuts for the aftermarket in the original investigations, but we have no information regarding its current production. Franzco has stated that \*\*\*, \*\*\*. Original CR at A-11. Staff interview with \*\*\*, August 22, 2000. Staff Memorandum to the Commission dated October 3, 2000.

<sup>45</sup> U.S. produced chrome-plated lug nuts are sold in the aftermarket as well as to OEMs. \*\*\* U.S. produced stainless steel-capped lug nuts are \*\*\*. CR at I-21,I-25, II-1; PR at I-19,I-21, II-1. Staff interview with \*\*\*, August 22, 2000.

<sup>46</sup> CR at II-1; PR at II-1.

<sup>47</sup> Table I-2, CR/PR at I-27; Table III-2, CR/PR at III-4; Table IV-1, CR/PR at IV-4.

#### **IV. NO LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ORDERS ON CHINA AND TAIWAN ARE REVOKED**

##### **A. Legal Standard In A Five-Year Review**

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.”<sup>48</sup> 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.”<sup>49</sup> Thus, the likelihood standard is prospective in nature.<sup>50</sup> 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.”<sup>51</sup> 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].”<sup>52 53</sup>

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<sup>48</sup> 19 U.S.C. § 1675a(a).

<sup>49</sup> 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.

<sup>50</sup> 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.

<sup>51</sup> 19 U.S.C. § 1675a(a)(5).

<sup>52</sup> 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.*

<sup>53</sup> 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 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.

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.”<sup>54</sup> 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.<sup>55 56</sup>

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.<sup>57</sup> 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.”<sup>58</sup> In this case a number of interested parties did not provide questionnaire responses and/or participate in these reviews. Accordingly, we have relied on the facts available in these reviews, which consist primarily of the evidence in the record from the Commission’s original investigations, the information collected by the Commission since the institution of these reviews, and information submitted by interested 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.<sup>59</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>60</sup>

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<sup>54</sup> 19 U.S.C. § 1675a(a)(1).

<sup>55</sup> 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.

<sup>56</sup> 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.

<sup>57</sup> 19 U.S.C. § 1675(e).

<sup>58</sup> SAA at 869.

<sup>59</sup> 19 U.S.C. § 1675a(a)(2).

<sup>60</sup> 19 U.S.C. § 1675(a)(2)(A)-(D).

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.<sup>61</sup>

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.<sup>62</sup> 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.<sup>63</sup> 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 order is revoked.<sup>64</sup>

For the reasons stated below, we determine that termination of the antidumping duty orders on chrome-plated lug nuts from China and Taiwan would not be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

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<sup>61</sup> 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.

<sup>62</sup> 19 U.S.C. § 1675a(a)(4).

<sup>63</sup> 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 42.42 percent for China National Machinery and Equipment Import and Export Corporation, Jiangsu Company, Ltd., and all other manufacturers/exporters in China as well, 6.47 percent for Gourmet Equipment (Taiwan) Corp., 10.67 for San Shing Hardware Works Co., Ltd. and 6.93 percent for all other Taiwan manufacturers/exporters. 65 Fed. Reg. 11762, 11763 (March 6, 2000).

<sup>64</sup> 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.

## 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.”<sup>65</sup>

First, demand for lug nuts depends upon wheel and automobile sales. The incomplete consumption data in these reviews<sup>66</sup> indicate that there has been a substantial increase in domestic consumption in the combined chrome-plated and stainless steel-capped domestic market from 1990 to 1999. U.S. consumption of the domestic like product rose from \*\*\* in 1990 to \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999.<sup>67</sup> Notably, domestic consumption of chrome-plated lug nuts fell slightly over the period of review, while domestic consumption of stainless steel-capped lug nuts increased.<sup>68</sup> \*\*\* reported increased consumption due to broader use of stainless steel-capped lug nuts in the U.S. market since 1991.<sup>69</sup> Other questionnaire respondents stated that overall demand in the United States has increased or remained stable.<sup>70</sup> Consolidated noted that overall U.S. consumption of lug nuts had increased, but that \*\*\*.<sup>71</sup>

Second, the domestic market consists of the automotive aftermarket and the OEM market. Increasingly, chrome-plated lug nuts are sold in the aftermarket while stainless steel-capped lug nuts are sold in the OEM market. Accordingly, demand for chrome-plated lug nuts depends largely on wheel and lug nut sales in the aftermarket, and to a limited extent on sales to OEMs. In contrast, demand for stainless steel-capped lug nuts primarily depends on OEM sales and is little influenced by the aftermarket.<sup>72</sup>

Third, there is a limited degree of substitutability between the domestic merchandise and the subject imports. Subject imports are chrome-plated lug nuts and the domestic like product consists of both chrome-plated and stainless steel-capped lug nuts. The domestic industry has been reducing its chrome-plated lug nut production and increasing its stainless steel-capped lug nut production.<sup>73</sup> As discussed above, some customers have a preference for one type of lug nut over another; OEMs generally favor stainless steel-capped lug nuts while chrome-plated lug nuts are largely sold in the aftermarket,<sup>74</sup> although domestic chrome-plated lug nuts also are sold to OEMs. Some domestic OEMs require \*\*\*. Moreover,

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<sup>65</sup> 19 U.S.C. § 1675a(a)(4).

<sup>66</sup> Original CR at A-10-12, 14-15, Tables 1, 3, & 20; Table I-1, CR/PR at I-6.

<sup>67</sup> Table I-1, CR/PR at I-6.

<sup>68</sup> Consumption of chrome-plated lug nuts was \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999. Consumption of stainless steel-capped lug nuts was \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999. Table I-1, CR at I-6, PR at I-4.

<sup>69</sup> CR at I-24; PR at I-20.

<sup>70</sup> CR at III-2-3; PR at III-1.

<sup>71</sup> Consolidated’s Response to the Notice of Institution dated September 21, 1999 (“Consolidated’s Response”) at 14. Comments of Consolidated to Notice of Expedited Review dated March 2, 2000 (“Consolidated’s Comments”) at 7.

<sup>72</sup> CR at I-25; PR at I-20.

<sup>73</sup> See discussion infra that \*\*\*.

<sup>74</sup> \*\*\*. Staff interview with \*\*\*, August 22, 2000. Staff Memorandum to the Commission dated October 3, 2000.

some OEMs \*\*\*.<sup>75</sup> Thus, chrome-plated and stainless steel-capped lug nuts are generally bought by different purchasers in different markets.<sup>76</sup>

Fourth, the only domestic producer reporting data, \*\*\*.<sup>77</sup> Recently, \*\*\* has cut back production of chrome-plated lug nuts while it has increased production of stainless steel-capped lug nuts.<sup>78</sup> Although we do not have data specific to shipments of chrome-plated and stainless steel-capped lug nuts into the aftermarket and the OEM market, \*\*\* has stated that \*\*\*.<sup>79</sup> \*\*\*.<sup>80</sup> The original petitioner, Consolidated, has reported that it is shutting down its production, and plans to import all of its lug nuts from China and Taiwan.

Fifth, aftermarket sales are made on a spot basis, and thus the subject imports are mainly sold on a spot basis.<sup>81</sup> In contrast, \*\*\* reports that \*\*\* percent of its sales are on a contract basis.<sup>82</sup> In the original investigations, the majority of sales of stainless steel-capped lug nuts were \*\*\*, and OEMs purchased lug nuts on an as-needed basis pursuant to multi-year contracts.<sup>83</sup> \*\*\* reported that it negotiates prices for contracts based on multiple shipments, while importers of lug nuts from China and Taiwan operate from price lists.<sup>84 85</sup>

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<sup>75</sup> Staff Memorandum to the Commission dated October 3, 2000. CR at II-3-4; PR at II-2.

<sup>76</sup> One importer has stated that \*\*\*. One OEM has stated \*\*\*. Staff Memorandum to the Commission dated October 3, 2000. In addition, \*\*\* states that its competition with subject imports is limited because it \*\*\*. CR at I-24, n.41. PR at I-20, n.41.

<sup>77</sup> This is due to Consolidated's exit from the industry and Franzco's \*\*\* production. McGard's share of domestic production of chrome-plated lug nuts \*\*\* was only \*\*\* than MacLean's \*\*\* in the original investigations. Original CR at A-10-11.

As for stainless steel-capped lug nuts, \*\*\* represented \*\*\* percent of domestic stainless steel-capped lug nut production in 1990. \*\*\*. *Id.* CR at I-22; PR at I-19. Staff Memorandum to the Commission dated October 3, 2000.

<sup>78</sup> \*\*\*. Table III-2, CR/PR at III-4.

<sup>79</sup> Staff interview with \*\*\*, August 22, 2000.

<sup>80</sup> \*\*\*. CR at III-2-3; PR at III-1. \*\*\* supplied \*\*\* with chrome-plated lug nuts in the original investigations but sold only stainless steel lug nuts to \*\*\* Original CR at A-12. Additionally, in its questionnaire response, \*\*\*. Questionnaire response of \*\*\* at 14.

<sup>81</sup> CR at I-21; PR at I-19. Importers \*\*\* and \*\*\* reported contract sale percentages of \*\*\* and \*\*\* respectively, and \*\*\* reported that it sells entirely on a spot basis. CR at V-3; PR at V-1. \*\*\*. Questionnaire response of \*\*\* at 13.

<sup>82</sup> CR at V-3; PR at V-1, 3.

<sup>83</sup> Original CR at A-13, A-43. In the original investigations, \*\*\*, provided information on contract sales. Original CR at A-56. \*\*\*, a chrome-plated lug nut producer, also \*\*\*, but it also had a small amount of \*\*\*. Original CR at A-13, A-44.

<sup>84</sup> CR at V-3; PR at V-1.

<sup>85</sup> Consolidated, the \*\*\* chrome-plated lug nut producer in the original investigations, but no longer a producer, argued in its initial Response that the chrome-plated lug nut industry was highly price-sensitive. In contrast, responses to the purchaser questionnaires, which were primarily from \*\*\*, stated that quality or the ability to meet technical standards and specifications were the most important factors in their purchasing decisions. Consolidated's Response at 8 & n.15. CR at II-3-4; PR at II-2.

Finally, non-subject imports of chrome-plated lug nuts, primarily from Costa Rica and Japan, increased over the review period, with their combined value rising from \$2.9 million in 1997 to \$3.5 million in 1998 and to \$4.5 million in 1999.<sup>86</sup>

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.

**C. Revocation of the Antidumping Orders on Subject Imports from China and Taiwan Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

**1. Likely Volume of Subject Imports**

In the original investigations, the Commission found that from 1988 to 1990, the volume of U.S. imports from China and Taiwan increased rapidly, and that the value of subject imports also increased. It further found that this significant increase in imports of chrome-plated lug nuts from China and Taiwan occurred simultaneously with a sharp downturn in the performance of the domestic industry.<sup>87</sup>

In the original investigations, the Commission received data from one Chinese exporter whose supplier accounted for \*\*\* percent of Chinese production and exports to the United States and from \*\*\* in Taiwan.<sup>88</sup> In these reviews, there is very limited information concerning the industries in China and Taiwan because none of the producers in China and only one producer in Taiwan responded to the Commission's data requests. Consequently, there are no current data in these reviews on the capacity, production or capacity utilization of the industries in the subject countries, or their U.S. exports, except data from one Taiwan producer, \*\*\*. As discussed above, while \*\*\* capacity utilization has been at or near \*\*\* in recent years, Consolidated reported that there are now eight producers of chrome-plated lug nuts in China and eleven in Taiwan.<sup>89</sup> The volume of the cumulated imports by quantity and value has increased over the

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<sup>86</sup> Table I-1, CR/PR at I-8. CR at IV-3; PR at IV-2.

<sup>87</sup> Original Determinations at 16.

<sup>88</sup> Original CR at A-37-39. It is unclear what percentage of Taiwan production or exports to the United States the three Taiwan firms represented, but there is no indication that other Taiwan firms are missing from the data in the original final staff report.

<sup>89</sup> Consolidated's Response at 15-16. \*\*\* capacity utilization rates were \*\*\* percent in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999. Its capacity, production, and U.S. exports \*\*\* from 1997 to 1999. Although it reported that it did not have a home market for chrome-plated lug nuts, it reported that only \*\*\* to \*\*\* of its chrome-plated lug nut exports went to the United States during 1997 to 1999 as opposed to \*\*\* Taiwan exports in 1988 and 1989, and \*\*\* percent in 1990. Its ratios of end-of-period inventories to total shipments for chrome-plated lug nuts ranged from \*\*\* to \*\*\* percent. Table IV-2, CR/PR at IV-6. CR at II-2; PR at II-1. Original CR at A-39.

review period.<sup>90 91</sup> Accordingly, the record indicates that the industries in China and Taiwan may retain the ability to produce and export additional volumes of the subject lug nuts.

Subject imports from China and Taiwan have remained in the U.S. market notwithstanding the orders although the total value of imports from China and of imports from Taiwan have increased and decreased at different times since the original investigations.<sup>92</sup> During the period of review, cumulated subject imports increased by quantity and value, and were higher in interim 2000 as compared to interim 1999. In quantity, cumulated subject imports increased from 1.6 million kilograms in 1997 to 1.8 million kilograms in 1999, and by value they increased by from \$5.1 million in 1997 to \$6.3 million in 1999.<sup>93</sup> In the original investigations, subject imports from China and Taiwan had a cumulated share by value of the combined domestic chrome-plated and stainless steel-capped market of \*\*\* percent in 1988, \*\*\* percent in 1989, and \*\*\* percent in 1990.<sup>94</sup> During the review period, based on available data,<sup>95</sup> the cumulated subject imports' share by value of the combined domestic market has stayed fairly steady, at \*\*\* percent in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999.<sup>96</sup>

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<sup>90</sup> See discussion infra regarding volume by quantity and value over the review period and interim periods.

<sup>91</sup> Vice Chairman Okun notes that imports from China of chrome-plated lug nuts increased steadily over the review period from \$2.0 million in 1997 to \$2.9 million in 1998 and to \$3.8 million in 1999. Imports from Taiwan of chrome-plated lug nuts declined over the review period, but were at levels generally comparable to those of the imports from China, falling from \$3.1 million in 1997 to \$2.2 million in 1998 and rebounding somewhat to \$2.5 million in 1999. Table IV-1, CR at IV-4, PR at IV-2.

<sup>92</sup> Figure I-1, CR/PR at I-4. After the imposition of the antidumping order in 1991, the value of subject imports from China declined until 1995-1996. Data are not available for 1991-1992. Since 1996, however, subject imports from China have risen sharply. The value of subject imports from Taiwan increased markedly after imposition of the order, but in 1993 began falling. The 1999 value of subject imports from Taiwan is slightly lower than that reported in 1990. Id. CR at I-25; PR at I-20, 21. Table I-1, CR at I-7, PR at I-4.

<sup>93</sup> In interim (January - March) 1999, cumulated subject imports by quantity were 431,000 kilograms as compared to 562,000 kilograms in interim 2000. In interim 1999, cumulated subject imports by value were \$1.4 million as compared to \$1.6 million in interim 2000. Table I-2, CR/PR at I-27-28.

<sup>94</sup> Original CR at A-42, Table 20.

<sup>95</sup> Table I-1, CR/PR at I-6. As stated earlier, not all of the domestic industry, namely \*\*\*, is represented in our domestic producer data.

<sup>96</sup> Vice Chairman Okun notes that the quantity of chrome-plated lug nuts from China increased from 733,000 kilograms in 1997 to 997,000 kilograms in 1998 and to 1.2 million kilograms in 1999. The quantity of chrome-plated lug nuts from Taiwan decreased from 912,000 kilograms in 1997 to 549,000 kilograms in 1998, then increased to 661,000 kilograms in 1999. The quantity of chrome-plated lug nuts from China was 338,000 kilograms in the first quarter of 2000 compared to 287,000 kilograms in the first quarter of 1999. The quantity of chrome-plated lug nuts from Taiwan was 224,000 kilograms in the first quarter of 2000 compared to 144,000 kilograms in the first quarter of 1999. The value of subject imports exhibited similar trends. As a share of the total market for decorative lug nuts, the value of subject imports from China accounted for \*\*\* percent of the market in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999, while the value of subject imports from Taiwan accounted for \*\*\* percent in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999. During the period examined in the original investigations, the value of subject imports from China increased from \*\*\* percent to \*\*\* percent of the U.S. market between 1988 and 1990, while the value of subject imports from Taiwan increased from \*\*\* percent to \*\*\* percent. Table I-1,

The record in these reviews indicates that if the orders are revoked, the likely volume of subject imports could be considered significant, when viewed in isolation. However, when evaluated in the context of the conditions of competition (in particular, the fact that subject imports are likely to be sold in the aftermarket where the domestic industry has a diminishing presence), and in the absence of likely significant negative price effects, we do not find the likely volume of subject imports to be significant.<sup>97 98</sup>

## **2. Likely Price Effects of the Subject Imports**

In the original determinations, the Commission found imports from China and Taiwan had persistently undersold the domestic like product and depressed prices that the domestic industry could seek and obtain for its chrome-plated lug nuts.<sup>99</sup> The Commission obtained very limited price information in these reviews, so it is difficult to make meaningful comparisons between the current prices of cumulated subject imports and the domestic like product.<sup>100</sup>

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CR/PR at I-6.

<sup>97</sup> Vice Chairman Okun finds that the likely volume of imports of the subject merchandise from China and from Taiwan would not be significant if the orders were revoked, whether assessed on an individual or a cumulated basis.

<sup>98</sup> Commissioners Miller and Hillman find that the record in these reviews indicates that if the orders are revoked, the likely volume of subject imports, when viewed in isolation, would be significant. They reach this conclusion based on the significance of the current level of subject imports and the expectation that subject imports will increase further due to Consolidated's decision to close its production facilities and import subject product. However, when evaluated in the context of the conditions of competition (in particular, the fact that subject imports are likely to be sold in the aftermarket where the domestic industry has a diminishing presence), and in the absence of likely significant negative price effects, the volume of subject imports is not likely to materially injure the domestic industry.

<sup>99</sup> Original Determinations at 19. The Commission found that in the majority of price comparisons, chrome-plated lug nuts imported from China undersold domestic chrome-plated lug nuts. Although chrome-plated lug nuts imported from Taiwan generally oversold domestic chrome-plated lug nuts, the Commission attributed this to the fact that unlike most domestic chrome-plated lug nuts, subject lug nuts from Taiwan were case-hardened, which added up to five cents to the selling price. After taking this differential into consideration, the Commission also found that its data reflected underselling by the subject imports from Taiwan. Id. at 17-19. See also Original CR at A-54-A-56 & Tables 24 & 25.

<sup>100</sup> The Commission requested price data on four products: three types of chrome-plated lug nuts, products 1, 2, and 3, and one type of stainless steel-capped lug nut, product 4, asking for separate data for items sold in bulk and those sold in packaged form. None of the U.S. producers provided any price data. One importer from Taiwan reported prices on chrome-plated lug nut products 1, 2, and 3, sold in bulk form. One purchaser of imports from China reported prices on chrome-plated lug nut product 2, sold in bulk. One purchaser of U.S.-produced lug nuts, \*\*\* reported prices on stainless steel-capped lug nut product 4, sold in packaged form. CR at V-3-4; PR at V-3. Although the prices reported to the Commission for the packaged stainless steel-capped lug nuts were \*\*\* than the prices for the bulk chrome-plated lug nuts, evidence in the original investigations reflects that prices for packaged lug nuts are higher than prices for bulk sales. Original CR at A-46-47 & A-49; Tables 21 & 22.

The only narrative comparison between prices for the domestic like product to prices for the subject imports came from a purchaser who stated that domestic products were generally inferior to subject

Our focus in five-year reviews, however, is on the likely price effects of the subject imports if the antidumping duty orders are revoked. We find that, upon revocation of the orders, subject imports would not have significant price effects in the domestic industry given the conditions of competition in the industry, namely that the domestic like products are increasingly concentrated in the OEM market while subject imports are almost entirely sold in the aftermarket. Thus, even increases in subject import volumes would not significantly affect prices for the domestic like product. Our conclusion in this regard is supported by \*\*\*.

Thus, we find that revocation of the orders would not likely lead to significant underselling by the subject imports from China or Taiwan, or to significant price depression or suppression.

### **3. Likely Impact of Subject Imports**

In the original investigations, the Commission found that U.S. production, shipments, and capacity utilization of the domestic industry declined between 1988 and 1990. It found that the number of workers and hours worked declined in the same period.<sup>101</sup> Concluding that the price effects from imports resulted in both a lower volume of business and lower profitability for domestic producers, with consequent loss of scale economies and diminution of product development and research expertise, and finding a simultaneous significant increase in import volume, the Commission found material injury by reason of the subject imports to the domestic industry.<sup>102</sup>

Data on the present state of the domestic industry is incomplete in these reviews because \*\*\* did not respond to the Commission's questionnaires.<sup>103</sup> Moreover, \*\*\* furnished only overall establishment data, and \*\*\* as requested in the Commission's domestic producer questionnaire.

We find the domestic industry not to be in a vulnerable condition. Key indicators show that the domestic industry's condition has \*\*\*. \*\*\*, reports that its operating income as a percentage of net sales has \*\*\*, rising from \*\*\* percent in 1997 to \*\*\* percent in 1998 and \*\*\* percent in 1999, and more than \*\*\* over the review period.<sup>104</sup> \*\*\* operating income as a percentage of net sales was \*\*\* percent in interim 2000 as compared to \*\*\* percent in interim 1999.<sup>105</sup> \*\*\* shipment volume \*\*\* while its shipment value

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imports from China in price, in other words, that domestic products were priced higher. No comparisons were made between the domestic like products and subject imports from Taiwan. CR at II-4; PR at II-3.

<sup>101</sup> Original Determination at 13.

<sup>102</sup> Original Determination at 19-20.

<sup>103</sup> A&A represented \*\*\* percent of domestic production of chrome-plated lug nuts in the original investigations. Table 1, Original CR at A-11. As previously noted, Consolidated provided limited 1998 data in its Response.

<sup>104</sup> In the original investigations, \*\*\* reported (for overall establishment operations) that its operating income as a percentage of net sales \*\*\* from \*\*\* percent in 1988 to \*\*\* percent in 1989 and to \*\*\* percent in 1990, and \*\*\* to \*\*\* percent in interim (January-March) 1991. Table 11, Original CR at A-29.

<sup>105</sup> Table III-1, CR at III-3; PR at III-2.

\*\*\*.<sup>106</sup> Thus, based on the limited information in these reviews, we find that the domestic industry is not currently in a vulnerable state.<sup>107</sup>

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. \*\*\*.<sup>108</sup> Thus, we find that the orders have had at most only a limited role in improving the condition of the domestic industry.

Based on the conditions of competition in the U.S. market, particularly the concentration of sales of the domestic like product to the OEM market and sales of subject merchandise in the automotive aftermarket, we conclude that revocation of the antidumping duty orders on chrome-plated lug nuts from China and Taiwan would not be likely to lead to a significant volume of subject imports that would significantly suppress or depress U.S. prices. We also find that any volume and price effects of the subject imports from China and from Taiwan would not be likely to have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Any minimal reduction in the industry's production, shipments, sales, market share, and revenues would not adversely impact the industry's profitability and ability to raise capital and maintain necessary capital investments. The lack of likely adverse effects on the industry is further supported by the domestic industry's lack of interest in the continuation of the orders, except for \*\*\*, which also conceded that \*\*\*.<sup>109 110</sup>

Accordingly, based on the record in these reviews we conclude that, in the event of revocation of the orders on China and Taiwan, the cumulated subject imports 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 China and Taiwan would not be likely to lead to continuation or recurrence of material injury to the domestic industry producing chrome-plated lug nuts, as defined in Commerce's current scope, and stainless steel-capped lug nuts within a reasonably foreseeable time.

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<sup>106</sup> U.S. shipment volume \*\*\* from \*\*\* chrome-plated, nickel-plated and stainless steel-capped lug nuts in 1997, to \*\*\* lug nuts in 1998 and \*\*\* lug nuts in 1999. In interim 1999, shipment volume was 19.7 million lug nuts as compared to 20.5 million lug nuts in interim 2000. Table III-2, CR at III-4; PR at III-4. In terms of value, \*\*\* U.S. shipments have remained more or less level over the review period at \*\*\* in 1997, \*\*\* in 1998, and \*\*\* in 1999. In interim 1999, shipment value was \*\*\* as compared to \*\*\* in interim 2000. *Id.* \*\*\* did not provide information on capacity, company transfers, export shipments, inventories, employment, wages, or productivity. CR at III-1; PR at III-1.

<sup>107</sup> 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.”).

<sup>108</sup> CR at III-2, PR at III-1.

<sup>109</sup> Although \*\*\*. Staff interview with \*\*\*, August 22, 2000. \*\*\*. CR at III-5; PR at III-2.

<sup>110</sup> Based on the record in these reviews, Vice Chairman Okun concludes that, if the antidumping duty orders were revoked, subject imports from China and Taiwan would not be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time, whether assessed on an individual or a cumulated basis.

## SEPARATE AND CONCURRING VIEWS OF COMMISSIONER LYNN M. BRAGG

Based upon the record in these reviews, I join the Commission majority's discussion of background, domestic like product and domestic industry, and findings that, under section 751(c) of the Tariff Act of 1930, as amended, revocation of the antidumping duty orders on subject chrome-plated lug nuts ("lug nuts") from China and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I provide the following separate views to detail my cumulation and injury analyses.

### I. CUMULATION

#### A. ANALYTICAL FRAMEWORK

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

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

Upon review of the record in these reviews, I find, as discussed below, that there is likely to be no discernible adverse impact to the domestic industry as result of revocation of each subject order individually, or from revocation of both subject orders in the aggregate.

#### B. REASONABLE OVERLAP OF COMPETITION

In the original investigations, the Commission found that subject imports from China and Taiwan competed with each other and with the domestic like product.<sup>2</sup> In these grouped reviews, the record indicates that some factors on which the Commission relied in finding a reasonable overlap of competition in the original investigations have changed. Nonetheless, the limited current record information, on balance, indicates that there remains a reasonable overlap of competition among subject imports and between subject imports and the domestic like product.<sup>3</sup>

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<sup>1</sup> See Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999) at 27-30. See also, Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290 (Mar. 2000) at 27-32.

<sup>2</sup> Chrome-Plated Lug Nuts from China and Taiwan, Inv. Nos. 731-TA-474 and 475, USITC Pub. 2427 (Sept. 1991) ("Original Determinations") at 15.

<sup>3</sup> I note that only a "reasonable overlap" of competition is required. See Mukand Ltd. v. United States, 937 F. Supp. 910, 915 (Ct. Int'l Trade 1996); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct.

(continued...)

The record indicates that subject imports from China and Taiwan and the domestic like product are fungible.<sup>4</sup> The record also indicates that U.S. sales of subject imports and the domestic like product occur in the same geographical markets;<sup>5</sup> are made through similar channels of distribution;<sup>6</sup> and that subject imports and the domestic like product were simultaneously present in the U.S. market during the period reviewed.<sup>7</sup>

In summary, and based upon all the foregoing, I find there is likely to be a reasonable overlap of competition among subject imports from China and Taiwan and between subject imports and the domestic like product if the orders are revoked.

### **C. NO DISCERNIBLE ADVERSE IMPACT**

As set forth below, I find that revocation of the individual orders on subject imports from China and Taiwan would be likely to have no discernible adverse impact on the U.S. lug nuts industry. In addition, I determine that, in the aggregate, subject imports from both subject countries would also be likely to have no discernible adverse impact in the event of revocation. I therefore do not engage in a subsequent cumulative analysis of subject imports from China and Taiwan.

#### **1. INDIVIDUAL COUNTRY ANALYSES**

##### **A. CHINA**

At the time of the original investigations, one Chinese lug nut manufacturer accounted for \*\*\* of subject imports into the United States from China.<sup>8</sup> However, the current record indicates that China's ability to export subject merchandise to the United States has increased since the time of the original investigations, as there are currently eight Chinese producers which export subject lug nuts to the United States.<sup>9</sup> Nonetheless, even if China significantly increased its volume of subject merchandise into the

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<sup>3</sup> (...continued)  
Int'l Trade 1994).

<sup>4</sup> CR at II-4.

<sup>5</sup> CR at II-1.

<sup>6</sup> In the original investigations, the Commission found that subject imports competed with each other and the domestic like product in the same channels of distribution. Original Determinations at 15. In these reviews, the record indicates that domestic producers, in particular domestic producer \*\*\*, increasingly rely upon sales to original equipment manufacturers ("OEMs") while subject imports continue to be sold in the aftermarket (for eventual retail sale). Nonetheless, the current record indicates that there continue to be some, albeit limited, sales of domestic lug nuts in the aftermarket and some, also limited, sales of subject imports into the OEM market. At the time of the original investigations, \*\*\*, although it focused its production on specialty lug nuts, did in fact sell into the aftermarket. Commission Report of August 26, 1991 at p. A-37. Importantly, there is no new record information in these reviews which indicates that \*\*\* no longer sells into the aftermarket. In addition, the record indicates that "almost all lug nuts from China and Taiwan go to aftermarket applications . . . ." Staff Memorandum to Commission (October 3, 2000) ("Oct. 3, 2000 Memo") at 1. Therefore, the record indicates that some subject lug nuts are sold into the OEM market.

<sup>7</sup> CR and PR at Table I-1.

<sup>8</sup> Commission Report of August 26, 1991, p. A-37.

<sup>9</sup> CR at IV-5.

United States in the event of revocation, such imports would be likely to have no discernible adverse impact on the domestic industry.

Importantly, Chinese subject merchandise competes primarily in the aftermarket segment of the U.S. market while domestic producers primarily compete in the OEM segment of the market.<sup>10</sup> In addition, Chinese lug nut producers \*\*\*.<sup>11</sup> The record also indicates that U.S. OEMs tend to purchase lug nuts from lug nut manufacturers located near the wheel manufacturers which supply domestic OEMs, which are primarily located in the United States.<sup>12</sup> Thus, any increase in the volume of Chinese subject imports would not be expected to impact domestic prices or capture a significant market share from domestic producers.

Accordingly, I determine that revocation of the antidumping duty order on subject imports from China is likely to have no discernible adverse impact upon the domestic industry.

## **B. TAIWAN**

The record indicates that the volume of Taiwan imports declined over the period reviewed; and by the end of the period, volume levels were considerably lower than levels at the time of the original investigations. Nonetheless, such imports retained a measurable share of the U.S. market in 1999.<sup>13</sup> The record also indicates that lug nuts imported into the United States from Taiwan over the period reviewed were largely comprised of non-subject, stainless steel-capped lug nuts.<sup>14</sup> In addition, subject imports from Taiwan, as with subject imports from China, are primarily sold into the aftermarket segment of the U.S. lug nuts market and are not \*\*\*.<sup>15</sup> Again, U.S. OEM purchasers tend to purchase lug nuts from lug nut manufacturers located near the wheel manufacturers which supply domestic OEMs, which are primarily located in the United States.<sup>16</sup> Thus, any increase in the volume of Taiwan subject imports would not be expected to impact domestic prices or capture a significant market share from domestic producers.

Accordingly, I determine that revocation of the antidumping duty order on subject imports from Taiwan is likely to have no discernible adverse impact upon the domestic industry.

## **2. AGGREGATE ANALYSIS**

Because I find that likely imports from each of the subject countries are likely to have no discernible adverse impact on the domestic industry in the event of revocation, I next consider whether likely subject imports in the aggregate are likely to have no discernible adverse impact.

The record indicates that even with the orders in place, Chinese and Taiwan subject imports have maintained a substantial presence in the U.S. market.<sup>17</sup> At the time of the original investigations, subject imports from China, by quantity, peaked at a \*\*\* percent market share and subject imports from Taiwan,

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<sup>10</sup> CR at II-4.

<sup>11</sup> Oct. 3, 2000 Memo at 1.

<sup>12</sup> Oct. 3, 2000 Memo at 1.

<sup>13</sup> CR and PR at Table I-1.

<sup>14</sup> CR and PR at Table I-1.

<sup>15</sup> CR at II-4; Oct. 3, 2000 Memo at 1.

<sup>16</sup> Oct. 3, 2000 Memo at 1.

<sup>17</sup> CR and PR at Table I-1.

by quantity, peaked at a \*\*\* percent market share.<sup>18</sup> On a cumulated basis, subject imports' market share by quantity was \*\*\* percent in 1990, compared to a cumulated market share, by value, of \*\*\* percent in 1999.<sup>19</sup> In 1999, the value of subject imports from China was \*\*\* percent of apparent consumption and the value of subject imports from Taiwan accounted for \*\*\* percent of apparent consumption.<sup>20</sup>

However, the record also indicates that while subject imports captured a substantial share of U.S. apparent consumption over the period reviewed, Chinese and Taiwan subject imports have been, and will continue to be, concentrated in the aftermarket segment of the U.S. market while domestic production and sales are concentrated in the OEM segment of the U.S. market.<sup>21</sup>

Based upon the foregoing, I determine that even if there were a measurable increase in the aggregate volume of subject imports from China and Taiwan, such an increase would not be likely to impact domestic prices or capture a significantly increased U.S. market share. Therefore, in the aggregate, and even allowing for some increase in Chinese and Taiwan subject imports, I determine that subject imports from both subject countries, even in the aggregate, are likely to have no discernible adverse impact on the domestic industry. I therefore do not cumulate subject imports from China and Taiwan.

## **II. NO LIKELY CONTINUATION OR RECURRENCE OF MATERIAL INJURY**

Before turning to the statutory factors of likely volume, likely price effects, and likely impact, I note that my determinations, *i.e.*, that revocation of the antidumping duty orders covering lug nuts from China and Taiwan 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, stem naturally from my finding that revocation of the orders at issue would be likely to have no discernible adverse impact upon the domestic industry.

### **A. CHINA**

#### **1. LIKELY VOLUME**

As discussed above, it appears that the Chinese lug nut industry has expanded since the time of the original investigations, although the extent of the increase is unknown. It therefore appears that China has the ability to increase its volume of subject imports into the United States in the event of revocation. Nonetheless, even if China measurably increased the volume of its subject imports into the United States, such imports would be concentrated in the aftermarket segment of the U.S. market, a segment which is of limited importance to \*\*\* (which produces specialty chrome-plated lug nuts) and of no importance to domestic producers \*\*\* and \*\*\*, which appear only to sell to OEM purchasers.<sup>22</sup> For example, \*\*\* commercial shipments of chrome-plated lug nuts decreased by \*\*\* percent between the interim periods (January-March 1999 versus January-March 2000).<sup>23</sup> In contrast, \*\*\* commercial shipments of stainless steel-capped lug nuts increased \*\*\* percent between the interim periods, while its shipments of nickel-

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<sup>18</sup> CR and PR at Table I-1.

<sup>19</sup> CR and PR at Table I-1.

<sup>20</sup> CR and PR at Table I-1.

<sup>21</sup> CR at II-4.

<sup>22</sup> CR at I-22-I-24.

<sup>23</sup> CR at III-1.

plated lug nuts increased by \*\*\* percent.<sup>24</sup> In interim 2000, \*\*\* shipped approximately \*\*\* kg of chrome-plated lug nuts and approximately \*\*\* kg of stainless steel-capped lug nuts.<sup>25</sup> The record also indicates that Chinese lug nut producers are not \*\*\* and therefore would not immediately compete with domestic producers in the OEM segment of this market.<sup>26</sup>

Based upon the foregoing, the record indicates that although the volume of subject imports from China may increase in the event of revocation, any increase is not likely to be significant.

## **2. NO LIKELY PRICE EFFECTS**

In the original investigations, the Commission found that persistent underselling by Chinese subject imports depressed prices for the domestic like product.<sup>27</sup> Due to limited reporting by interested parties, there is minimal pricing data available in these grouped sunset reviews. Based upon differing channels of distribution, subject imports from China do not appear to impact prices for the domestic like product. In addition, and as noted above: (1) the volume of subject imports from China is not likely to be significant in the event the order is revoked; (2) \*\*\* has stated that it will not be adversely impacted by subject imports in the event of revocation;<sup>28</sup> (3) \*\*\* does not appear to compete directly with subject imports; and (4) \*\*\* focuses on the production of specialty products.

Accordingly, revocation of the order on subject imports from China is not likely to result in significant adverse price effects on prices for the domestic like product.

## **3. NO LIKELY IMPACT**

As discussed above, the record indicates that there is unlikely to be any significant volume or price effects on the domestic industry in the event the order on China is revoked. The record also indicates that domestic producer \*\*\* has stated that it will not be adversely impacted if the order is revoked (\*\*\* operating performance increased from \*\*\* percent in 1997 to \*\*\* percent in 1999, even in the face of substantial volumes of Chinese subject imports).<sup>29</sup>

Accordingly, I find that revocation of the antidumping duty order on subject imports from China would not be likely to result in a significant adverse impact to the domestic industry.

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<sup>24</sup> CR at III-1.

<sup>25</sup> CR and PR at Tables B-1 and B-2.

<sup>26</sup> Oct. 3, 2000 Memo at 1.

<sup>27</sup> Original Determination at 18-19.

<sup>28</sup> CR at I-24, n.41.

<sup>29</sup> CR at I-24, n.41; CR and PR at Table B-3. The record indicates that the domestic industry is not in a vulnerable condition.

## **B. TAIWAN**

### **1. LIKELY VOLUME**

During the original period of investigation, the volume and value of Taiwan subject imports increased approximately 360 percent.<sup>30</sup> However, the volume of subject imports from Taiwan has recently trended lower and is currently at levels substantially below pre-order volumes.<sup>31</sup> In addition, and as discussed above, even if Taiwan measurably increased the volume of its subject imports into the United States, such imports would be concentrated in the aftermarket segment of the market, a segment which is of limited importance to domestic producer \*\*\* and of no importance to domestic producers \*\*\* and \*\*\*.

Accordingly, the record indicates that even if the volume of subject imports from Taiwan increases in the event of revocation, such an increase is not likely to be significant.

### **2. NO LIKELY PRICE EFFECTS**

In the original investigations, the Commission found that persistent underselling by Taiwan chrome-plated lug nuts depressed prices for the domestic like product.<sup>32</sup> Due to limited reporting by interested parties, there is minimal pricing data available in these grouped sunset reviews. Based upon differing channels of distribution, subject imports from Taiwan do not appear to impact prices for the domestic like product. In addition, and as noted above: (1) the volume of subject imports from Taiwan is not likely to be significant in the event the order is revoked; (2) \*\*\* has stated that it will not be adversely impacted by subject imports in the event of revocation; (3) \*\*\* does not appear to compete directly with subject imports; and (4) \*\*\* focuses on the production of specialty products.

Accordingly, revocation of the order on subject imports from Taiwan is not likely to result in significant adverse price effects on prices for the domestic like product.

### **3. NO LIKELY IMPACT**

As discussed above, the record indicates that there is unlikely to be any significant volume or price effects on the domestic industry in the event the order on Taiwan is revoked. The record also indicates that domestic producer \*\*\* has stated that it will not be adversely impacted if the order is revoked (\*\*\* operating performance increased from \*\*\* percent in 1997 to \*\*\* percent in 1999, even in the face of substantial volumes of Taiwan subject imports).<sup>33</sup>

Accordingly, I find that revocation of the antidumping duty order on subject imports from Taiwan would not be likely to result in a significant adverse impact to the domestic industry.

## **III. CONCLUSION**

Based upon the foregoing analysis, I find that revocation of the antidumping duty orders covering chrome-plated lug nuts from China and Taiwan 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.

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<sup>30</sup> CR and PR at Table I-1.

<sup>31</sup> CR and PR at Table I-1.

<sup>32</sup> Original Determination at 18-19.

<sup>33</sup> CR and PR at Table B-3.