

# **PROFESSIONAL ELECTRIC CUTTING AND SANDING/GRINDING TOOLS FROM JAPAN**

Determination of the Commission  
in Investigation No. 731-TA-571  
(Preliminary) Under the Tariff  
Act of 1930, Together With the  
Information Obtained in the  
Investigation

**USITC PUBLICATION 2536**

**JULY 1992**

United States International Trade Commission  
Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

**DETERMINATION AND VIEWS OF THE COMMISSION**





## UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-571 (Preliminary)

PROFESSIONAL ELECTRIC CUTTING AND SANDING/GRINDING TOOLS FROM JAPAN

Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of professional electric cutting and sanding/grinding tools, provided for in subheadings 8461.50.00, 8465.91.00, 8508.20.00, and 8508.80.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 29, 1992, a petition was filed with the Commission and the Department of Commerce by The Black & Decker Corp., Towson, MD, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of the subject products from Japan. Accordingly, effective May 29, 1992, the Commission instituted antidumping investigation No. 731-TA-571 (Preliminary).

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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)).

Notice of the institution of the Commission's investigation and of a public conference 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 of June 5, 1992 (57 F.R. 24059). The conference was held in Washington, DC, on June 19, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

# VIEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we unanimously determine that there is a reasonable indication that industries in the United States are materially injured by reason of imports of professional electric cutting ("PEC") tools and professional electric sanding/grinding ("PES") tools from Japan that allegedly are sold at less than fair value (LTFV).<sup>1 2</sup>

## I. THE LEGAL STANDARD FOR PRELIMINARY INVESTIGATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.<sup>3</sup> In applying this standard, the Commission may weigh the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."<sup>4</sup> The

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<sup>1</sup> Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

<sup>2</sup> The parties in this investigation include: Petitioner -- The Black & Decker Corp. ("Black & Decker"); and Respondents -- Makita Corp. of Japan ("Makita"), which owns a U.S. importer, Makita U.S.A. and a domestic production facility, Makita Corporation of America ("MCA"); Ryobi, Ltd. of Japan ("Ryobi"), which owns a U.S. importer, Ryobi America and two domestic production facilities, Ryobi Motor Products Corp. and Ryobi Electric Tool Manufacturing Corp. (collectively "Ryobi U.S."); and Hitachi Koki Co. Ltd. of Japan ("Hitachi"), which owns a U.S. importer, Hitachi Power Tools USA, Ltd.

<sup>3</sup> 19 U.S.C. § 1673b(a). See also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, Slip Op. 92-69 at 20 (Ct. Int'l Trade, May 18, 1992).

<sup>4</sup> American Lamb, 785 F.2d 994 at 1001. In American Lamb, the Federal Circuit stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the "reasonable indication" standard requires more than a finding that there is a "possibility" of material injury. Id. at 1001-1004.

U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."<sup>5</sup>

## II. LIKE PRODUCT

### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the allegedly LTFV imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . . ."<sup>6</sup> In turn, the Act defines "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 . . . ."<sup>7</sup>

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<sup>5</sup> American Lamb, 785 F.2d 994 at 1004.

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(10). The Commission's determination of what is the appropriate like product or products in an investigation is a factual determination, to which we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. In analyzing like product issues, the Commission generally has considered a number of factors including: (1) physical characteristics and uses, (2) interchangeability of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees, and (6) where appropriate, price. Calabrian Corp. v. United States, Slip Op. 92-69 at 9, n.4 (Ct. Int'l Trade, May 18, 1992); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169, n.5, 1170, n.8 (Ct. Int'l Trade 1988) ("Asocoflores"). No single factor is dispositive, and the Commission may consider other factors relevant to its like product determination in a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. E.g., S. Rep. No. (continued...)

The Department of Commerce ("Commerce") tentatively has defined the scope of this investigation as:

two classes or kinds of merchandise consisting of electric cutting tools and electric sanding/grinding tools of a type suitable for industrial or professional use, whether assembled or unassembled. PECTs [professional electric cutting tools] have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, table saws, planers, routers, jointers, stationary saws, and metal cutting saws. PESGTs [professional electric sanding/grinding tools] have moving abrasive surfaces used primarily for grinding, scraping, clearing, deburring, and polishing wood, metal, and other materials. PESGTs include angle grinders, finishing sanders, disc sanders, orbital sanders, belt sanders, polishers, and straight/die grinders. . . .<sup>8</sup>

#### B. Like Product Analysis

We consider four primary issues concerning the definition of the like product in this investigation: (1) whether PEC tools and PES tools constitute separate like products as proposed by petitioner; (2) whether the range of types and sizes of products covered in either the PEC or PES category is too broad to constitute one like product and should be separated into additional like products; (3) whether there is a clear dividing line between professional and consumer electric power tools so as to warrant not expanding the like product to include consumer electric power tools; and (4) whether we should

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<sup>7</sup>(...continued)

249, 96th Cong. 1st Sess. 90-91 (1979); Sony Corporation of America v. United States, 712 F. Supp. 978, 983 (Ct. Int'l Trade 1989).

<sup>8</sup> 57 Fed. Reg. 28483 - 28484 (June 1992). Commerce excluded from the scope of this investigation professional electric drilling/fastening tools, chain saws, and other cutting and sanding/grinding tools such as planing, shaping, and splitting machines. Staff report at A-5 and A-6. We note that Commerce has requested that interested parties "comment on how the scope definition might be clarified to more accurately describe professional electric power tools and also whether the subject merchandise constitutes more than two classes or kinds." Comments are due to Commerce by August 31, 1992. Because the Commission's preliminary investigation is due to be completed by July 13, 1992, in defining the like product we consider the current scope definition as presented above, even though it is subject to change in any final investigation.

define separate like products which correspond to specific imported tools but which are not produced domestically.<sup>9</sup>

# 1. One or Two Like Products

The two classes or kinds of imported merchandise defined by Commerce -- PEC tools and PES tools -- are both considered part of a larger group of products, professional electric tools.<sup>10</sup> In considering whether to define two like products, the Commission looks for a clear dividing line between the PEC tools and PES tools categories.<sup>11</sup>

PEC tools and PES tools have different operating elements and methods of operation.<sup>12</sup> PEC tools are distinguished primarily by removable blades that can cut various materials in various ways.<sup>13</sup> In contrast, PES tools have removable abrasive surfaces that can remove or refinish surfaces of various materials.<sup>14</sup> Both classes, however, are designed for professional capability,

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<sup>9</sup> Hitachi proposed that the Commission "treat each 'family' of power tools, as well as the slide compound saw and 15-inch miter saw, as separate like products." Hitachi's Postconference Brief at 2. Hitachi contended that its slide compound saw and 15-inch miter saw have no substitutable U.S.-produced counterparts and do not compete with any U.S.-made tools. *Id.* at 2 and 13. Similar to Hitachi's argument, Ryobi contended that two of its products -- electronic variable speed belt sanders and routers and biscuit/plate joiners -- constitute separate like products, and neither competes with the PEC and PES tools produced in the United States nor injures a U.S. industry. Ryobi's Postconference Brief at 2 and 4.

<sup>10</sup> Staff report at I-4. In addition, there is a third major category in that larger group, professional electric drilling/fastening ("PED") tools.

<sup>11</sup> No party proposed defining one like product encompassing the two classes or kinds of merchandise defined by Commerce.

<sup>12</sup> In past investigations, the Commission has divided categories of articles by product line or by operating element. See Heavy Forged Handtools from the People's Republic of China ("Heavy Forged Handtools"), Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (February 1991); Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom ("Antifriction Bearings"), Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989).

<sup>13</sup> See Staff report at I-4 and I-5.

<sup>14</sup> See Staff report at I-4. Sanders are used primarily for wood; grinders are used primarily for metals. *Id.* at I-4.

are electrically powered, and, with two exceptions, are hand held.<sup>15</sup>

The different operating elements and methods of operation restrict the interchangeability of PEC tools for PES tools and vice versa.<sup>16</sup> Customers know a miter saw is different and distinct from a sander. Producers also separately present the PEC tools and PES tools in their catalogs and advertisements. Finally, there is some evidence on the record that at least the key operating elements of these classes of products are produced through different processes.<sup>17</sup>

On the other hand, all professional electric hand tools generally have similar methods of distribution. They are distributed directly to end users, through distributors, and through hardware stores, home centers, and industrial warehouses.

We conclude, however, that the differences between PEC tools and PES tools in physical characteristics, uses, producer and customer perception and production processes, and the existence of, at most, very limited, interchangeability outweigh the similarities in terms of their channels of distribution. Therefore, for this preliminary investigation, we find that there are at least two like products, PEC tools and PES tools.

## 2. Like Products Defined as Families of Tools

Having found clear dividing lines between PEC and PES tools, we now consider whether we should separate PEC tools and PES tools further into additional like products. We note that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in

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<sup>15</sup> See Staff report at I-4. Miter saws and cut-off saws are designed to rest on a table top, work bench or other elevated surface while in use. *Id.*

<sup>16</sup> For example, a sander could not be used to cut a wood board and a saw could not be used to refinish or sand a surface.

<sup>17</sup> Petitioner's Postconference Brief at 6 and 7.

physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other."<sup>18</sup> In past investigations involving multiple articles, the Commission has found several like products based on clear dividing lines in characteristics and uses.<sup>19</sup> When we have been unable to find clear dividing lines, however, we have found a single like product.<sup>20</sup> The Court of International Trade has repeatedly upheld Commission determinations defining one like product which include a number of distinct, yet similar articles.<sup>21</sup>

In considering whether to define like products corresponding to each "family" of tools, we note that the Commission has the discretion to determine objectively what constitutes a "minor difference."<sup>22</sup> Based on the evidence of record, for purposes of this preliminary investigation, we determine that the differences between the families of tools are fairly minor and, therefore, do not constitute clear dividing lines for defining more than two separate like

<sup>18</sup> S. Rep. No. 96-249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>19</sup> See Heavy Forged Handtools, USITC Pub. 2357 at 5 and 6 (February 1991) (Commission found four like products corresponding to the four classes or kinds of articles subject to investigation); Antifriction Bearings, USITC Pub. 2185 (May 1989) (Commission found six like products based on the type of roller element in the bearing).

<sup>20</sup> See e.g., Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea ("PET Film"), USITC Pub. 2383 at 8 and 10 (May 1991); High-Information Content Flat Panel Displays and Subassemblies Thereof from Japan, Inv. No. 731-TA- 469 (Preliminary), USITC Pub. 2311 at 7 (September 1990) ("the lack of absolute interchangeability does not preclude a finding of one like product in light of other considerations").

<sup>21</sup> For example, in Sony Corp. of America, the CIT held that:

the fact that there are certain differences between the Trinitron tube and other CPTs [color picture tubes] does not mean that the Trinitron is not "like" other CPTs within the meaning of the relevant statutes. Nor is it disputed that the end use, i.e., television viewing sets, is the same for Trinitron CPTs as for other CPTs.

Sony Corporation of America v. United States, 712 F. Supp. 978, 983 (Ct. Int'l Trade 1989).

<sup>22</sup> Asocoflores, 693 F. Supp. 1165, 1169 (Ct. Int'l Trade 1988).



products. In the event of any final investigation, however, the Commission invites the parties to submit further evidence on whether it is appropriate to define more than two like products, PEC tools and PES tools.<sup>23 24</sup>

### 3. Professional versus Consumer Tools

Commerce defined the two classes of merchandise subject to investigation as being "of a type suitable for industrial or professional use."<sup>25</sup> The record, however, indicates some overlap between professional and consumer tools, such as in their channels of distribution and end-uses. Further, two of the respondents requested that we include consumer cutting tools and consumer sanding/grinding tools within the like products. Therefore, we address the issue of whether consumer tools are so similar to professional tools as to be included within the like products.<sup>26</sup>

The Commission previously has considered the professional versus

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<sup>23</sup> Commissioner Rohr concurs with his colleagues that the record of this preliminary investigation which is based on the best information available does not contain sufficient information to justify any further division of the PEC and PES categories of tools into smaller groups of tools. In the event of any final investigation, he intends to investigate more closely whether it is appropriate to define the PEC and PES tools as two like product categories or whether clear dividing lines exist to break these two categories into more precise like products.

<sup>24</sup> Vice Chairman Watson and Commissioner Brunsdale concur with the Commission on this point, and urge the parties to any final investigation to discuss the ease with which the domestic industry could switch production among particular tools within a class, among classes of professional electric tools, and among tools generally.

<sup>25</sup> In this case, while Commerce has requested comments on clarifying the distinction between professional versus consumer electric power tools, Commerce has not specifically excluded consumer cutting tools and consumer sanding/grinding tools from the scope of investigation.

<sup>26</sup> Commissioner Rohr notes that in the event of a final investigation, he intends to further analyze the differences between consumer and professional electric cutting and sanding/grinding tools along the continuum of products in each category in relation to customer/producer perceptions, interchangeability, price, physical characteristics and uses, manufacturing facilities and employees, and channels of distribution to determine if a clear dividing line does in fact exist.

consumer like product issue and has decided not to include consumer/household products in the definition of professional/commercial like products in a number of cases. For example, in Commercial Microwave Ovens, the Commission considered, but decided against, including household microwave ovens (HMO) in the like product definition with commercial microwave ovens (CMO).<sup>27</sup> The Commission found that the products were similar in production processes, but differed in physical and technical characteristics, uses, and channels of distribution, and noted that the industry had "no trouble telling the two types of ovens apart."<sup>28</sup> Another factor in the Commission's decision was the fact that CMOs are certified by Underwriters Laboratories (UL) or the National Sanitation Foundation (NSF), as required by most state and local health codes for use in commercial establishments, and HMOs are not certified.<sup>29</sup>

Similarly, in Certain Residential Door Locks from Taiwan, the Commission indicated that "although it is not patently clear that a sharp dividing line exists between the markets for residential and commercial door locks, there is substantial evidence . . . that they constitute separate products."<sup>30</sup> In reviewing the evidence, the Commission found a number of differences between commercial and residential door locks including the fact that "commercial locks are generally heavier, thicker, and more durable than residential locks.

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<sup>27</sup> Commercial Microwave Ovens, Assembled or Unassembled from Japan ("Commercial Microwave Ovens"), Inv. No. 731-TA-523 (Preliminary), USITC Pub. 2405 at I-9 (July 1991).

<sup>28</sup> Commercial Microwave Ovens, USITC Pub. 2405 at I-7 - I-9 (July 1991). The Commission found a small overlap in uses between the types of microwave ovens, but stated that "the overlap is only one-way, because a consumer cannot easily purchase a CMO." Id. at I-9.

<sup>29</sup> Commercial Microwave Ovens, USITC Pub. 2405 at I-8 (July 1991). The Commission also considered that "HMO's warranties and insurance are allegedly voided if it is used for commercial purposes." Id. at I-8.

<sup>30</sup> Certain Residential Door Locks from Taiwan ("Residential Door Locks"), Inv. No. 731-TA-433 (Preliminary), USITC Pub. 2198 at 9 (June 1989).

. . . [that there were] differences in performance [and that] commercial locks often provide greater security . . . than a standard residential lock."<sup>31</sup>

Finally, the Commission considered the issue of similar products with a range from low to high qualities or capabilities in Flat-Panel Displays and decided not to include the low level products.<sup>32</sup>

Our analysis of the like product factors for PEC tools and PES tools compared to related consumer tools, based on the record in this preliminary investigation, follows.<sup>33</sup>

(a) Physical characteristics and uses

Professional and consumer tools share many similar or identical physical characteristics, such as shape, componentry, and basic appearance, and are used for the same general purposes. Professional tools, however, are used primarily in the commercial market and therefore are designed to be more durable than their consumer counterparts<sup>34</sup> and to operate more or less continuously. To this end, professional tools have different physical characteristics from consumer tools. They generally are housed in heavier-

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<sup>31</sup> Residential Door Locks, USITC Pub. 2198 at 10 (June 1989). Further, while all locks are used fundamentally for the same ends, the Commission found that the end uses typically differ and interchangeability is limited, because the locks are used in different structures, with certain locks used almost exclusively in the commercial market. While the Commission found some overlap between residential and commercial door locks, the differences, which also included different production processes and prices, supported finding the two types of locks as distinct products. *Id.* at 10 - 12.

<sup>32</sup> Flat-Panel Displays, USITC Pub. 2311 at 10 (September 1990).

<sup>33</sup> The following discussion is based on the record as reported in the Staff report at I-5 - I-6.

<sup>34</sup> Petitioner has alleged that the unit life for professional tools is greater than 300 hours, whereas the unit life for consumer tools is less than 200 hours. Petitioner's Postconference Brief at Exhibit 2. Regarding differences in warranties, petitioner indicated that its "professional electric tools carry a one-year warranty, plus a 30-day, over-the-counter warranty exchange. . . . [and it offers for its consumer electric tools] an over-the-counter exchange within its one- or two-year warranty period." *Id.* at 16 and 17.

gauge steel or compound materials, powered by higher amperage and more overload-tolerant motors, have heavier and more wear-resistant bearings, and are fixed with a thicker-jacketed power cord of special rubber to resist abrasion and retain flexibility during cold weather.<sup>35</sup>

(b) Interchangeability

For many types of electric hand tools designed for professional or industrial use there are similar tools designed and priced for consumer or home use. The extent to which professional and consumer tools are interchangeable varies from one tool type to another. While it is probably true that the vast majority of persons making a living with power hand tools use the professional variety tool, a significant number of hobbyists, home do-it-yourselfers, and other non-professionals also use professional tools. In fact a large number of PEC and PES tools are purchased for non-professional use. Makita estimated that "between 30 and 35 percent of its tools were purchased by do-it-yourselfers."<sup>36</sup>

(c) Customer and producer perceptions of the products

The distinction between professional and consumer tools is widely accepted by both producers and purchasers.<sup>37</sup> Indeed, Hitachi acknowledged that: ". . . there may be a general perception among users that the high end products are better suited for heavy professional use . . . ." <sup>38 39</sup> These

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<sup>35</sup> Petitioner asserted that professional tools have ball, needle or roller bearings while consumer tools have sleeve bearings; professional tools are designed so that certain parts that wear out first such as motor brushes can be easily replaced or repaired while consumer tools are not designed to allow for repairs. Petitioner's Postconference Brief at Exhibit 2.

<sup>36</sup> Makita's Postconference Brief at 10.

<sup>37</sup> Staff report at I-5 and I-6.

<sup>38</sup> Hitachi's Postconference Brief at 8.

<sup>39</sup> While Makita contends that there is one market, they acknowledge a separate consumer market in their allegations that Black & Decker has a poor  
(continued...)

different perceptions are reinforced by producers' advertising and labelling practices. For example, the producers' catalogs differentiate between professional and consumer tools. Also, PEC and PES tools, used by employees in the commercial work environment (i.e., contracting firms) must meet the safety requirements of the Occupational Safety & Health Administration (OSHA). Most such tools sold in the United States are packaged with some notice that they meet and/or exceed OSHA requirements.<sup>40</sup>

(d) Channels of distribution

Both professional and consumer tools are widely available to professionals and consumers alike through overlapping channels of distribution. For large institutional buyers, PEC and PES tools are available from industrial and construction supply wholesalers served by the manufacturers, or from the manufacturers directly. Smaller institutional buyers and individual users, however, often purchase PEC and PES tools from hardware stores, lumber yards, and home-improvement centers as well. Similar consumer tools are also available at these outlets, supplied by the manufacturer in much the same way as are professional tools. However, an equal or larger number are shipped to mass-merchandise and catalog stores, such as Sears and K-Mart, that generally do not serve the professional market.

(e) Production processes

In general, professional tools are fabricated on different equipment

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<sup>39</sup>(...continued)

image. In particular, Makita states: "Black & Decker . . . had been associated with lower cost, lower quality tools with which Petitioner had flooded the consumer market." Makita's Postconference Brief at 36.

<sup>40</sup> Staff report at I-5, n. 7. Depending on the manufacturer and the tool type, consumer tools also may meet OSHA safety requirements although notice of this fact is rarely provided. Id.

than consumer tools.<sup>41</sup> To produce PEC and PES tools, major components (such as the motor, housing, gears, and bearings) are first manufactured and then assembled into a complete unit. Virtually all motors and housings are produced in-house; gears, bearings, and smaller components may be imported, acquired from domestic affiliates, or purchased from other U.S. producers. Much of the equipment used to produce the major components, particularly the motor, is specific to professional electric hand tools, i.e., PEC tools, PES tools, and PED tools production, though not exclusively to one or another.<sup>42</sup> Other resources, including assembly facilities and workers, can be readily shifted to produce consumer electric hand tools, certain other electric tools and devices, and parts and accessories for all of these products.

(f) Price

The price of a professional tool is generally several times the price of the corresponding consumer tool at the retail level.<sup>43</sup> However, along the continuum of products, there seem to be instances of comparative pricing between what is considered a high end consumer product and what is considered a low end professional product.<sup>44</sup>

After examining these factors, we, therefore, do not include consumer tools in the like products.

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<sup>41</sup> Staff report at I-6.

<sup>42</sup> Petitioner indicated at the conference that: "Converting a plant from professional power tools to consumer power tools certainly is feasible to do, because there are four walls and you can move machinery into it . . . [but professional tools need] different machinery. For example, if you are cutting gears, and we cut gears on our professional tools, you need machinery to do that. And consumer tools, we use different types of gears, perhaps made in a different process, definitely made in a different process, that those machines would not be suitable for." Tr. at 57 and 58.

<sup>43</sup> Staff report at I-5.

<sup>44</sup> See Hitachi Postconference Brief at 5 and 6.

#### 4. Defining Like Products That Have No Domestic Counterparts<sup>45</sup>

Finally, Hitachi and Ryobi proposed defining separate like products for certain tools that they import into the U.S. market. Both parties allege that these proposed like products are not produced in the United States. The Commission has rejected "the notion that a like product could be defined as a product not produced by a U.S. industry."<sup>46</sup> Such proposals ignore our obligation under the statute to determine which U.S.-made products are like or most similar to the imports subject to investigation.<sup>47</sup> A product not produced in the United States is not an appropriate candidate for a separate like product determination, unless material retardation of the establishment of an industry in the United States is a genuine issue.<sup>48</sup> It is not an issue in this investigation.

Based on the foregoing discussion, we define the like products in this preliminary investigation to be professional use products which correspond to the two classes or kinds of imports subject to investigation. However, we will reexamine the like product issue, specifically the overlap between the professional and consumer tools, in any final investigation. We further note that, in any final investigation, we will consider the impact, if any, of any overlap or relationship between the market for consumer electric tools and the market for professional electric tools in assessing the relevant conditions of

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<sup>45</sup> Commissioner Rohr does not join in this discussion. In his view this issue is not material to this investigation in light of the Commission's decision that the record is insufficient to justify any breakdown of like products below the PEC/PES level.

<sup>46</sup> Flat Panel Displays from Japan, USITC Pub. 2311 at 5 and 6 (September 1990). See also PET Film, USITC Pub. 2383 at 8 (May 1991); Antifriction Bearings, USITC Pub. 2185 at 36 (May 1989).

<sup>47</sup> See Sony Corp. v. United States, 712 F. Supp. 978,981 (Ct. Int'l Trade 1989); Asocoflores, 693 F. Supp. 1165, 1167 (Ct. Int'l Trade 1988).

<sup>48</sup> Antifriction Bearings, USITC Pub. 2185 at 39, n.78 (May 1989).

competition in this industry.

### III. DOMESTIC INDUSTRY AND RELATED PARTIES

#### A. Domestic Producers

The domestic industry consists of the "domestic producers" of a "like product."<sup>49</sup> In this preliminary investigation, the domestic industry consists of the domestic producers of PEC tools and PES tools. Who qualifies as a "domestic producer," however, is subject to dispute among the parties.<sup>50</sup>

The principal question we consider in defining the domestic industry is whether the domestic operations of the producer in question are sufficient to make it a member of the domestic industry. In considering whether a firm is a domestic producer, the Commission has looked to the overall nature of its production-related activities in the United States.<sup>51 52</sup> Evidence in the

<sup>49</sup> See 19 U.S.C. § 1677(4)(A).

<sup>50</sup> Petitioner asserted that Makita and Hitachi do not qualify as domestic producers and should not be included in the domestic industry, but argued for the inclusion of Ryobi's U.S. production affiliates (Ryobi Electric Tool Mfg. and Ryobi Motor Products Corp., herein collectively "Ryobi U.S.") in the domestic industry, even though they are related to Ryobi Limited of Japan. Petitioner's Postconference Brief at 20, 21 and 25. Conversely, Makita urged the Commission to consider its domestic production affiliate, Makita Corporation of America ("MCA"), a domestic producer and not exclude it from the domestic industry as a related party. Makita's Postconference Brief at 48.

<sup>51</sup> The Commission generally has examined the following six factors in making this analysis: (1) the source and extent of the firm's capital investment, (2) the technical expertise involved in U.S. production activities, (3) the value added to the product in the United States, (4) employment levels, (5) quantity and type of parts sourced in the United States, and (6) any other costs and activities in the United States directly leading to production of the like product. See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand ("Butt-Weld Pipe Fittings"), Inv. Nos. 731-TA-520 and 521 (Final), USITC Pub. 2527 at 6, n.16 (June 1992).

<sup>52</sup> Commissioners Rohr and Brunsdale note some ambiguity in the Commission's use of the term "source" of capital. They wish to state clearly that, to the extent the term "source" might be interpreted to refer to the "nationality" of the provider of the capital, it should not be so interpreted. The country from which a firm's capital investment originates is irrelevant to their determinations. They invite the parties, in any final investigation, to comment on this issue.



record indicates that both MCA and Ryobi U.S. have made substantial capital investments in domestic production facilities, employ a considerable number of U.S. workers and have a significant amount of domestic value added to the products they produce in the United States.<sup>53</sup> Based on the information in the record in this preliminary investigation, we find that MCA and Ryobi U.S. are domestic producers. We will, however, reconsider this issue in any final investigation.

#### **B. Related Parties**

Under section 771(4)(B), producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise (hereinafter referred to as "related parties"), may be excluded from the domestic industry in appropriate circumstances.<sup>54</sup> Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case.<sup>55</sup>

The related parties provision has been utilized by the Commission to minimize any distortion in the aggregate data bearing on the condition of the domestic industry that might result from including related parties whose operations may be shielded from the adverse effects of the subject imports, or whose interests lie primarily in importation rather than domestic production.<sup>56 57</sup>

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<sup>53</sup> Tr. at Exhibit 4; Makita's Postconference Brief at Exhibit 40; Ryobi's Postconference Brief at 9-11.

<sup>54</sup> 19 U.S.C. § 1677(4)(B).

<sup>55</sup> Torrington v. United States, Slip. Op. 92-49 at 12 (Ct. Int'l Trade April 3, 1992); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>56</sup> See, e.g., Torrington v. United States, Slip Op. 92-49 at 10 and 11 (Ct. Int'l Trade April 3, 1992).

<sup>57</sup> Commissioner Brunsdale recently wrote in her opinion in Sulfur Dyes from China, India, and the United Kingdom, Inv. Nos. 731-TA-548, 550 and 551

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If a producer qualifies as a related party under section 771(4)(B), the Commission determines whether "appropriate circumstances" exist for excluding the producer in question from the domestic industry.<sup>58</sup> While the statute itself does not define what "appropriate circumstances" are, Congress has provided the following guidance on when "appropriate circumstances" exist:

The ITC is given discretion not to include within the domestic industry those domestic producers of the like product which are either related to exporters or importers of the imported product being investigated, or which import that product. Thus, for example, where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry (emphasis added).<sup>59</sup>

Further, the Court of International Trade has approved the Commission's exclusion of a related party in situations where the producer is related to the foreign exporter, appears to have benefited from the consistently lower prices of the dumped imports, and where the exporter appears to have been directing its exports in such a manner so as not to compete with its related U.S. importer/producer.<sup>60</sup>

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<sup>57</sup>(...continued)

(Preliminary), USITC Pub. 2514 at 41 (May 1992), that a reexamination of the related parties provision is needed now that a majority of the Commission no longer undertakes a bifurcated analysis. She strongly encourages the parties in any final investigation to offer their views on what it means for a producer to be excluded from an industry. See 19 U.S.C. § 1677(4)(B). Does this mean it can be excluded for calculating standing? or for cumulating financial statistics? or for calculating market shares? What justification does the statute provide for including a producer in the domestic industry for some purposes while excluding it for others?

<sup>58</sup> See, e.g., Empire Plow Co., 675 F. Supp. at 1353 (Ct. Int'l Trade 1987); Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 at 15 (January 1989).

<sup>59</sup> S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979).

<sup>60</sup> See Sandvik AB v. United States, 721 F. Supp. 1322, 1331 (Ct. Int'l Trade 1989), aff'd, 904 F. 2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353-54 (Ct. Int'l Trade 1987) (An analysis of "[b]enefits accrued from the relationship" as a major factor in deciding whether to

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The primary factors we examine in deciding whether appropriate circumstances exist to exclude a related party include:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and
- (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.<sup>61</sup>

The Commission also has considered whether each company's books are kept separately from the books of the related importer or exporter and whether the primary interests of the related producers lie in domestic production or in importation.<sup>62</sup>

Black & Decker imports two subject articles -- a belt sander and a band saw -- which are produced by Hitachi Koki, Ltd. (Japan). There are no equity cross-ownership interests between Black & Decker and Hitachi; their relationship is based exclusively on a manufacturing contract.<sup>63</sup> The products imported by Black & Decker account for less than one percent of its total sales of PEC tools and PES tools and are imported to fill a gap in its product line.<sup>64</sup> While Black & Decker is an importer of subject products, we find that its subject imports are not significant relative to its domestic production

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<sup>60</sup>(...continued)

exclude a related party held to be "a reasonable approach in light of the legislative history . . . .").

<sup>61</sup> See, e.g., Torrington Co., Slip Op. 92-49 at 10 and 11 (Ct. Int'l Trade April 3, 1992) (Court upheld the Commission's practice of examining these factors in determining that appropriate circumstances did not exist to exclude related party).

<sup>62</sup> See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 12 (January 1986); PET Film, USITC Pub. 2383 at 17-18 (May 1991).

<sup>63</sup> Tr. at 59.

<sup>64</sup> Tr. at 59 and 60.

and that appropriate circumstances to exclude it from the domestic industry do not exist.

MCA, which produces PES tools in Buford, Georgia is 80 percent owned by Makita, U.S.A. (a wholly-owned subsidiary of Makita Corporation and a U.S. importer) and 20 percent owned by Makita Corporation (Japan).<sup>65</sup> During the period of investigation, MCA did not produce PEC tools, but accounted for a significant percentage of U.S. PES tool shipments.<sup>66</sup> However, MCA's domestic production of PES tools as a share of total shipments by Makita of PES tools (domestic production and imports) does not support a finding that Makita's primary interests are in domestic production rather than imported articles.<sup>67</sup> Nearly all of MCA's production is transferred to Makita's U.S. importer, Makita, U.S.A. for marketing and distribution,<sup>68</sup> and it appears that the types of PES tools produced by MCA are not imported by Makita, U.S.A. Thus, MCA appears to be shielded from competition from the subject imports; indeed the financial performance of MCA is significantly more positive than the rest of the domestic PES tools industry. Makita's inclusion is likely to skew the data bearing on the overall condition of the industry. Based on these facts, we find that appropriate circumstances exist to exclude MCA from the domestic industry.

Ryobi U.S., which produces PEC and PES tools in South Carolina, is wholly-owned by Ryobi America Corp. (U.S. importer which is owned by Ryobi Limited of Japan).<sup>69</sup> During the period of investigation, the domestic production of Ryobi U.S. accounted for a small percentage of U.S. PES tool

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<sup>65</sup> Staff report at I-6; Tr. at 139.

<sup>66</sup> Staff report at I-7, Table 1.

<sup>67</sup> Staff report at I-8, Table 2.

<sup>68</sup> Staff report at I-6.

<sup>69</sup> Staff report at I-7.

shipments and a slightly larger percentage of U.S. PEC tool shipments.<sup>70</sup> However, Ryobi U.S.'s domestic production of PES tools as a share of total shipments by Ryobi of PES tools (domestic production and imports) was relatively large, particularly as compared to MCA. Ryobi U.S.'s domestic production of PEC tools as a share of total shipments by Ryobi of PEC tools was even larger during the period of investigation.<sup>71</sup> As with MCA, nearly all of Ryobi U.S.'s production is transferred to Ryobi Limited's U.S. importer, Ryobi America, for marketing and distribution.<sup>72</sup> It is not clear, however, that the products of Ryobi U.S. do not compete with similar or identical imports of Ryobi Limited of Japan. Unlike Makita, we find that Ryobi has a significant presence in the U.S. market as a domestic producer and that its primary interest is not in the importation of PEC and PES tools. Accordingly, we do not exclude Ryobi U.S. from the domestic industry as a related party for purposes of this preliminary investigation. We will, however, reconsider this issue in any final investigation.<sup>73</sup>

#### IV. CONDITION OF THE INDUSTRIES

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped imports, the Commission is instructed to consider "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ."<sup>74</sup> In undertaking that assessment, we consider, among other relevant factors, U.S. consumption,

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<sup>70</sup> Staff report at I-7, Table 1.

<sup>71</sup> Staff report at I-8, Table 2.

<sup>72</sup> Staff report at I-7.

<sup>73</sup> Commissioner Brunsdale urges the parties to note, in any final investigation, our use of the proportion of a producer's U.S. production to its total production as a factor in deciding whether that producer should be excluded from the industry. This is not one of the three factors the Commission usually lists, and she invites comment on its appropriateness.

<sup>74</sup> 19 U.S.C. § 1677(7)(C)(iii).

production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development expenses.<sup>75</sup> No single factor is considered dispositive in evaluating the condition of the domestic industry. In each investigation, the Commission considers the particular nature of the industry under investigation<sup>76</sup> in the "context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>77</sup>

We note two important characteristics of the PEC and PES industries. First, the markets for PEC and PES tools consist of (1) a large number and wide array of institutional buyers, both large and small, such as manufacturing companies, construction firms, and public maintenance departments at all levels of government, and (2) a large number of individual buyers that purchase such tools for both professional and consumer use.<sup>78</sup> The record shows that consumption of PEC and PES tools appear to be tied to developments in the commercial and residential construction industry, which experienced sharp declines during the recent economic recession.

Second, discounts play a major role in the marketing of PEC and PES tools. All producers and importers publish price lists and discount schedules for use by their distributors and downstream retail outlets.<sup>79</sup> As a general matter, these schedules provide the recommended retail price for each tool and accessory, and enumerate the discounts available for the purchase of various

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<sup>75</sup> See 19 U.S.C. § 1677(7)(C)(iii).

<sup>76</sup> See 19 U.S.C. § 1677(7)(C)(iii). See also H.R. Rep. No. 317, 96th Cong., 1st Sess. 36 (1979); S. Rep. No. 249, 96th Cong., 1st Sess. 88 (1979).

<sup>77</sup> 19 U.S.C. § 1677(7)(C)(iii). No argument addressing these matters was raised by any of the parties to this investigation. Nor did the Commission receive any information relevant to business cycle considerations.

<sup>78</sup> Staff Report at I-9.

<sup>79</sup> Staff Report at I-33.

quantities of tools. The basic discount to a distributor is generally 30 percent below the recommended retail price. Additional discounts ranging from 10-30 percent may be applied as larger quantities of tools are purchased. In addition to published discounts, all producers and importers provide distributors with periodic promotional and advertising support, rebates, financial incentives or other benefits, which may be passed along to the retail level. Special promotional pricing may be available for individual tools or across product lines.<sup>80 81</sup>

#### A. PEC Tools Industry<sup>82</sup>

While apparent U.S. consumption of PEC tools by quantity declined by 13 percent between 1989 and 1991, it increased 4 percent from interim period (January-March) 1991 to interim period (January-March) 1992.<sup>83 84</sup> The trend for apparent U.S. consumption by value for this industry was similar, declining 6 percent from 1989 to 1991, and increasing 11 percent between interim period 1991 and interim period 1992.<sup>85</sup>

Similarly, the record reveals declines from 1989 to 1991 in most indicators relevant to the condition of the PEC tools industry, with modest increases reported in interim 1992. Domestic production of PEC tools declined by 14 percent -- a sharper decline than apparent consumption -- from 1989 to

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<sup>80</sup> Staff report at I-34.

<sup>81</sup> While in general, Commissioner Rohr agrees that the above factors are relevant, particularly to a discussion of causal nexus between imports and condition of the industry, he does not find that the record supports a finding that there is anything distinctive about this industry or investigation.

<sup>82</sup> Data referred to in this section are summarized in Staff report at C-3, Table C-1, unless otherwise noted.

<sup>83</sup> We are careful not to draw any conclusions about the full year based on interim data.

<sup>84</sup> Commissioner Rohr does not place equal weight on interim data as he does on full year data. For purposes of this investigation, he does not draw any conclusions based on the interim data.

<sup>85</sup> Staff report at I-31, Table 20.

1991, with a 4 percent increase from interim period 1991 to interim period 1992. Further, while production capacity declined slightly by 1 percent for the 1989-1991 period, the decrease in domestic production resulted in a decline in capacity utilization for the PEC tools industry. Overall capacity utilization rates were low for the domestic industry.

The domestic industry's U.S. shipments of PEC tools by quantity and value declined faster than did apparent U.S. consumption from 1989 to 1991. U.S. shipments decreased 17 percent by quantity and decreased 10 percent by value for the 1989-1991 period. Increases of 5 percent in U.S. shipments by quantity and 12 percent by value between interim periods were slightly greater than the increases in apparent U.S. consumption for the same period. Export shipments accounted for a small but growing share of the domestic industry's shipments throughout the period of investigation.

Domestic producers reduced their inventories of PEC tools by 24 percent for the 1989-1991 period, and by 12 percent between interim periods. However, declines in inventories as a ratio of shipments for these same periods were 1 percent and 3 percent, respectively.

Employment and hours worked dropped sharply, by 18 percent and by 25 percent, respectively, while hourly compensation rose by 22 percent from 1989 to 1991.<sup>86</sup> Between interim periods, employment and hours worked declined 2 percent and 3 percent, respectively, while the hourly wage rate grew 8 percent. Productivity also increased significantly throughout the period of investigation, by 23 percent for the 1989-1991 period and 15 percent between interim period 1991 and interim period 1992.

The PEC tools industry experienced losses and overall declines in most

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<sup>86</sup> Staff report at I-13, Table 5 and C-3, Table C-1.



financial performance indicators from 1989 to 1991 and between interim periods. In fact, half of the domestic producers reported operating losses and net losses for each year during the period of investigation.<sup>87</sup> Fewer firms reported losses in interim period 1992, however, as compared to interim period 1991.<sup>88</sup>

The PEC tools industry experienced declines in net sales in each year over the period of investigation.<sup>89</sup> Aggregate operating income, while positive for each year in the 1989- 1991 period, fluctuated widely with an 85 percent increase from 1989 to 1990 and a 57 percent decline from 1990 to 1991, for a decline of 20 percent for the entire period.<sup>90</sup> In interim period 1991, domestic producers experienced an aggregate operating loss, which changed to slight positive operating income in the interim period 1992.<sup>91</sup> The record also shows aggregate net losses in absolute terms during the entire period of investigation.<sup>92</sup>

Net return on total assets for the PEC tools industry was also negative for each year in the 1989-1991 period, but showed a slight improvement overall.<sup>93</sup> Similarly, operating return on total assets was negative in 1989 and 1991, with a modest positive return reported for 1990.<sup>94</sup>

Research and development expenditures for the PEC tools industry increased each year of the investigation for an overall increase of 41 percent for the 1989-1991 period.<sup>95</sup> An increase in research and development

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<sup>87</sup> Staff report at I-15, Table 7.

<sup>88</sup> Staff report at I-15, Table 7.

<sup>89</sup> Staff report at I-15, Table 7.

<sup>90</sup> Staff report at I-15, Table 7 and C-3, Table C-1.

<sup>91</sup> Staff report at I-15, Table 7.

<sup>92</sup> Staff report at I-15, Table 7.

<sup>93</sup> Staff report at I-24, Table 14.

<sup>94</sup> Staff report at I-24, Table 14.

<sup>95</sup> Staff report at I-23, Table 13.

expenditures also was reported between the interim periods.<sup>96</sup> Finally, capital expenditures increased sharply -- 60 percent -- for PEC tools from 1989 to 1990, with increases also reported for 1990 to 1991, by 8 percent, and between the interim periods by 11 percent.<sup>97</sup> <sup>98</sup>

#### B. PES Tools Industry<sup>99</sup>

Apparent U.S. consumption of PES tools increased 8 percent by quantity and 5 percent by value from 1989 to 1991. From interim period 1991 to interim period 1992, the trend for apparent U.S. consumption by quantity was similar, however, consumption by value rose sharply (13 percent).

Other indicators of this industry's performance are mixed. Domestic production of PES tools rose by 8 percent from 1989 to 1990, but remained level from 1990 to 1991. However, production increased again by 14 percent from interim period 1991 to interim period 1992. The increase in production from 1989 to 1990 was outpaced by an increase in production capacity which resulted in a sharp decline in capacity utilization for the PES tools industry. Nonetheless, a slight increase in production and a decline in production capacity from 1990 to 1991 substantially restored capacity utilization to its 1989 level. Between interim periods, an increase of 10 percent in capacity and the larger increase of 14 percent in production resulted in a slight increase of 2 percent in capacity utilization. Capacity

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<sup>96</sup> Staff report at I-23, Table 13.

<sup>97</sup> Staff report at I-25, Table 15.

<sup>98</sup> Based on their analysis of the information in the record, Chairman Newquist and Commissioner Rohr conclude that there is a reasonable indication that the domestic PEC tools industry is currently experiencing material injury.

<sup>99</sup> Since we excluded MCA from the domestic industry as a related party, the following analysis is based on data which excludes MCA. Further, data referred to in this section are summarized in Staff report at C-5, Table C-5, unless otherwise noted.

utilization rates over the period of investigation, however, were relatively low for the domestic industry.

The domestic industry's U.S. shipments of PES tools increased modestly both in terms of quantity (2 percent) and value (2 percent) from 1989 to 1991, but were outpaced by increases in apparent U.S. consumption. Between the interim periods, increases of 5 percent in U.S. shipments by quantity and 12 percent by value were slightly lower than the increases in apparent U.S. consumption. Export shipments accounted for an extremely small share of the domestic industry's shipments throughout the period of investigation.

In contrast to the PEC tools industry, domestic producers sharply increased their inventories of PES tools, by 24 percent for the 1989-1991 period, and by 10 percent between interim periods. However, inventories as a ratio of shipments increased 1 percent over the period of investigation.

Employment in the PES tools industry increased slightly (2 percent) during the period of investigation. Hours worked declined 8 percent while hourly compensation rose 14 percent from 1989 to 1991. In contrast, between the interim periods, hours worked increased sharply (12 percent), with only a slight increase (1 percent) in the hourly wage rate. Productivity also increased significantly for the 1989-1991 period (17 percent), but remained level between interim period 1991 and interim period 1992.

The PES tools industry's financial performance declined over the period of investigation, with some firms reporting operating losses and net losses for each period.<sup>100</sup> Although aggregate operating income increased by 25 percent from 1989 to 1990, it declined by 28 percent from 1990 to 1991, for an overall decline of 11 percent between 1989 and 1991.

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<sup>100</sup> Staff report at I-18, Table 9, at I-19, Table 10, and at C-5, Table C-5.

While the PES tools industry reported an increase in net sales from 1989 to 1990, net sales declined slightly from 1990 to 1991. Operating income as a share of net sales increased slightly from 1989 to 1990, but then declined from 1990 to 1991, for an overall decline of 1 percent.

Research and development expenditures for the PES tools industry remained flat from 1989 to 1990, but increased by 17 percent from 1990 to 1991.<sup>101</sup> Finally, capital expenditures increased by 22 percent during the period of investigation.<sup>102 103</sup>

In sum, the record indicates deterioration in the PES tools industry's performance, and erratic performance in the PES tools industry, during a period of recession.

**V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS**

**A. Legal Standard**

In determining whether there is a reasonable indication that the domestic industry is materially injured by reason of the imports under investigation, the statute directs the Commission to consider:

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . . . .<sup>104</sup>

<sup>101</sup> Staff report at I-23, Table 13.

<sup>102</sup> Staff report at I-25, Table 15.

<sup>103</sup> Based on their analysis of the information in the record, Chairman Newquist and Commissioner Rohr conclude that there is a reasonable indication that the domestic PES tools industry is currently experiencing material injury.

<sup>104</sup> 19 U.S.C. § 1677(7)(B)(i).

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination . . . ." <sup>105</sup> Although we may consider information that indicates that injury to the industry is caused by factors other than the LTFV imports, we do not weigh causes. <sup>106 107 108</sup> For the

<sup>105</sup> 19 U.S.C. § 1677(7)(B)(ii).

<sup>106</sup> Chairman Newquist, Commissioner Rohr, and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. E.g., Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

<sup>107</sup> Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare, e.g., United Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (Ct. Int'l Trade 1991) ("rather it must determine whether unfairly-traded imports are contributing to such injury to the domestic industry. Such imports, therefore need not be the only cause of harm to the domestic industry." (citations omitted)) with Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989) (affirming a determination by two Commissioners that "the imports were a cause of material injury") and USX Corporation v. United States, 682 F. Supp. 60, 67 (Ct. Int'l Trade 1988) ("any causation analysis must have at its core, the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry. . .") and Maine Potato Council v. United States, 613 F. Supp. 1237, 1243 (Ct. Int'l Trade 1985) (in which the Court declined to issue a further remand even though the ITC determination refers to whether or not imports were a "material cause" of the domestic industry's injury).

Accordingly, for purposes of this preliminary investigation Vice Chairman Watson has decided to adhere to the standard articulated by Congress in the legislative history of the pertinent provisions, which states that the Commission must satisfy itself that, in light of all the information presented, there is a "sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249 at 75.

<sup>108</sup> Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. Many, if not most domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at (continued...)

reasons discussed below, we find that there is a reasonable indication that the domestic PEC tool and PES tool industries are materially injured by reason of allegedly LTFV imports from Japan.

#### A. PEC Tools Industry

While imports of PEC tools from Japan declined slightly both in terms of quantity and value from 1989 to 1991 (to be expected during a recession), these imports accounted for a large percentage of domestic consumption throughout the period of investigation.<sup>109</sup> Further, the subject imports' share of apparent U.S. consumption increased, both in quantity and value, each year during the period of investigation.<sup>110</sup> We find the increasing share of domestic consumption accounted for by the subject imports to be an important factor in our preliminary affirmative determination.

The Commission requested pricing information from U.S. producers and importers for two PEC tools -- reciprocating saws and circular saws.<sup>111</sup> The prices of the Japanese reciprocating saws were lower than the prices for the domestic product in every quarter during the period of investigation.<sup>112</sup> Further, the degree of underselling generally increased over the period of

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<sup>108</sup>(...continued)

74; H.R. Rep. No. 317 at 47. The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the allegedly LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987).

<sup>109</sup> Staff report at I-31, Table 20.

<sup>110</sup> Staff report at I-31, Table 20.

<sup>111</sup> Two products with detailed specifications were identified for pricing information because prices of PEC tools vary with the specific type of tool and features found on the individual models.

<sup>112</sup> Staff report at I-36, Table 22.

investigation.<sup>113</sup> Prices for U.S. reciprocating saws increased modestly during the period of investigation. Prices of Japanese circular saws were higher than those of the U.S. product at the beginning of the period of investigation. However, there was a consistent pattern of underselling for the five quarters beginning with January-March 1991.<sup>114</sup> Further, while the prices of both domestic and Japanese circular saws increased over the period of investigation, the rate of increase for the subject imports was extremely low.<sup>115 116</sup>

The Commission received lost sales and lost revenue allegations from the domestic industry that the Commission attempted to confirm. A number of major purchasers, contacted by the staff, confirmed that the domestic industry lost sales and revenue because of lower prices offered on the subject imports.<sup>117</sup>

<sup>118 119</sup> Thus, the market for PEC tools appears to be relatively price sensitive<sup>120</sup> and evidence of underselling tends to support petitioner's

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<sup>113</sup> Staff report at I-36.

<sup>114</sup> Staff report at I-37, Table 23.

<sup>115</sup> Staff report at I-37.

<sup>116</sup> Commissioner Brunsdale notes that evidence of underselling is not very probative in cases, like this one, where one cannot simply assume that non-price factors distinguishing the dumped from the domestic product are trivial. All producers of the tools in question make several different models with different features, some of which are marketed in different ways. Moreover, the margins of underselling are calculated based on the largest sale of a particular tool during an entire calendar quarter. She concludes that most of the comparisons are therefore probably skewed by the much higher volume per sale of many of the Japanese transactions examined.

<sup>117</sup> Staff report at I-40 - I-41.

<sup>118</sup> Commissioner Brunsdale notes that the best evidence available at this point (though it is little more than petitioner's allegation) is that Japanese PECs are being dumped in a range of 49.95 to 129.84 percent. Even if buyers of PECs were not especially price sensitive, this level of dumping could not but materially injure the domestic PEC industry when the Japanese market share is as large as it is.

<sup>119</sup> Commissioners Brunsdale and Crawford not rely on anecdotal evidence showing that competition from the imports caused domestic producers to lose particular sales or forced them to reduce their prices on other sales.

<sup>120</sup> See discussion supra pp. 22 and 23.

allegation of price suppression.

The information of record in this preliminary investigation, particularly the pattern of underselling and the significant and increasing share of apparent U.S. consumption held by PEC tools from Japan, reasonably indicates that allegedly dumped imports of PEC tools from Japan have had a materially adverse effect on domestic prices and on the sales and revenues of the domestic industry.<sup>121</sup>

#### B. PES Tools Industry

The volume of subject imports of PES tools is significant, despite fluctuations in quantity, value and market share during the period. While imports of PES tools from Japan declined slightly in terms of quantity and value from 1989 to 1991, these imports increased significantly between interim periods.<sup>122</sup> Further, subject imports as a share of U.S. apparent consumption by value remained at a fairly high level over the period of investigation.<sup>123</sup> The overall large share of consumption accounted for by the subject imports is an important factor in our preliminary affirmative determination.

The Commission requested pricing information from U.S. producers and importers for two PES tools -- angle grinders and belt sanders.<sup>124</sup> There was

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<sup>121</sup> Having determined that the domestic industry is materially injured, Commissioner Rohr determines that the allegedly LTFV imports from Japan are a cause of that injury.

<sup>122</sup> Staff report at I-30, Table 19. We note that some share of the decline in imports of PES tools from Japan may be related to increases in domestic production by a related party. For example, Makita stated: "... exports by Makita Corporation of electric power tools to the U.S. were held to their 1989 levels. . . . Under this program, increases in the U.S. demand since 1988 have been and will continue to be filled by the production at Buford, Georgia. . ." Tr. at 93.

<sup>123</sup> Staff report at I-32, Table 21.

<sup>124</sup> Again, two products with detailed specifications were identified for pricing information because prices of PES tools vary with the specific type of tool and features found on the individual models.



consistent underselling by the Japanese angle grinders for every quarter during the period of investigation.<sup>125</sup> Further, the margins of underselling were extremely high over the period of investigation.<sup>126</sup> Although prices for U.S. angle grinders fluctuated, there was an overall decrease over the period of investigation. Prices of Japanese belt sanders were lower than those of the U.S. products for every quarter throughout the period of investigation.<sup>127</sup> Further, the margins of underselling were high.<sup>128</sup> Prices of U.S. belt sanders increased significantly more slowly than the prices of the Japanese products.

Evidence of underselling and price declines suggests the presence of price suppression and depression caused by the subject imports.<sup>129</sup> Further, the Commission confirmed that the domestic industry appears to have lost sales and revenue because of lower prices offered by the subject imports.<sup>130 131</sup>

The information of record in this preliminary investigation,

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<sup>125</sup> Staff report at I-38, Table 24.

<sup>126</sup> Staff report at I-38, Table 24.

<sup>127</sup> Staff report at I-38, Table 25.

<sup>128</sup> Staff report at I-38, Table 25.

<sup>129</sup> Commissioner Brunsdale notes that evidence of underselling is not very probative in cases, like this one, where one cannot simply assume that non-price factors distinguishing the dumped from the domestic product are trivial. All producers of the tools in question make several different models with different features, some of which are marketed in different ways. Moreover, the margins of underselling are calculated based on the largest sale of a particular tool during an entire calendar quarter. Most of the comparisons are therefore probably skewed by the much higher volume per sale of many of the Japanese transactions examined.

<sup>130</sup> As with PECs, Commissioner Brunsdale notes that the best evidence available at this point (though it is little more than petitioner's allegation) is that Japanese PESs are being dumped in a range of 71.43 to 149.60 percent. Even if buyers of PESs were not especially price sensitive, this level of dumping could not but materially injure the domestic PES industry when the Japanese market share is as large as it is.

<sup>131</sup> Commissioners Brunsdale and Crawford do not rely on anecdotal evidence showing that competition from the imports caused domestic producers to lose particular sales or forced them to reduce their prices on other sales.

particularly the pattern of underselling and the large share of apparent U.S. consumption held by PES tools from Japan, reasonably indicates that allegedly dumped imports of PES tools from Japan have had an adverse effect on domestic prices and on the sales and revenues of the domestic industry.<sup>132</sup>

#### CONCLUSION

For all the reasons set forth above, we determine that there is a reasonable indication that the domestic PEC tools industry and the domestic PES tools industry are materially injured by reason of the subject imports from Japan.

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<sup>132</sup> Having determined that the domestic industry is materially injured, Commissioner Rohr determines that the allegedly LTFV imports from Japan are a cause of that injury.

**INFORMATION OBTAINED IN THE INVESTIGATION**



## INTRODUCTION

On May 29, 1992, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by The Black & Decker Corp., Towson, MD, alleging that imports of professional electric cutting tools and professional electric sanding/grinding tools from Japan are being sold in the United States at less than fair value (LTFV) and that an industry in the United States is materially injured and threatened with material injury by reason of such imports. Accordingly, effective May 29, 1992, the Commission instituted antidumping investigation No. 731-TA-571 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on June 5, 1992 (57 F.R. 24059).<sup>1</sup> The public conference was held in Washington, DC, on June 19, 1992,<sup>2</sup> and the vote was held on July 8. Professional electric cutting and sanding/grinding tools, as a whole, have not been the subject of any other investigation conducted by the Commission. Nibblers, a type of professional electric cutting tool, were the subject of a Commission preliminary antidumping investigation involving imports from Switzerland in 1980 (Inv. No. 731-TA-35, USITC publication 1108).

## NATURE AND EXTENT OF THE ALLEGED SALES AT LTFV

There is no information relating to the nature and extent of the alleged LTFV sales other than the allegations of the petitioner. The petitioner identified three producers in Japan--Makita Corp. (Makita), Hitachi Koki Co. Ltd. (Hitachi), and Ryobi, Ltd. (Ryobi)--that manufacture and export the subject products to the United States. All are alleged to be selling at LTFV; however, the petitioner only provided alleged LTFV sales information for Makita, which accounts for over \*\*\* percent of the total subject imports. On the basis of home-market and U.S.-distributor price lists effective October 1, 1991, for nine professional electric cutting tools and four professional electric sanding/grinding tools, the petitioner calculated average dumping margins of 97.94 percent and 112.19 percent, respectively.

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<sup>1</sup> Copies of the Commission's and Commerce's notices of institution are shown in app. A.

<sup>2</sup> A list of participants at the conference is presented in app. B.

## THE PRODUCT

## Description and Uses

The petitioner identifies two products that are the subject of its complaint and Commerce's scope of investigation:<sup>3</sup> professional electric cutting tools (PEC tools) and professional electric sanding/grinding tools (PES tools), which are two classes of professional electric hand tools in general. Both classes are designed for professional and/or industrial capability (as opposed to exclusively non-professional use, such as for the home or hobbies); both are electrically powered, corded or cordless; and both, with two exceptions, are hand held, i.e., wholly held and moved by hand while in use. PEC tools are primarily distinguished from PES tools and other classes of professional electric hand tools by removable blades that, when activated by the motor and directed by the operator, can cut various materials in various ways. The principal types, and the types to which the petitioner has principally directed, but not limited,<sup>4</sup> its complaint are circular saws (saws with a circular blade), worm drive and hypoid saws (similar to circular saws, but with the motor fixed at an angle, rather than parallel, to the blade), jig saws (saws with a straight blade), reciprocating saws (similar to jig saws, but with the motor fixed parallel, rather than at a right angle, to the blade), planers, routers, joiners, angle cutters, shears, nibblers, and miter saws and cut-off saws. Because miter saws and cut-off saws are designed to rest on a table top, work bench, or other elevated surface while in use, they are not hand held in the same sense as the other tools subject to the petitioner's complaint. However, the apparatus containing the functional part of these tools, i.e., the saw blade, must be held and moved by hand during operation. (Miter saws are designed to cut pieces of lumber crosswise at various angles by resting the lumber horizontally on the saw's body and then drawing the saw blade down and through a cross section; cut-off saws function similarly for relatively small widths of steel bar, rod, and other types of materials). PES tools are primarily distinguished from other classes of professional electric hand tools by removable abrasive surfaces that, when actuated by the motor and directed by the operator, can remove and/or refinish undesirable surfaces from various materials. (Sanders are primarily used for wood; grinders are primarily used for metals). The principal types, and the types to which the petitioner has principally directed, but not limited, its complaint, are disc sanders, belt sanders, finishing sanders, orbital sanders (similar to finishing sanders but with a rotating motion of the abrasive surface), angle sanders, polishers, disc grinders, angle grinders, straight grinders, and die grinders.

Several parts for PEC and PES tools, including the primary functioning part, may be removed and individually purchased and replaced. A sizable

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<sup>3</sup> For the actual language of Commerce's scope, refer to its notice of initiation in app. A. The description that follows is consistent with both Commerce's scope and the products complained of by the petitioner.

<sup>4</sup> Although the petitioner feels that the following list is reasonably comprehensive, it recognizes that there may be disagreements with respect to tool nomenclature and does not wish an otherwise named or renamed PEC or PES tool to escape inclusion in any future dumping order.

number of accessories for these tools are also separately available. Only parts and accessories sold with the original equipment, however, are complained of by the petitioner--including any tools in unassembled or disassembled condition.<sup>5</sup> A third major class of professional electric hand tools, drilling/fastening tools (PED tools)--distinguished by a primary functional part that bores, screws, or hammers into various materials--is excluded from the petitioner's complaint.

A more or less complete line of both U.S.- and Japanese-produced PEC and PES tools is available in the United States.<sup>6</sup> Although there are differences in design, construction, and features available from one manufacturer's tool to another, they are all designed to perform similar, if not identical, functions.

For most every type of electric hand tool designed for professional and/or industrial use there is a similarly functioning tool designed, and priced, for non-professional and/or home use. Although the distinction between these two product lines is widely accepted in the industry, the actual differences vary from one tool type to another. In general the professional/industrial tools are designed to withstand harsher treatment, perform under more extreme conditions, and operate more or less continuously--in short, to be more durable. To this end they are generally housed in heavier gauge steel or compound materials, powered by higher amperage and more overload-tolerant motors, have heavier and more wear-resistant bearings, and are equipped with a thicker-jacketed power cord of special rubber to resist abrasion and retain flexibility during cold weather.<sup>7</sup> The result is that the professional/industrial tool is assembled from different components that are fabricated on different equipment and may be several times the price of the corresponding consumer/home-use tool at the retail level. Despite the price and physical distinctions, both classes of tools are widely available to professionals and non-professionals alike. While it is probably true that virtually every employee and other person making a living with power hand tools uses the professional variety tool, it is not true, nor is it expected,

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<sup>5</sup> An unassembled or disassembled tool consists of parts, packaged together, for a complete tool.

<sup>6</sup> Hitachi reports that two of the cutting tools it imports--a slide compound miter saw and another with a 15-inch blade--are not produced in the United States. The slide compound miter saw is made so that its blade can not only be drawn down and through a section of lumber but also across the section, like a circular saw, permitting it to perform the function of two tools. As most miter saws are made to accommodate a blade of 12 inches or less in diameter, the Hitachi model, with its 15-inch blade, is able to cut through somewhat larger sections of wood.

<sup>7</sup> Any tool used by the employees of a firm, such as PEC and PES tools, must meet the safety requirements of the Occupational Safety & Health Administration (OSHA), and most such tools sold in the United States are packaged with some notice, whether on the box or in the instructional material, that they meet and/or exceed OSHA requirements. Depending on the manufacturer and tool type, non-professional electric hand tools may also meet OSHA safety requirements, though notice of this fact is rarely provided.

that the hobbyist, home do-it-your-selfer, or other user for non-professional purposes will invariably use the consumer variety. In fact a large number of PEC and PES tools are purchased for non-professional use. (For more information on the market and use of these tools see the section of this report entitled "U.S. Market and Channels of Distribution").

To produce PEC and PES tools, major components (such as motor, housing, gears, and bearings) are first manufactured and then assembled into a complete unit. Virtually all motors and housings are produced in-house; gears, bearings, and smaller components may also be imported, acquired from domestic affiliates, or purchased from other U.S. producers. Much of the equipment used to produce the major components, particularly the motor, is specific to professional electric hand tools, i.e., to PEC, PES, and PED production, though not exclusively to one or the other. Other resources, including assembly facilities and workers, can be readily shifted to produce consumer electric hand tools, certain other electric tools and devices, and parts and accessories for all kinds.

#### U.S. Tariff Treatment

PEC tools and PES tools, other than miter saws and cut-off saws, are provided for in subheadings 8508.20.00 and 8508.80.00 of the Harmonized Tariff Schedule of the United States (HTS), subheadings that apply to electric cutting and/or sanding/grinding hand tools irrespective of professional or consumer design. The column 1-general (most-favored-nation) rate of duty for these subheadings, applicable to imports from Japan, is 2.2 percent ad valorem. Miter saws and cut-off saws are provided for in HTS subheadings 8465.91.00 (with a duty rate applicable to Japan of 3 percent ad valorem) and 8461.50.00 (with a duty rate applicable to Japan of 4.4 percent ad valorem), respectively.

#### U.S. PRODUCERS

At least nine firms produce one or more types of PEC and/or PES tools in the United States, including two of the Japanese producers cited by the petitioner. Their identities, plant locations, and shares of U.S. PEC and PES tool shipments in January 1989-March 1992 (by value) are shown in table 1. Although each of these firms provides a more or less complete line of PEC and PES tools to the market, they differ significantly in the extent to which they produce these tools domestically. All import (or have affiliates that import) the subject products to one degree or another from various countries. Their shipments of U.S.-produced PEC and PES tools as a share of their total shipments of U.S. production and imports combined, and the countries from which they imported these tools in January 1989-March 1992 are shown in table 2. All claim to serve the entire U.S. market, and no single producer is predominant.

Makita of America and Ryobi Motor Products/Ryobi Electric are owned by Makita's and Ryobi's U.S. importing affiliates, respectively, and nearly all of their production is transferred to these affiliates for marketing and distribution. Their respective shares of U.S. shipments, and other references



Table 1

PEC tools and PES tools: U.S. producers, plant locations, and respective shares of U.S. shipments of domestic production (by value), by firms, January 1989-March 1992

Firm	Plant location(s)	Share (percent) of value of U.S. PEC tool shipments	Share (percent) of value of U.S. PES tool shipments
The Black & Decker Corp.	Easton, MD Fayetteville, NC		
Makita Corp. of America <sup>1</sup>	Buford, GA		
Milwaukee Electric Tool Corp. <sup>2</sup>	Brookfield, WI Blytheville, AR Jackson, MS Pewaukee, WI		
Porter-Cable Corp. <sup>2</sup>	Jackson, TN		
Robert Bosch Power Tool Corp. <sup>2</sup>	New Bern, NC	*	*
Ryobi Motor Products Corp. and Ryobi Electric Tool Manufacturing Corp. <sup>3</sup>	Anderson, SC Pickens, SC	*	*
Skil Corp. <sup>2</sup>	Heber Springs, AR Walnut Ridge, AR	*	*
All other <sup>4</sup>	Sioux City, IA Le Mars, IA Littlestown, PA	*	*

<sup>1</sup> Owned by Makita's importing affiliate in the United States and transfers the bulk of its production thereto. Its share of total U.S. shipments of domestic production is based on the value of these company transfers. Opposes petition.

<sup>2</sup> \*\*\*.

<sup>3</sup> Owned by Ryobi's importing affiliate in the United States and transfer the bulk of their production thereto. Their share of total U.S. shipments of domestic production is based on the value of these company transfers. Oppose petition.

<sup>4</sup> Sioux Tools, Inc., Sioux City, IA (with an additional plant in Le Mars, IA) and Keystone Manufacturing Co., Littlestown, PA.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 2

PEC tools and PES tools: Respective shares (percent) of each U.S. producer's total shipments (by value) that were U.S.-produced, and respective countries imported from, January 1989-March 1992

Firm	PEC tools		PES tools	
	Share (percent) of total ship- ments that was U.S.-produced	Country(s) imported from	Share (percent) of total ship- ments that was U.S.-produced	Country(s) imported from
Bosch				
Black & Decker				
Makita of America <sup>1</sup>				
Milwaukee Electric				
Porter-Cable	*	*	*	*
Ryobi Motor Products <sup>1</sup> and Ryobi Electric <sup>1</sup>				
Skil				
All others				

<sup>1</sup> Importing operations, in addition to the selling and distribution of most of the firm's production, are handled by the firm's importing affiliate.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

to their shipments throughout the remainder of this report, are based on the quantity and value of these company transfers.

Three producers--Black & Decker, Ryobi Motor Products, and Skil--supply corresponding lines of consumer tools to the U.S. market;<sup>8</sup> however, as with their professional lines, they differ in the extent to which they import and/or produce these items in the United States. Other products produced in the establishments in which PEC and/or PES tools are produced include PED tools, non-professional electric hand tools, other types of electric tools and devices, and parts and accessories for all types.

<sup>8</sup> Although Makita's tools are comparable to the professional lines of other producers, they are not marketed as "professional" or "industrial" by the company.

## U.S. IMPORTERS

U.S. affiliates of Makita, Hitachi, and Ryobi--Makita USA, Inc., La Mirada, CA; Hitachi Power Tools USA, Ltd., Tarrytown, NY; and Ryobi America Corp., Anderson, SC--are by far the largest importers of PEC and PES tools from Japan. Little or no value is added to the imported product. Unlike Hitachi USA, Makita USA and Ryobi America have affiliated firms in the United States that produce certain types of the subject products. The amount and type of imports are coordinated with their respective affiliate's production.

## U.S. MARKET AND CHANNELS OF DISTRIBUTION

The market for PEC and PES tools--exceeding \$450 million annually--consists of (1) a large number and wide array of institutional buyers, both large and small, such as manufacturing companies, construction firms, and public maintenance departments of all levels of government, and (2) a large number of individual buyers that purchase such tools for both professional and non-professional use. For large institutional buyers, PEC and PES tools are available from industrial and construction supply wholesalers, served by the manufacturers, or from the manufacturers directly. Smaller institutional buyers and individual users can purchase such tools from hardware stores, lumber yards, and home-improvement centers, also served by the manufacturer (or the manufacturer's agent) or by the same industrial and construction supply wholesalers that serve the larger institutional users. Similar non-professional tools are also available at these outlets, supplied by the manufacturer in much the same way as are professional tools; however, virtually none is purchased by institutions or by individuals for professional use. The market for non-professional tools consists almost entirely of individual users buying for hobbies or home maintenance; and, although manufacturers ship a large number of these tools to outlets where professional tools are also available, an equal or larger number are shipped to mass-merchandise and catalog stores, such as Sears and K-Mart, that generally do not serve the professional market.

## CONSIDERATION OF THE ALLEGED MATERIAL INJURY

The data in the following sections represent over 99 percent of PEC-tool and PES-tool production in the United States in January 1989-March 1992, the period for which the data were collected and presented. The types of PEC and PES tools produced in the United States, and the relative quantities of those types (product mix) vary greatly from producer to producer. Although most producers report that their product mix has for the most part remained constant throughout the period for which the data are presented, sales of certain types may nevertheless have increased at relatively faster rates. According to several sources, for example, miter saws and cordless products have become increasingly popular in recent periods. In any case caution should be exercised in evaluating the quantities reported in the following sections. Because of the likelihood of product mix changes and the wide range of values of the various types of PEC and PES tools, unit values have not been presented. Trends in the aggregate data are mixed for 1989-91; for January-March 1991-January-March 1992 there is much evidence of improvement, albeit

modest. Most of the trends in the data for individual firms reflect those for the aggregate.

Selected data related to the alleged material injury are summarized in appendix C.

### U.S. Production, Capacity, Capacity Utilization, Shipments, and Inventories

Data on aggregate U.S. producers' PEC-tool operations are shown in table. The data show that the number of PEC-tool units produced decreased by 14 percent from 1989 to 1991 and then increased by 4 percent from January-March 1991 to January-March 1992.

Table 3

PEC tools: U.S. production, average practical capacity, capacity utilization, company transfers, domestic shipments, exports, and end-of-period inventories, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Production (1,000 units).....	1,875	1,685	1,604	420	435
Capacity <sup>1</sup> (1,000 units).....	3,318	3,270	3,279	813	829
Ratio of production to capacity (percent).....	56.5	51.5	48.9	51.6	52.5
Transfer shipments:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Domestic shipments:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Exports:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Total shipments:					
Quantity (1,000 units).....	1,892	1,723	1,625	376	393
Value <sup>2</sup> (1,000 dollars).....	198,536	193,307	182,917	41,744	46,688
Inventories (1,000 units)....	246	208	188	262	230
Ratio of inventories to total shipments during the period (percent).....	13.0	12.1	11.6	17.4 <sup>3</sup>	14.6 <sup>3</sup>

<sup>1</sup> The basis on which individual firms calculated capacity ranged from operating plant facilities 40 hours (one shift) to 120 hours (three shifts) per week, 48 to 50 weeks per year.

<sup>2</sup> Net sales value, i.e., gross value less all discounts, allowances, rebates, and the value of returned goods.

<sup>3</sup> Annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

1991 to January-March 1992. Capacity changed somewhat throughout the period; however, this largely reflected a reallocation of existing resources to other products, not permanent additions or retirements of machinery, equipment, or labor. Because the reported changes in capacity lagged somewhat behind changes in production, capacity utilization trended downward from 1989 to 1991. The trend in shipments--except exports, which are small relative to total shipments--reflects that for production. Inventories fell throughout the period.

Data on aggregate U.S. producers' PES-tool operations are shown in table 4. Unlike PEC tools, production and most other indicators rose in 1989-91 as well as in January-March 1991-January-March 1992. In most cases, however, the rise was irregular. U.S. producers reported no losses in either PEC- or PES-tool

Table 4

PES tools: U.S. production, average practical capacity, capacity utilization, company transfers, domestic shipments, exports, and end-of-period inventories, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Production (1,000 units).....	1,166	1,388	1,380	330	377
Capacity <sup>1</sup> (1,000 units).....	1,783	2,246	2,109	516	563
Ratio of production to capacity (percent).....	65.4	61.8	65.4	63.9	67.1
Transfer shipments:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Domestic shipments:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Exports:					
Quantity (1,000 units).....	***	***	***	***	***
Value <sup>2</sup> (1,000 dollars).....	***	***	***	***	***
Total shipments:					
Quantity (1,000 units).....	1,157	1,350	1,393	329	342
Value <sup>2</sup> (1,000 dollars).....	75,515	86,359	84,691	19,449	21,670
Inventories (1,000 units)....	102	140	128	139	157
Ratio of inventories to total shipments during the period (percent).....	8.8	10.4	9.2	10.6 <sup>3</sup>	11.5 <sup>3</sup>

<sup>1</sup> The basis on which individual firms calculated capacity ranged from operating plant facilities 40 hours (one shift) to 120 hours (three shifts) per week, 48 to 50 weeks per year.

<sup>2</sup> Net sales value, i.e., gross value less all discounts, allowances, rebates, and the value of returned goods.

<sup>3</sup> Annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

production due to employment-related problems; sourcing problems, transitions, power shortages; natural disasters, or any other unusual circumstances.

As stated previously, Makita of America and Ryobi Motor Products/Ryobi Electric are owned by the respective importing affiliates of Makita and Ryobi and tranship thereto the bulk of their production for sale and distribution. Makita of America and Ryobi Motor Products/Ryobi Electric accounted for about \*\*\* percent of U.S. PEC-tool production and about \*\*\* percent of U.S. PES-tool production in January 1989-March 1992. Tables 3 and 4, excluding these firms, are replicated in appendix D.

### Employment

Employment data for PEC-tool and PES-tool production are shown in tables 5 and 6, respectively. While the average number of PEC-tool workers declined throughout the period, the average number of PES-tool workers increased. The changes reflect more of a reallocation of the work forces within the plants than a permanent displacement of workers. Workers may be shifted from product to product, and the average number of workers reported by each firm was calculated on the basis of the actual amount of time they devoted to the subject products. For both PEC and PES tools, hourly compensation and productivity, in terms of value of total shipments per hour worked, trended upward. Tables 5 and 6, excluding Makita of America and Ryobi Motor Products/Ryobi Electric, are replicated in appendix D. The trends in the data without these firms are not greatly affected.

### Financial Experience of U.S. Producers

All of the major U.S. producers provided usable financial data.<sup>9</sup> As indicated previously, Makita of America and Ryobi Motor Products/Ryobi Electric tranship the bulk of their production to their respective importing affiliates for sale and distribution. (During the period for which the data were collected, \*\*\* of Makita of America's production was transhipped to Makita USA; approximately \*\*\* percent of Ryobi Motor Products/Ryobi Electric's PEC-tool production and approximately \*\*\* percent of its PES-tool production

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<sup>9</sup> Black & Decker, Bosch, Milwaukee Electric, Porter-Cable, and Ryobi's plants have fiscal yearends of Dec. 31. Skil's fiscal yearend is Sept. 30.

Makita of America currently has a fiscal yearend of Mar. 31. Its yearend of Jan. 31, 1990 is included in 1989, Mar. 31, 1991 is included in 1990, and Mar. 31, 1992 is included in 1991. The different yearends for Makita of America are due to a change in fiscal years.

Milwaukee Electric provided income-and-loss data for six months ended Dec. 31, 1989 for the year of 1989 because of a change in its fiscal yearend. Those data were annualized for this report.

Skil stated in the questionnaire response that it was unable to determine depreciation for the cash flow computation for PEC and PES tools because all products produced used the same equipment. For this report, the Commission staff estimated depreciation using the same ratio to cost of goods sold for PEC and PES tools as for overall establishment operations.

Table 5

PEC tools: Average number of U.S. production and related workers and hours worked by and compensation paid to such workers, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Average number of production and related workers producing PEC tools.....	1,308	1,126	1,074	1,152	1,132
Hours worked by production and related workers producing PEC tools (1,000 hours).....	2,947	2,482	2,214	595	579
Value of total shipments per hour worked.....	\$67.03	\$77.45	\$82.43	\$70.92	\$80.28
Total compensation paid to production and related workers producing PEC tools (1,000 dollars).....	32,871	32,361	30,158	8,572	8,997
Hourly compensation paid to production and related workers producing PEC tools	\$11.15	\$13.04	\$13.62	\$14.41	\$15.54

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 6

PES tools: Average number of U.S. production and related workers and hours worked by and compensation paid to such workers, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Average number of production and related workers producing PES tools.....	414	414	431	403	418
Hours worked by production and related workers producing PES tools (1,000 hours).....	889	889	849	201	227
Value of total shipments per hour worked.....	\$84.33	\$97.78	\$99.49	\$96.43	\$95.17
Total compensation paid to production and related workers producing PES tools (1,000 dollars).....	10,823	11,804	11,744	2,843	3,268
Hourly compensation paid to production and related workers producing PES tools	\$12.17	\$13.28	\$13.83	\$14.14	\$14.40

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

was transhipped to Ryobi America). Although these companies provided usable financial data, as did the other producers, their data do not include the selling, general, and administrative expenses incurred by the related companies in marketing their products.<sup>10</sup> For this reason their data are presented separately from the other producers in the tables listing each company. It should also be noted that Black & Decker exports to foreign affiliates<sup>11</sup> at a value equal to \*\*\*. Exports to these affiliates in 1991 were approximately \*\*\* percent of the net sales value for PEC tools and approximately \*\*\* percent of the net sales value for PES tools.

### Operations on PEC Tools

The income-and-loss experience of the U.S. producers on their PEC-tool operations is presented in table 7. Net sales decreased by 2.7 percent from \$196.0 million in 1989 to \$190.7 million in 1990. In 1991, sales were \$180.5 million, representing a decline of 5.4 percent from 1990 sales. Operating income was \$2.5 million in 1989, \$4.6 million in 1990, and \$2.0 million in 1991. Operating income margins, as a ratio to net sales, were 1.3 percent in 1989, 2.4 percent in 1990, and 1.1 percent in 1991. In interim 1992, net sales were \$46.0 million, up by 11.7 percent from interim 1991 sales of \$41.2 million. The operating income (loss) was \$(1.3 million) in interim 1991 and \$237,000 in interim 1992. Operating income (loss) margins were (3.2) percent in interim 1991 and 0.5 percent in interim 1992.

Net sales declined in each comparative period except interim 1992. Cost of goods sold was relatively constant throughout the periods, fluctuating between approximately 75 and 79 percent of net sales. Selling, general, and administrative expenses also remained relatively constant, between approximately 21 percent and approximately 24 percent, with the highest percentages occurring in the interim periods. The average operating income (loss) margins, as a percent of sales, were weak in all periods, exceeding 2 percent only in 1990. The combined companies reported high interest expenses in relation to operating income, which converted operating income in 1989, 1990, 1991, and interim 1992 to net losses and contributed to a larger net loss in interim 1991.

Selected income-and-loss data of U.S. producers' PEC-tool operations, by company,<sup>12</sup> are presented in table 8. The net sales trend and the trend for the operating income (loss) margins remain the same with and without Ryobi's plants. \*\*\* of the six companies incurred decreased net sales in 1991 compared to 1990. \*\*\*.

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<sup>10</sup> \*\*\*.

<sup>11</sup> \*\*\*.

<sup>12</sup> Makita did not produce PEC tools during the investigation period.



Table 7

Income-and-loss experience of U.S. producers on their operations producing PEC tools, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan. -Mar. -	
				1991	1992
Value (1,000 dollars)					
Net sales.....	195,966	190,728	180,479	41,194	46,023
Cost of goods sold.....	152,861	145,585	139,259	32,563	34,872
Gross profit.....	43,105	45,143	41,220	8,631	11,151
Selling, general, and administrative expenses...	40,621	40,532	39,235	9,940	10,914
Operating income or (loss)...	2,484	4,611	1,985	(1,309)	237
Start-up expense.....	***	0	0	0	0
Interest expense.....	7,418	6,458	4,926	1,328	1,225
Other income (expense), net.	***	(566)	(326)	36	52
Net income or (loss) before income taxes.....	(5,861)	(2,413)	(3,267)	(2,601)	(936)
Depreciation and amorti- zation included above.....	5,393	5,783	6,924	1,514	1,897
Cash flow <sup>1</sup> .....	(468)	3,370	3,657	(1,087)	961
Share of net sales (percent)					
Cost of goods sold.....	78.0	76.3	77.2	79.0	75.8
Gross profit.....	22.0	23.7	22.8	21.0	24.2
Selling, general, and administrative expenses...	20.7	21.3	21.7	24.1	23.7
Operating income or (loss)...	1.3	2.4	1.1	(3.2)	0.5
Net income or (loss) before income taxes.....	(3.0)	(1.3)	(1.8)	(6.3)	(2.0)
Number of firms reporting					
Operating losses.....	3	3	3	***	2
Net losses.....	3	3	3	***	2
Data.....	6	6	6	6	6

<sup>1</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 8

Income-and-loss experience of U.S. producers on their operations producing PEC tools, by firms, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
	Value (1,000 dollars)				
Net sales:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....	*	*	*	*	*
Porter-Cable.....					
Skil.....					
Subtotal.....					
Ryobi's plants.....					
Total.....	195,966	190,728	180,479	41,194	46,023
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....	*	*	*	*	*
Porter-Cable.....					
Skil.....					
Subtotal.....					
Ryobi's plants.....					
Total.....	2,484	4,611	1,985	(1,309)	237
	Ratio to net sales (percent)				
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....	*	*	*	*	*
Porter-Cable.....					
Skil.....					
Average.....					
Ryobi's plants.....					
Average.....	1.3	2.4	1.1	(3.2)	0.5

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The value added (not including selling, general, and administrative expenses) to the material cost by the producers for PEC tools is shown in the following tabulation for 1991 (in thousands of dollars, except as noted):

\* \* \* \* \*

The value added ranged from \*\*\* percent for \*\*\* to \*\*\* percent for \*\*\*.

## Operations on PES Tools

The income-and-loss experience of the U.S. producers on their PES tool operations is presented in table 9. Net sales increased by 13.6 percent from \$75.1 million in 1989 to \$85.3 million in 1990. In 1991, sales were \$84.2 million, representing a decline of 1.3 percent from 1990 sales. Operating income was \$3.0 million in 1989, \$5.9 million in 1990, and \$4.5 million in 1991. Operating income margins, as a ratio to net sales, were 4.0 percent in 1989, 6.9 percent in 1990, and 5.4 percent in 1991. In interim 1992, net sales were \$21.5 million, up by 11.5 percent from interim 1991 sales of \$19.3 million. The operating income was \$348,000 in interim 1991 and \$1.5 million in interim 1992. Operating income margins were 1.8 percent in interim 1991 and 6.8 percent in interim 1992.

Net sales increased in each comparative period except 1991. Cost of goods sold, as a share of net sales, ranged from approximately 70 to 77 percent, with the highest percentages in the periods of lowest net sales (1989 and interim 1991). Selling, general, and administrative expenses remained relatively constant, between approximately 21 and 23 percent, with the highest percentages occurring in the interim periods. The average operating income margins, as a percent of sales, were higher than those for PEC tools in each period, ranging from approximately 2 to 7 percent.<sup>13</sup> The combined companies reported high interest expenses related to operating income, which resulted in much lower net incomes in each period.

Selected income-and-loss data of the U.S. producers on their operations producing PES tools, by company, are presented in table 10. The net sales trend and the trend for the operating income (loss) margins remain the same with and without Makita of America and Ryobi's plants. Three of the seven companies incurred decreased net sales in 1991 compared to 1990. Four of the seven companies realized increased net sales in interim 1992 when compared with interim 1991. \*\*\*.

The value added (not including selling, general, and administrative expenses) to the material cost by the producers for PES tools is shown in the following tabulation for 1991 (in thousands of dollars, except as noted):

\*            \*            \*            \*            \*            \*            \*

The value added ranged from \*\*\* percent for \*\*\* to \*\*\* percent for \*\*\*.

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<sup>13</sup> According to Natalie Shields, Tax & Trade Counsel for Black & Decker, the operating income margins for PEC tools are lower than those for PES tools because of greater downward price pressures on the former.

Table 9

Income-and-loss experience of U.S. producers on their operations producing PES tools, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan. -Mar. --	
				1991	1992
Value (1,000 dollars)					
Net sales.....	75,118	85,304	84,223	19,257	21,470
Cost of goods sold.....	56,363	61,688	62,276	14,769	15,137
Gross profit.....	18,755	23,616	21,947	4,488	6,333
Selling, general, and administrative expenses...	15,785	17,714	17,413	4,140	4,869
Operating income.....	2,970	5,902	4,534	348	1,464
Start-up expense.....	***	0	0	0	0
Interest expense.....	3,357	3,249	2,702	718	638
Other income (expense), net.	***	(58)	219	77	108
Net income or (loss) before income taxes.....	(539)	2,595	2,051	(293)	934
Depreciation and amorti- zation included above.....	2,224	2,640	3,177	761	727
Cash flow <sup>1</sup> .....	1,685	5,235	5,228	468	1,661
Share of net sales (percent)					
Cost of goods sold.....	75.0	72.3	73.9	76.7	70.5
Gross profit.....	25.0	27.7	26.1	23.3	29.5
Selling, general, and administrative expenses...	21.0	20.8	20.7	21.5	22.7
Operating income.....	4.0	6.9	5.4	1.8	6.8
Net income or (loss) before income taxes.....	(0.7)	3.0	2.4	(1.5)	4.4
Number of firms reporting					
Operating losses.....	3	2	2	4	***
Net losses.....	4	2	3	5	***
Data.....	7	7	7	7	7

<sup>1</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 10

Income-and-loss experience of U.S. producers on their operations producing PES tools, by firms, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
Value (1,000 dollars)					
Net sales:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Subtotal.....					
Makita of America.....					
Ryobi's plants.....					
Subtotal.....					
Total.....	75,118	85,304	84,223	19,257	21,470
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Subtotal.....					
Makita of America.....					
Ryobi's plants.....					
Subtotal.....					
Total.....	2,970	5,902	4,534	348	1,464
Ratio to net sales (percent)					
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Average.....					
Makita of America.....					
Ryobi's plants.....					
Average.....					
Average.....	4.0	6.9	5.4	1.8	6.8

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

### Operations on PEC and PES tools

The income-and-loss experience of the U.S. producers on their PEC and PES tool operations combined is presented in table 11. Net sales increased by 1.8 percent from \$271.1 million in 1989 to \$276.0 million in 1990. In 1991, sales were \$264.7 million, representing a decline of 4.1 percent from 1990 sales. Operating income was \$5.5 million in 1989, \$10.5 million in 1990, and \$6.5 million in 1991. Operating income margins, as a ratio to net sales, were 2.0 percent in 1989, 3.8 percent in 1990, and 2.5 percent in 1991. In interim 1992, net sales were \$67.5 million, up by 11.6 percent from interim 1991 sales of \$60.5 million. The operating income (loss) was \$(961,000) in interim 1991 and \$1.7 million in interim 1992. Operating income (loss) margins were (1.6) percent in interim 1991 and 2.5 percent in interim 1992.

High interest expenses in relation to operating incomes for the combined companies contributed to low net incomes or net losses. The interest expenses reported by the companies for PEC and PES tools are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>Jan.-Mar.--</u>	
				<u>1991</u>	<u>1992</u>
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Subtotal.....					
Makita of America.....					
Ryobi's plants.....					
Subtotal.....					
Total.....	10,775	9,707	7,628	2,046	1,863
	*	*	*	*	*

Selected income-and-loss data of the U.S. producers on their operations producing PEC and PES tools combined, by company, are presented in table 12. The net sales trend and the trend for the operating income (loss) margins are similar with and without Makita of America and Ryobi's plants. Five of the seven companies incurred decreased net sales in 1991 compared to 1990. Six of the seven companies realized increased net sales in interim 1992 when compared with interim 1991.

### Research and Development

Research and development expenses of the seven producers for PEC and PES tools are shown in table 13. Research and development expenses for PEC and PES tools increased from 1989 to 1990 and from 1990 to 1991, and also increased in the 1992 interim period when compared to the 1991 interim period.

Table 11

Income-and-loss experience of U.S. producers on their operations producing PEC and PES tools combined, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
Value (1,000 dollars)					
Net sales.....	271,084	276,032	264,702	60,451	67,493
Cost of goods sold.....	209,224	207,273	201,535	47,332	50,009
Gross profit.....	61,860	68,759	63,167	13,119	17,484
Selling, general, and administrative expenses...	56,406	58,246	56,648	14,080	15,783
Operating income or (loss)...	5,454	10,513	6,519	(961)	1,701
Start-up expense.....	***	0	0	0	0
Interest expense.....	10,775	9,707	7,628	2,046	1,863
Other income (expense), net.	***	(624)	(107)	113	160
Net income or (loss) before income taxes.....	(6,400)	182	(1,216)	(2,894)	(2)
Depreciation and amorti- zation included above.....	7,617	8,423	10,101	2,275	2,624
Cash flow <sup>1</sup> .....	1,217	8,605	8,885	(619)	2,622
Share of net sales (percent)					
Cost of goods sold.....	77.2	75.1	76.1	78.3	74.1
Gross profit.....	22.8	24.9	23.9	21.7	25.9
Selling, general, and administrative expenses...	20.8	21.1	21.4	23.3	23.4
Operating income or (loss)...	2.0	3.8	2.5	(1.6)	2.5
Net income or (loss) before income taxes.....	(2.4)	0.1	(0.5)	(4.8)	(2)
Number of firms reporting					
Operating losses.....	4	3	3	5	2
Net losses.....	4	3	4	5	2
Data.....	7	7	7	7	7

<sup>1</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

<sup>2</sup> Loss of less than 0.05 percent.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 12

Income-and-loss experience of U.S. producers on their operations producing PEC and PES tools combined, by firms, fiscal years 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
Value (1.000 dollars)					
Net sales:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Subtotal.....					
Makita of America.....					
Ryobi's plants.....					
Subtotal.....					
Total.....	271,084	276,032	264,702	60,451	67,493
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Subtotal.....					
Makita of America.....					
Ryobi's plants.....					
Subtotal.....					
Total.....	5,454	10,513	6,519	(961)	1,701
Ratio to net sales (percent)					
Operating income:					
Black & Decker.....					
Bosch.....					
Milwaukee Electric.....					
Porter-Cable.....	*	*	*	*	*
Skil.....					
Average.....					
Makita of America.....					
Ryobi's plants.....					
Average.....					
Average.....	2.0	3.8	2.5	(1.6)	2.5

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.



Table 13

Research and development expenses of U.S. producers, fiscal years 1989-91, January-March 1991, and January-March 1992

(In thousands of dollars)					
Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
PEC tools.....	4,068	4,609	5,745	1,369	1,516
PES tools.....	2,352	2,394	2,810	684	802
PEC and PES tools.....	6,420	7,003	8,555	2,053	2,318

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### Investment in Productive Facilities

The investment in property, plant, and equipment and return on investment for six of the reporting producers (\*\*\*) are shown in table 14. The operating return and net return on PES tools is much higher than the returns on PEC tools in each year.

#### Capital Expenditures

Capital expenditures by six U.S. producers are shown in table 15. \*\*\*. Capital expenditures increased each year for both PEC and PES tools. Capital expenditures for PEC tools increased in the 1992 interim period compared with the 1991 interim period; however, capital expenditures decreased for PES tools during the same period.

#### Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PEC and/or PES tools from Japan on their firm's growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of PEC and/or PES tools). The producers' responses are presented in appendix E.

Table 14

Assets of U.S. producers<sup>1</sup> as of the end of fiscal years 1989-91, March 31, 1991, and March 31, 1992

Item	As of the end of fiscal year--			As of Mar. 31--	
	1989	1990	1991	1991	1992
<b>Assets (1,000 dollars)</b>					
PEC tools:					
Fixed assets:					
Original cost.....	61,515	69,370	80,304	73,433	77,760
Book value.....	34,684	38,531	41,656	41,623	40,913
Total assets <sup>2</sup> .....	121,185	121,012	125,119	117,986	129,208
PES tools:					
Fixed assets:					
Original cost.....	28,965	34,097	38,279	34,382	36,136
Book value.....	17,232	18,682	20,040	18,921	18,498
Total assets <sup>2</sup> .....	49,039	52,345	49,244	48,064	46,474
PEC and PES tools:					
Fixed assets:					
Original cost.....	90,480	103,467	118,583	107,815	113,896
Book value.....	51,916	57,213	61,696	60,544	59,411
Total assets <sup>3</sup> .....	170,224	173,357	174,363	166,050	175,682
<b>Return on total assets (percent)</b>					
PEC tools:					
Operating return <sup>4</sup> .....	(0.7)	1.3	(1.3)	( <sup>5</sup> )	( <sup>5</sup> )
Net return <sup>6</sup> .....	(7.2)	(4.1)	(5.2)	( <sup>5</sup> )	( <sup>5</sup> )
PES tools:					
Operating return <sup>4</sup> .....	5.2	10.8	8.6	( <sup>5</sup> )	( <sup>5</sup> )
Net return <sup>6</sup> .....	(1.9)	4.6	3.8	( <sup>5</sup> )	( <sup>5</sup> )
PEC and PES tools:					
Operating return <sup>4</sup> .....	1.0	4.2	1.5	( <sup>5</sup> )	( <sup>5</sup> )
Net return <sup>6</sup> .....	(5.7)	(1.4)	(2.7)	( <sup>5</sup> )	( <sup>5</sup> )

<sup>1</sup> The producers are \*\*\*.

<sup>2</sup> Defined as book value of fixed assets plus current and noncurrent assets.

<sup>3</sup> Total establishment assets are apportioned, by firm, to product groups on the basis of the ratios of the respective book values of fixed assets.

<sup>4</sup> Defined as operating income or (loss) divided by segment total assets.

<sup>5</sup> Not applicable.

<sup>6</sup> Defined as net income or (loss) divided by segment total assets.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 15

Capital expenditures by U.S. producers,<sup>1</sup> fiscal years 1989-91, January-March 1991, and January-March 1992

(In thousands of dollars)					
Item	1989	1990	1991	Jan.-Mar.--	
				1991	1992
PEC tools.....	4,925	7,877	8,479	1,450	1,605
PES tools.....	2,946	3,233	4,867	689	349
PEC and PES tools.....	7,871	11,110	13,346	2,139	1,954

<sup>1</sup> The producers are \*\*\*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### CONSIDERATION OF THE ALLEGED THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors<sup>14</sup>--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (Particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement).

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

<sup>14</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and,

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>15</sup>

Available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between the Alleged LTFV Imports and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in appendix E. Available information on U.S. inventories of the subject product (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); and any other threat indicators, if applicable (item (VII) above), is discussed below.

Because the quantities of PEC and PES tools manufactured are largely based on projected demand, maintaining adequate inventories is important to

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<sup>15</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. 1677(7)(F)(iii)) further provides that, in antidumping investigations, "...the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

importers and U.S. producers alike. End-of-period inventories of PEC and PES tools imported from Japan are shown in the following tabulation (in 1,000 units):

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>Jan.-Mar.--</u>	
				<u>1991</u>	<u>1992</u>
PEC tools.....	***	***	***	***	***
PES tools.....	***	***	***	***	***

The data show a noticeable decline in PEC-tool inventories and a noticeable increase in PES-tool inventories between January-March 1991 and January-March 1992.

Makita, Hitachi, and Ryobi account for the overwhelming bulk of PEC and PES tools exported to the United States from Japan.<sup>16</sup> Their aggregate production, capacity, and shipments of these products are shown in tables 16 and 17, respectively. Production and capacity for both PEC and PES tools increased throughout the period for which the data were collected, although it is not known whether the increases in capacity were the result of shifts in product mix or new and/or redesigned plant and equipment. For both PEC-tool and PES-tool production, capacity utilization was consistently above \*\*\* percent. It should be noted, however, that all three firms reported capacity on the basis of one-shift operations (40 hours per week); U.S. producers reported capacity on the basis of up to three-shift operations (120 hours per week). Shipments for the three firms also increased, and exports of both products were substantial--amounting to about \*\*\* of total shipments of these products, respectively. As a share of total shipments, moreover, exports increased throughout the period. As a share of total exports, exports to the United States declined somewhat from 1989 to 1991, but increased from January-March 1991 to January-March 1992 and remained at substantial levels throughout, as shown in tables 16 and 17.

\*\*\*. To the extent that much of the labor and equipment used in the production of PEC and PES tools is easily shifted from one product to another, there is always the potential for large quantities of the subject product to be produced on relatively short notice; however, it is not known what other products are being produced in these plants or their relative importance to the future of the firms.

In 1980 Canada issued a dumping order on Japanese-produced circular saws and sander/grinders. The order was rescinded in 1984. So far as it is known, there are no extant dumping orders on PEC or PES tools made in Japan.

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<sup>16</sup> Other producers that export to the United States from Japan include Matsushita Electric Works, Shindaiwa, Kosoku, and Shibaura.

Table 16

PEC tools: Makita's, Hitachi's, and Ryobi's production, capacity, and shipments, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Production (1,000 units).....					
Capacity <sup>1</sup> (1,000 units).....					
Capacity utilization (percent).....					
Shipments:					
Home market (1,000 units)..					
Exports to--					
United States (1,000 units).....					
All others (1,000 units)..	*	*	*	*	*
Total exports (1,000 units).....					
Total shipments (1,000 units).....					
Ratio of exports to total shipments (percent).....					
Share of total exports exported to the United States (percent).....					

<sup>1</sup> The capacity reported is based on operating 40 hours per week, 48-52 weeks per year.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 17

PES tools: Makita's, Hitachi's, and Ryobi's production, capacity, and shipments, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	January-March--	
				1991	1992
Production (1,000 units).....					
Capacity <sup>1</sup> (1,000 units).....					
Capacity utilization (percent).....					
Shipments:					
Home market (1,000 units)...					
Exports to--					
United States (1,000 units).....					
All others (1,000 units).	*	*	*	*	*
Total exports (1,000 units).....					
Total shipments (1,000 units).....					
Ratio of exports to total shipments (percent).....					
Share of total exports exported to the United States (percent).....					

<sup>1</sup> The capacity reported is based on operating 40 hours per week, 48-52 weeks per year.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED LTFV IMPORTS AND THE ALLEGED MATERIAL INJURY

##### Imports

Japan is by far the predominant source of U.S. imports of the subject products (tables 18 and 19). Large quantities are also imported from Switzerland, Italy, Germany, Taiwan, and Korea. Imports from Japan, reflecting the overall trend for imports, declined somewhat from 1989 to 1991, albeit irregularly, but then increased from January-March 1991 to January-March 1992. The increase in PES-tool imports from Japan in this period is particularly noticeable, although most of the increase was for inventory. Domestic shipments of imports from Japan are shown in the following tabulation:

	1989	1990	1991	Jan.-Mar.-- 1991	1992
PEC tools:					
Quantity (1,000 units).....	***	***	***	***	***
Value (1,000 dollars).....	***	***	***	***	***
PES tools:					
Quantity (1,000 units).....	***	***	***	***	***
Value (1,000 dollars).....	***	***	***	***	***

Table 18

PEC tools: U.S. imports, by sources, 1989-91, January-March 1991, and January-March 1992

	<u>January-March--</u>				
<u>Source</u>	1989	1990	1991	1991	1992
	<u>Quantity (1,000 units)</u>				
Japan.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	1,098	1,215	985	275	284
	<u>Value, landed, duty-paid (1,000 dollars)</u>				
Japan.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	120,099	128,896	114,385	33,301	31,970

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 19

PES tools: U.S. imports, by sources, 1989-91, January-March 1991, and January-March 1992

	<u>January-March--</u>				
<u>Source</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1991</u>	<u>1992</u>
	<u>Quantity (1,000 units)</u>				
Japan.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	940	958	937	221	352
	<u>Value, landed, duty-paid (1,000 dollars)</u>				
Japan.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	68,298	61,913	67,748	16,463	21,043

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### U.S. Consumption and Market Penetration

From 1989 to 1991, apparent U.S. consumption of PEC tools declined by 13 percent in terms of quantity (6 percent by value) (table 20). Most sources agree that the decline was due in large part to the decline in commercial and residential construction. The consumption of PES tools, however, increased by



Table 20

PEC tools: Apparent U.S. consumption and ratio of domestic shipments of imports to consumption, 1989-91, January-March 1991, and January-March 1992

(Quantity in 1,000 units; value in 1,000 dollars)						
Period	Domestic shipments of U.S. production <sup>1</sup>	Domestic shipments of imports	Apparent U.S. consumption	Ratio (percent) of domestic shipments of imports to consumption		
				For Japan	For all others	Total
Quantity						
1989.....	1,744	1,082	2,826	***	***	38.3
1990.....	1,558	1,106	2,664	***	***	41.5
1991.....	1,395	1,069	2,464	***	***	43.4
Jan.-Mar.--						
1991.....	316	232	548	***	***	42.3
1992.....	334	234	568	***	***	41.2
Value <sup>2</sup>						
1989.....	186,150	144,566	330,716	***	***	43.7
1990.....	178,860	149,905	328,765	***	***	45.6
1991.....	163,013	147,522	310,535	***	***	47.5
Jan.-Mar.--						
1991.....	36,175	32,541	68,716	***	***	47.3
1992.....	41,454	35,030	76,484	***	***	45.8

<sup>1</sup> Including company transfers.

<sup>2</sup> F.o.b. U.S. shipping point.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

8 percent (5 percent by value) in this period (table 21). In both cases consumption increased markedly from January-March 1991 to January-March 1992.

Shipments of Japanese PEC-tool imports accounted for a large and increasing share of U.S. consumption throughout the period for which data were collected, as shown in table 20. Except from January-March 1991 to January-March 1992, U.S. producers' share declined. In the case of PES tools, the opposite trends are evident (table 21). While imports' share of U.S. consumption declined somewhat, U.S. producers' share increased. The share of imports from Japan nevertheless remained at high levels.

Table 21

PES tools: Apparent U.S. consumption and ratio of domestic shipments of imports to consumption, 1989-91, January-March 1991, and January-March 1992

(Quantity in 1,000 units; value in 1,000 dollars)						
Period	Domestic shipments of U.S. production <sup>1</sup>	Domestic shipments of imports	Apparent U.S. consumption	Ratio (percent) of domestic shipments of imports to consumption		
				For Japan	For all others	Total
Quantity						
1989.....	1,090	905	1,995	***	***	45.4
1990.....	1,270	929	2,199	***	***	42.2
1991.....	1,239	912	2,151	***	***	42.4
Jan. -Mar. --						
1991.....	283	205	488	***	***	42.0
1992.....	304	218	522	***	***	41.8
Value <sup>2</sup>						
1989.....	71,710	70,358	142,068	***	***	49.5
1990.....	81,714	70,899	152,613	***	***	46.5
1991.....	76,673	72,456	149,129	***	***	48.6
Jan. -Mar. --						
1991.....	17,343	15,601	32,944	***	***	47.4
1992.....	19,569	17,788	37,357	***	***	47.6

<sup>1</sup> Including company transfers.

<sup>2</sup> F.o.b. U.S. shipping point.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

### Prices

#### Marketing Considerations

Producers' and importers' prices of PEC and PES tools vary with the specific type or family of tool and the features found on the individual model. In general, tools having more powerful motors, more durable frames or shells, and of larger working capacity (e.g., blade size, sanding belt surface, or grinding surface) are more expensive. Other features that may increase the price include accessories, protective containers, or similar items.

The PEC and PES tools normally are sold by the producers or importers through a distributor network or through large hardware or industrial outlets. The term "authorized stocking distributor" is used by several suppliers to refer to their network of distributors. In their literature, several firms use language similar to that of Milwaukee to describe the role of these firms:

Milwaukee Electric Tools are sold through Authorized Stocking Distributors appointed on a market oriented basis to obtain adequate coverage of various trades and industries for whom we make tools. Stocking Distributors are defined as responsible firms selected by the Company who will carry a sufficient stock of tools and accessories, both quantity and assortment, to service their type of trade in their area and who actively promote and sell the Milwaukee line.<sup>17</sup>

These distributors, in turn, sell the subject handtools to hardware, industrial supply, or other retail outlets serving the various trades or consumer market.

In recent years, the growth of home centers as a retail outlet serving both professional builders and consumers has added a second major channel for sales of the subject handtools. While traditional distributors often mix small numbers of several tools in a given purchase in order to qualify for volume discounts, the buying power of large chains allows them to make large purchases of each tool, often numbering in the thousands. As described below, quantity discounts are universal among suppliers, allowing these large outlets to benefit from purchase prices often lower than those to all but the largest of the traditional distributors.

Each of the U.S. producers and importers publishes price lists and discount schedules for use by their distributors and downstream retail outlets. In general, these schedules provide the recommended retail price<sup>18</sup> for each tool and accessory, and enumerate the discounts available for the purchase of various quantities of tools. While the exact terms may vary among suppliers, it is typical for these discounts to be applicable to the total quantity of tools purchased regardless of the specific mix of items included. Testimony at the conference indicated that these discounts are granted to all approved distributors, whether a traditional distributor or a large-volume home center.

The basic discount to a distributor is generally 30 percent below the recommended retail price. Other discounts may be applied as larger quantities of tools are purchased. For example, Black & Decker grants an additional 10-percent discount for sales between 10 and 49 tools, 15 percent up to 99 tools, and 20 percent for 100 and above. Makita, on the other hand, offers discounts of 30 percent plus 10 percent for quantities between 1 and 49, and increases the add-on discount to 25 percent for quantities over 250 tools.

In addition to published discounts, each producer and importer provides to distributors occasional promotional and advertising support, rebates, financial incentives, or other benefits and, through them, benefits may be

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<sup>17</sup> Milwaukee Electric Tool Corp., Distributor price list-discount schedule, DPL-41.

<sup>18</sup> The retail price recommended by the supplier is explicitly used as a guide for distributor pricing and as a benchmark from which to measure other discounts. The supplier cannot require that subsequent sales be made at the recommended price.

offered at the retail levels.<sup>19</sup> Special promotional pricing may be available for individual tools or across product lines. In early 1992, Milwaukee announced a 6-month program offering a straight 50-percent discount across all product lines to any distributor meeting certain conditions, including the purchase of at least 250 tools.<sup>20</sup> Similar programs have been offered by other producers and importers. Typically these programs offer reduced thresholds to attain increased discounts, e.g., 100-unit price discounts for purchases of only 50 units. Black & Decker introduced a program in mid-1991 offering free goods, cash and prize rewards, and similar incentives in combination with lowered discount thresholds. Other programs have included freight allowances, more flexible payment terms, and similar incentives for the distributors to increase sales at slightly higher profit margins.

In addition to incentives that reduce net costs to distributors, suppliers generally provide financial assistance for advertising by distributors on a local level. While there are variations among suppliers' co-operative advertising programs, eligible advertising generally may be in either print media or radio and must feature the supplier's product prominently; the advertising often includes information regarding local dealers. Inclusion of products from other manufacturers may make the advertisement ineligible for reimbursement or may reduce the level of reimbursement to the distributor. Suppliers typically limit the total level of reimbursement for this kind of advertising to 2 percent of the distributor's net purchases during the relevant period, and the amount rebated for each advertisement varies from 50 percent to 100 percent of the approved costs.<sup>21</sup>

Freight for the delivery of the subject handtools from the suppliers' distribution centers to distributors is generally arranged by the supplier, and transportation costs are between 1 and 3 percent of the delivered cost. Suppliers were divided as to whether these costs have an important effect on their sales to distributors.<sup>22</sup> Nevertheless, while all producers and suppliers reported that prices are quoted f.o.b. warehouse (or other distribution center), each has the policy of prepaying the freight charges on sales exceeding a certain net value, generally in the range of \$1,000-\$1,500. The time necessary for delivery to the purchaser varies significantly among suppliers. Porter-Cable reported that shipments are made in \*\*\* after receipt

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<sup>19</sup> Distributors may or may not elect to pass the benefits of these programs through to retailers and to consumers.

<sup>20</sup> The standard discount available for similar purchases, 30 percent plus 20 percent, is the equivalent of a 44-percent discount from list.

<sup>21</sup> The reimbursement of costs under these cooperative advertising programs need not directly affect the distributors' resale price. Ryobi's cooperative advertisement program literature, for example, specifically states that "in accordance with FTC guidelines, co-op payments can not be deducted from invoices." The goal, however, is apparently to increase sales for the retailers served by each distributor, allowing the distributor to benefit from increased volume discounts, which may subsequently permit lower prices.

<sup>22</sup> \*\*\* indicated that transportation costs are an important factor in the customers' purchasing decision. \*\*\* indicated otherwise.

of an order (although actual delivery may take longer). Milwaukee, Hitachi, and Makita reported delivery in \*\*\*. At the other extreme, Ryobi reported delivery in \*\*\* and Skil reported delivery in \*\*\* after receipt of an order.

Payment terms are similar among suppliers. Typical is a 2-percent discount for payment within 10 days of billing, with the total due within 25-30 days. On occasion these terms have been made more flexible as an additional sales incentive for distributors.

#### U.S. Producers' and Importers' Prices

The Commission requested U.S. producers and importers to report net U.S. f.o.b. prices and transportation costs for sales of several PEC and PES tools to unrelated U.S. distributors, as well as the total quantity and value of each shipped in each quarter to all U.S. customers. The price data were requested for the largest single sale and for total sales of the products specified, by quarters, from January 1989 through March 1992. The products for which price data were requested are:

Product 1: Reciprocating saws: Approximately 4 to 6.5 amps, variable speed, 2,300 to 2,400 strokes per minute.

Product 2: Circular saws: Approximately 13 amps, 5,200 to 5,800 RPM, 7.25 inch blade, electric brake.

Product 3: Angle grinder: 4 inch disc, approximately 4.3 to 5 amps, 10,000 to 11,000 RPM.

Product 4: Belt sander: Belt size 4" by 24" or 4" by 22", approximately 8.5 to 10.5 amps, belt speed 1,100 to 1,500 feet per minute.

In each case, specific examples of tool models meeting the above descriptions were supplied and each supplier was requested to provide the data on those models if possible or on a competitive model meeting the general description.

Three U.S. producers and four importers provided usable price data in response to the questionnaire, although not necessarily for all products or all periods.<sup>23</sup> In some cases, the supplier has no product that meets the description for which data were requested and, in other cases, a U.S. producer's model is imported from a nonsubject country.<sup>24</sup> In addition, some respondents provided data on sales to traditional distributors while others included sales to large home centers. The prices to traditional distributors

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<sup>23</sup> \*\*\*.

<sup>24</sup> For example, Skil reported that, although it produces circular saws meeting most of the selection criteria, none is equipped with an electric brake; \*\*\*.

may be biased upwards somewhat because the quantity of tools in a sale to this group tends to be lower.<sup>25</sup>

The weighted-average f.o.b. price of both U.S.-produced and imported PEC and PES tools increased during the period for which data were collected, with the exception of U.S.-produced angle grinders. Reported prices of the selected U.S.-produced tools increased between \*\*\* percent and \*\*\* percent,<sup>26</sup> while prices of the Japanese tools increased between \*\*\* percent and \*\*\* percent. With the exception of circular saws in 1989-90, the weighted-average price of Japanese tools was consistently below that of the competing U.S. product.

### *Reciprocating saws*

Price data for sales of reciprocating saws were reported by three U.S. producers and three importers (table 22).<sup>27</sup> Weighted-average prices for U.S.-produced reciprocating saws increased from \*\*\* per unit to \*\*\* per unit (\*\*\* percent) during the period for which data were collected.<sup>28</sup> Weighted-average prices for reciprocating saws imported from Japan increased from \*\*\* per unit to \*\*\* per unit during the same period, although the average price dipped noticeably in the fourth quarter of each year.<sup>29</sup>

Table 22

Reciprocating saws: Weighted-average net f.o.b. prices for sales to distributors as reported by U.S. producers and importers, and margins of underselling, by quarters, January 1989-March 1992

Period	United States		Japan		
	Price	Quantity	Price	Quantity	Margin
	\$/unit	Units	\$/unit	Units	Percent
*            *	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The prices of Japanese reciprocating saws were consistently below those of U.S.-produced saws. The margins of underselling ranged from \*\*\* percent in two quarters of 1989 to \*\*\* percent in the fourth quarter of 1990, and showed a

<sup>25</sup> It is uncertain to what extent prices to traditional distributors are higher than those to large home centers because quantity discounts generally apply to mixed purchases of tools. While the number of a single model in a purchase might be small, it is possible that a sufficient total number of tools is included in a purchase to achieve the maximum discount.

<sup>26</sup> Prices of U.S.-produced angle grinders declined \*\*\* percent.

<sup>27</sup> \*\*\*.

<sup>28</sup> \*\*\*.

<sup>29</sup> \*\*\*.

generally increasing trend as the average U.S. prices increased at nearly twice the rate of the import prices.

### *Circular saws*

Price data for circular saws were reported by two U.S. producers and three importers of Japanese saws (table 23).<sup>30</sup> Weighted-average prices of U.S.-produced circular saws increased from \*\*\* in the first quarter of 1989 to \*\*\* in the first quarter of 1992, a \*\*\*-percent increase. Weighted-average prices of the Japanese saws increased \*\*\* percent from \*\*\* to \*\*\* per unit during the period for which data were collected, but for most of the period fluctuated between \*\*\* and \*\*\*.

Table 23

Circular saws: Weighted-average net f.o.b. prices for sales to distributors as reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, January 1989-March 1992

Period	United States		Japan		Margin
	Price	Quantity	Price	Quantity	
	<u>\$/unit</u>	<u>Units</u>	<u>\$/unit</u>	<u>Units</u>	<u>Percent</u>
*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The weighted-average prices of Japanese circular saws were lower than the average price of the U.S. product by margins between \*\*\* and \*\*\* percent in the 5 quarters beginning January-March 1991. During the 8 quarters from January 1989 through December 1990, importers' prices exceeded U.S. producers' prices for this product by margins ranging from \*\*\* percent to \*\*\* percent.<sup>31</sup>

### *Angle grinders*

A single U.S. producer and two importers reported prices of angle grinders (table 24).<sup>32</sup> Prices of the U.S. product fluctuated during the period for which data were collected, rising from \*\*\* per unit in early 1989 to \*\*\* per unit in the first quarter of 1991 and declining thereafter to \*\*\* in January-March 1992. Overall, U.S. prices declined by \*\*\* percent. The weighted-average price of angle grinders imported from Japan increased by \*\*\*

<sup>30</sup> \*\*\*.

<sup>31</sup> The respondent reporting the lowest prices, however, was a U.S. producer, \*\*\*.

<sup>32</sup> \*\*\*.

Table 24

Angle grinders: Weighted-average net f.o.b. prices for sales to distributors as reported by U.S. producers and importers, and margins of underselling, by quarters, January 1989-March 1992

Period	United States		Japan		
	Price	Quantity	Price	Quantity	Margin
	<u>\$/unit</u>	<u>Units</u>	<u>\$/unit</u>	<u>Units</u>	<u>Percent</u>
*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

percent over the period for which data were collected, from \*\*\* per unit in early 1989 to \*\*\* per unit in January-March 1992. The Japanese product consistently undersold the U.S. product; margins ranged from \*\*\* percent to \*\*\* percent.

#### ***Belt sanders***

One U.S. producer and four importers provided usable price data for sales of belt sanders to unrelated distributors (table 25).<sup>33</sup> The price of the U.S. product increased from \*\*\* per unit in early 1989 to \*\*\* in early 1992, an increase of \*\*\* percent. The weighted-average price of imports from Japan increased by \*\*\* percent from \*\*\* per unit in early 1989 to \*\*\* per unit in early 1992.<sup>34</sup> The average price of the Japanese product was consistently below the U.S. producer's price by margins ranging from \*\*\* percent to \*\*\* percent.

Table 25

Belt sanders: Weighted-average net f.o.b. prices for sales to distributors as reported by U.S. producers and importers, and margins of underselling, by quarters, January 1989-March 1992

Period	United States		Japan		
	Price	Quantity	Price	Quantity	Margin
	<u>\$/unit</u>	<u>Units</u>	<u>\$/unit</u>	<u>Units</u>	<u>Percent</u>
*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

<sup>33</sup> \*\*\*.

<sup>34</sup> \*\*\*.



## Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that during January 1989-March 1992 the nominal value of the Japanese yen fluctuated but ended the period at its initial January-March 1989 value (table 26).<sup>35</sup> Adjusted for movements in producer price indexes in the United States and Japan, the real value of the Japanese currency showed an overall depreciation of 1 percent relative to the dollar for the period January 1989 through March 1992.

Table 26

Exchange rates:<sup>1</sup> Indexes of nominal and real exchange rates of the Japanese yen, and indexes of producer prices in the United States and Japan,<sup>2</sup> by quarters, January 1989-March 1992

Period	U.S. producer price index	Japanese producer price index	Nominal exchange rate index	Real exchange rate index <sup>3</sup>
1989:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.8	102.6	93.0	93.8
July-September.....	101.4	103.5	90.3	92.1
October-December....	101.8	103.2	89.8	91.1
1990:				
January-March.....	103.3	103.7	86.8	87.2
April-June.....	103.1	104.5	82.7	83.9
July-September.....	104.9	104.5	88.4	88.1
October-December....	108.1	105.2	98.2	95.6
1991:				
January-March.....	105.9	105.3	96.0	95.5
April-June.....	104.8	104.8	92.9	92.9
July-September.....	104.7	104.5	93.6	93.5
October-December....	104.8	103.8	99.2	98.2
1992:				
January-March.....	104.6	103.5	100.0	99.0

<sup>1</sup> Exchange rates expressed in U.S. dollars per Japanese yen.

<sup>2</sup> Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.

<sup>3</sup> The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and Japan.

Note.--January-March 1989 = 100.

Source: International Monetary Fund, International Financial Statistics, May 1992.

<sup>35</sup> International Financial Statistics, May 1992.

### Lost Sales and Lost Revenues

Several firms responding to the Commission's request for examples of sales and revenues lost in competition with Japanese producers stated that documenting such instances is very difficult. \*\*\*, for example, stated that, "While competition from imports has resulted in lost revenues and sales, \*\*\* is unable to document specific losses. This is due to the fact that the business is not conducted on an open bid basis."<sup>36</sup> \*\*\* observed, similarly, that sales quotations are not made to specific accounts but that promotions are available to all qualified distributors and dealers. They therefore could not document specific lost revenues. \*\*\* claimed lost revenues in 1991 of \*\*\*, in 1990 of \*\*\*, and in 1989 of \*\*\*. \*\*\* also claimed lost sales in 1991 of \*\*\* for \*\*\* tools, and in 1990 of \*\*\* tools with a value of \*\*\*. \*\*\* made specific claims of lost revenues of \*\*\* in sales to two customers in 1991 involving sales of \*\*\* tools, and of \*\*\* involving sales of \*\*\* tools to one customer in 1990.

\*\*\*, a large home center catering to both consumers and the contractor trade, was named by \*\*\* in a lost sales allegation involving the 1990 purchase of \*\*\* reciprocating and \*\*\* circular saws with a total value of \*\*\*.

\*\*\*. \*\*\* carries approximately \*\*\* different models of power tools. \*\*\* stated that, although the quantities referred to in the allegation seemed to be about the proper size for a typical purchase, he could not recall any specific instances in which \*\*\* had purchased a Japanese product because of price in direct competition with a U.S. product.

\*\*\* noted that there is a difference between the more-expensive tools directed at a professional contractor and the less-expensive tools produced for the consumer, but the differences between one tool and another relatively close in price are often small, even if from the same manufacturer. \*\*\* stated that, as a retailer, he deliberately tries to blur the distinctions between the various levels of tools in order to move the buyer toward the higher-end products.

\*\*\* generally plans its purchases of power handtools to meet various price points and feature selections within the overall line of products. \*\*\* observed that his cost is always a consideration but is not, by far, the primary consideration. Special promotions also enter into purchase decisions in order for \*\*\* to give the best value to the consumer. Nevertheless, the firm recognizes that brand name recognition is an important consideration to its customers, and it often carries several different brands of similar tools at a given price point in order to meet customer preferences. An example given by \*\*\* was the reciprocating saw; the Sawzall made by Milwaukee is considered the clear leader in the marketplace, but \*\*\* also carries reciprocating saws from other manufacturers that are priced close to the Milwaukee product. Similarly, \*\*\* believes Makita has an excellent 7.25 inch circular saw but carries several other competing brands.

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<sup>36</sup> \*\*\* additionally noted that \*\*\*.

\*\*\* buyers negotiate with the various manufacturers both the price and quantity they expect to purchase from the various suppliers. Each store is then responsible for meeting its own needs from the blanket order. \*\*\* stated that all the manufacturers adhere to the discount schedules shown in their price sheets and to the other promotions available to all buyers meeting the specified requirements. \*\*\*.

\*\*\* was named by \*\*\* in a 1991 lost sale allegation involving \*\*\* angle grinders and \*\*\* chop saws with a total value of \*\*\*, and in 1989-90 lost revenue allegations amounting to \*\*\*. \*\*\*. It sells a wide variety of products directed toward home and farm buyers. \*\*\* carries consumer power tools made by \*\*\*, and PEC and PES tools manufactured by \*\*\*. \*\*\* stated that there is a definite difference between the consumer and professional tools carried by \*\*\*, and its advertising deliberately draws attention to professional tools when possible. \*\*\*.

\*\*\*. \*\*\* believes that Black & Decker makes a more powerful product and, although Makita's saw does not meet the same specifications, the latter is sufficient to meet most needs, and at a better price. \*\*\*. Customers preferred the Makita saw by a significant majority. In addition, the cost \*\*\*. \*\*\*. \*\*\* also observed that Milwaukee's reciprocating saw, the Sawzall, is the premier product in that niche, and \*\*\* has recently started carrying it despite the higher price.

\*\*\* said that \*\*\* has also changed its purchasing patterns regarding the angle grinders and chop saws mentioned in the allegations. He stated that the Black & Decker grinder is, again, a larger and heavier-duty tool than the Makita. His cost for the U.S. product was approximately \*\*\* compared with a lighter-duty Makita grinder priced at about \*\*\*. He viewed these as two complementary products and priced them for retail sale about \$20 apart. The Makita outsold the Black & Decker by a margin of \*\*\*. \*\*\* noted that the Makita product has led to increased overall sales. \*\*\* had previously sold about \*\*\* U.S. grinders and now sells about \*\*\* total, although \*\*\*. When the U.S. producer introduced a smaller grinder to compete with the Makita, \*\*\* tried unsuccessfully to market it; since his cost was \*\*\* higher than for the Makita, he dropped the line.

\*\*\* had similar experiences with the chop saw mentioned in the lost sales allegation. Originally he sold two different \*\*\* units at a cost difference of about \$60, one of which he considered a "starter" saw although it was listed in the catalog as a professional saw. The primary difference between these two units was the motor size and a cast iron (vs. as stamped steel) table. \*\*\* sold about \*\*\* of these saws annually with about \*\*\* percent of them being the less-expensive model. \*\*\* offered a saw similar to the higher-priced domestic saw except that the table was stamped steel and the cost was about \*\*\* less. \*\*\*.

Finally, \*\*\*. More recently he was informed that Black & Decker had done substantial research into the introduction of the DeWalt line of tools and, in 1992, this line was introduced. \*\*\* believes, however, that this \*\*\*. According to \*\*\*, \*\*\*, like many other retailers, cannot afford to carry multiple lines of competing tools.



**APPENDIX A**

**FEDERAL REGISTER NOTICES**



imports from Japan of certain tools of a type suitable for industrial or professional use,<sup>1</sup> that are alleged to be sold in the United States at less than fair value. The Commission must complete a preliminary antidumping investigation in 45 days, or in this case by July 13, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** May 29, 1992.

**FOR FURTHER INFORMATION CONTACT:** Larry Reavis (202-205-3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:**

**Background**

This investigation is being instituted in response to a petition filed on May 29, 1992, by the Black & Decker Corp., Towson, MD.

**Participation in the Investigation and Public Service List**

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives,

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**INTERNATIONAL TRADE COMMISSION**

(Investigation No. 731-TA-571  
(Preliminary))

**Professional Electric Cutting and Sanding/Grinding Tools From Japan**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of a preliminary antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-571 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of

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<sup>1</sup> For purposes of this investigation, such tools include the following types, provided for in the indicated subheadings of the Harmonized Tariff Schedule of the United States (HTS): New sawing or cutting-off machines, valued under \$3,025 each, of HTS subheading 0461.50.00; woodworking machines (except sawmill machines, radial arm saws, and table saws) valued under \$3,025 each, of HTS subheading 0465.91.00; electromechanical saws (except chain saws) for working in the hand with self-contained electric motor, of HTS subheading 8508.20.00; and electromechanical grinders, polishers, sanders, routers, planers, and other electromechanical tools (except screwdrivers, nut-runners, impact wrenches, grass and weed trimmers/edgers, electropneumatic rotary and percussion hammers, and electric scissors) for working in the hand with self-contained electric motor, of HTS subheading 8508.80.00.

who are parties to this investigation upon the expiration of the period for filing entries of appearance:

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List.**

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 18, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-205-3185) not later than June 18, 1992, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 24, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a

certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

**Issued:** June 2, 1992.

**By order of the Commission.**

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 92-13231 Filed 6-4-92; 8:45 am]

BILLING CODE 7070-02-M



**International Trade Administration****(A-588-823)****Initiation of Antidumping Duty Investigations; Professional Electric Cutting Tools and Professional Electric Sanding/Grinding Tools from Japan****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**EFFECTIVE DATE:** June 25, 1992.**FOR FURTHER INFORMATION CONTACT:** James Maeder, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4949.**INITIATION OF INVESTIGATIONS:****The Petition**

On May 29, 1992, we received a petition filed in proper form by Black & Decker (U.S.) Inc. (petitioner). In accordance with 19 CFR 353.12, the petitioner alleges that professional electric cutting tools (PECTs) and professional electric sanding/grinding tools (PESGTs) from Japan being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the products subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, the petition, it should file a written

notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

**Scope of Investigations**

Petitioner asserts that the products covered by these investigations comprise two classes or kinds of merchandise consisting of electric cutting tools and electric sanding/grinding tools of a type suitable for industrial or professional use, whether assembled or unassembled. PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, table saws, planers, routers, jointers, stationary saws, and metal cutting saws. PESGTs have moving abrasive surfaces used primarily for grinding, scraping, cleaning, deburring, and polishing wood, metal, and other materials. PESGTs include angle grinders, finishing sanders, disc sanders, orbital sanders, belt sanders, polishers, and straight/die grinders.

Petitioner asserts that electric power tools that are typically designated, advertised, and sold as being suitable for "professional", "heavy-duty", or "industrial" use are distinguishable from such tools designated for "home" or "consumer" use by their durability and ability to handle heavier workloads.

Given the lack of specificity in the scope definitions concerning this distinction, we are requesting all interested parties to comment on how the scope definitions might be clarified to more accurately describe professional electric power tools and also whether the subject merchandise constitutes more than two classes or kinds. Such comments should be submitted to the Department not later than August 31, 1992.

PECTs are classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 8508.80.00.55, and 8508.80.00.65. PESGTs are classifiable under the following subheadings of the HTS: 8508.80.00.10, 8508.80.00.15, 8508.80.00.25, 8508.80.00.35, and 8508.80.00.90.

These investigations do not cover professional electric drilling/fastening tools. They also do not cover chain saws

provided for under subheading 8508.20.40 of the HTS and other cutting and sanding/grinding tools such as planing, shaping, and splitting machines, provided for under subheadings 8461 and 8465 of the HTS, with the exception of those specifically identified within the above product definition.

Although the HTS subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive.

#### **United States Price and Foreign Market Value**

For both PECTs and PESGTs, petitioner bases its estimate of United States Price (USP) on Makita U.S.A., Inc.'s (Makita) U.S. distributor price list. Petitioner based USP on exporter's sales price because Makita sells the subject merchandise through its U.S. subsidiary. Petitioner adjusted USP, as appropriate, for discounts and rebates, foreign inland freight, foreign export and handling fees, ocean freight, marine insurance, import duties, U.S. customs fees, U.S. brokerage and handling, U.S. inland freight, credit, warranty expenses, advertising, technical services, royalties and licensing fees, and indirect selling expenses. We have adjusted the USP by adding the amount of Japanese value added tax (VAT) that would have been collected had the exported merchandise been taxed.

For both PECTs and PESGTs, petitioner bases its estimate of Foreign Market Value (FMV) on Makita's domestic wholesale price list. Petitioner adjusted FMV for discounts and rebates, credit, warranty expenses, indirect selling expenses, and differences in merchandise. Petitioner added U.S. packing to the price. In addition, we adjusted FMV by adding the theoretical amount of Japanese VAT that would have been paid on the U.S. merchandise had it been taxed.

The adjusted alleged dumping margins range from 49.95 to 129.84 percent for PECTs and 71.43 to 149.60 percent for PESGTs.

#### **Initiation of Investigations**

We have examined the petition on PECTs and PESGTs from Japan and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PECTs and PESGTs from Japan are being, or are likely to be, sold in the United States at less than fair value.

#### **ITC Notification**

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of this action and we have done so.

#### **Preliminary Determination by the ITC**

The ITC will determine by July 13, 1992, whether there is a reasonable indication that imports of PECTs and PESGTs from Japan are materially injuring, or threaten material injury to, a U.S. industry. Any ITC determination which is negative will result in the investigation being terminated; otherwise, the investigation will proceed to conclusion in accordance with the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 18, 1992.

Alan M. Dunn,  
Assistant Secretary for Import  
Administration.

[FR Doc. 92-14997 Filed 6-24-92; 6:45 am]

BILLING CODE 3510-06-M

**APPENDIX B**

**CALENDAR OF PUBLIC CONFERENCE**



CALENDAR OF PUBLIC CONFERENCE

Investigation No. 731-TA-571 (Preliminary)

Professional Electric Cutting and Sanding/Grinding Tools from Japan

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigation at 9:30 a.m. on June 19, 1992, in the Hearing Room (room 101) of the USITC Building, 500 E Street, SW, Washington, DC.

In support of the imposition of antidumping duties

Dorsey & Whitney--Counsel  
Washington, DC  
on behalf of

Black & Decker Corp.

Gary T. DiCamillo, President of U.S. Power Tools of Black and Decker  
Michael Golden, Vice President, Division Manager (Sales)  
Ronald S. Taylor, Vice President, Design Engineering  
Harry A. Pogash, Vice President, Taxes  
Natalie Shields, Tax and Trade Counsel  
Charles E. Fenton, Vice President and General Counsel

James Taylor, Jr., Esq.--OF COUNSEL  
Will E. Leonard, Esq.--OF COUNSEL  
Philippe M. Bruno, Esq.--OF COUNSEL

In opposition to the imposition of antidumping duties

Verner, Liipfert, Bernhard, McPherson and Hand  
Washington, DC  
on behalf of

Makita Corp., Makita Corporation of America, and Makita USA

Noriyasu Hattori, President, Makita USA  
Patrick J. Griffin, Vice President, Makita USA  
Timothy D. Donovan, Vice President, Makita Corporation of America  
Dr. Stephen D. Silberman, Economist, Microeconomic Consulting and  
Research Associates, Inc.  
Mark Aase, Esq., General Counsel, Makita USA

William A. Zeitler, Esq.--OF COUNSEL  
Douglas J. Colton, Esq.--OF COUNSEL  
Benjamin H. Flowe, Jr., Esq.--OF COUNSEL  
Kathleen Hatfield, Esq.--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

McDermott, Will & Emery  
Washington, DC  
on behalf of

Hitachi Koki Co., Ltd., and Hitachi Power Tools USA, Ltd.

James Albritton, National Sales Manager, Hitachi Power Tools, USA

Carl W. Schwarz, Esq.--OF COUNSEL

**APPENDIX C**

**SELECTED DATA RELATED TO THE ALLEGED MATERIAL INJURY  
AND THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED LTFV IMPORTS  
AND THE ALLEGED MATERIAL INJURY**





Table C-1

PEC tools: Summary data concerning the U.S. market, 1989-91, January-March 1991, and January-March 1992

Item	Reported data					Percentage change	
	1989	1990	1991	Jan.-Mar.		1989-91	Jan.-Mar. 1991-92
				1991	1992		
U.S. consumption <sup>1</sup> .....	2,826	2,664	2,464	548	568	-12.8	3.6
U.S. imports:							
Subject imports:							
Quantity <sup>1</sup> .....							
Share of consumption <sup>2</sup> ..							
Value <sup>3</sup> .....	*	*	*	*	*	*	*
Share of consumption <sup>2</sup> ..							
Ending inventories <sup>1</sup> .....							
Total imports:							
Quantity <sup>1</sup> .....	1,098	1,215	985	275	284	-10.3	3.3
Share of consumption <sup>2</sup> ..	38.3	41.5	43.4	42.3	41.2	5.1	-1.1
Value <sup>3</sup> .....	120,099	128,896	114,385	33,301	31,970	-4.5	-4.0
Share of consumption <sup>2</sup> ..	43.7	45.6	47.5	47.3	45.8	-1.4	-1.5
U.S. producers' --							
Average capacity <sup>1</sup> .....	3,318	3,270	3,279	813	829	-1.2	1.9
Production <sup>1</sup> .....	1,875	1,685	1,604	420	435	-14.5	3.6
Capacity utilization <sup>2</sup> .....	56.5	51.5	48.9	51.6	52.5	-7.6	0.9
Domestic shipments:							
Quantity <sup>1</sup> .....	***	***	***	***	***	***	***
Share of consumption <sup>2</sup> ..	***	***	***	***	***	***	***
Value <sup>3</sup> .....	***	***	***	***	***	***	***
Share of consumption <sup>2</sup> ..	***	***	***	***	***	***	***
Export shipments:							
Quantity <sup>1</sup> .....	***	***	***	***	***	***	***
Value <sup>3</sup> .....	***	***	***	***	***	***	***
Export/shipment ratio <sup>2</sup> ...	***	***	***	***	***	***	***
Ending inventories <sup>1</sup> .....	246	208	188	262	230	-23.6	-12.2
Inventory/shipment ratio <sup>2</sup> ..	13.0	12.1	11.6	17.4	14.6	-1.4	-2.8
Production workers.....	1,308	1,126	1,074	1,152	1,132	-17.9	-1.7
Hours worked (1,000s).....	2,947	2,482	2,214	595	579	-24.9	-2.7
Total compensation <sup>3</sup> .....	32,871	32,361	30,158	8,572	8,997	-8.3	5.0
Hourly compensation.....	\$11.15	\$13.04	\$13.62	\$14.41	\$15.54	22.2	7.8
Productivity <sup>4</sup> .....	\$67.38	\$77.88	\$82.62	\$70.16	\$80.64	22.6	14.9
Net sales <sup>3</sup> .....	195,966	190,728	180,479	41,194	46,023	-7.9	11.7
COGS/sales ratio <sup>2</sup> .....	78.0	76.3	77.2	79.0	75.8	-0.8	-3.2
Operating income <sup>3</sup> .....	2,484	4,611	1,985	(1,309)	237	-20.1	( <sup>5</sup> )
Op. income/sales ratio <sup>2</sup> ....	1.3	2.4	1.1	(3.2)	0.5	-0.2	3.7

<sup>1</sup> In 1,000 units. <sup>2</sup> In percent. <sup>3</sup> In 1,000 dollars.

<sup>4</sup> Value of total shipments per hour. <sup>5</sup> Calculation yields no meaningful number.

Note.--Figures shown for percentage changes of data expressed in the table as a percent (such as market shares) are percentage point changes.

Source: Compiled from data presented in the body of this report.

Table C-2

PES tools: Summary data concerning the U.S. market, 1989-91, January-March 1991, and January-March 1992

Item	Reported data					Percentage change	
	1989	1990	1991	Jan.-Mar.		1989-91	Jan.-Mar 1991-92
U.S. consumption <sup>1</sup> .....	1,995	2,199	2,151	488	522	7.8	7.0
U.S. imports:							
Subject imports:							
Quantity <sup>1</sup> .....							
Share of consumption <sup>2</sup> ..							
Value <sup>3</sup> .....	*	*	*	*	*	*	*
Share of consumption <sup>2</sup> ..							
Ending inventories <sup>1</sup> .....							
Total imports:							
Quantity <sup>1</sup> .....	940	958	937	221	352	-0.3	59.3
Share of consumption <sup>2</sup> ..	45.4	42.2	42.4	42.0	41.8	-3.0	-0.2
Value <sup>3</sup> .....	68,298	61,913	67,748	16,463	21,043	-0.8	27.8
Share of consumption <sup>2</sup> ..	49.5	46.5	48.6	47.4	47.6	-0.9	0.2
U.S. producers' --							
Average capacity <sup>1</sup> .....	1,783	2,246	2,109	516	563	18.3	9.2
Production <sup>1</sup> .....	1,166	1,388	1,380	330	377	18.4	14.2
Capacity utilization <sup>2</sup> .....	65.4	61.8	65.4	63.9	67.1	0	3.1
Domestic shipments:							
Quantity <sup>1</sup> .....	***	***	***	***	***	***	***
Share of consumption <sup>2</sup> ..	***	***	***	***	***	***	***
Value <sup>3</sup> .....	***	***	***	***	***	***	***
Share of consumption <sup>2</sup> ..	***	***	***	***	***	***	***
Export shipments:							
Quantity <sup>1</sup> .....	***	***	***	***	***	***	***
Value <sup>3</sup> .....	***	***	***	***	***	***	***
Export/shipment ratio <sup>2</sup> ...	***	***	***	***	***	***	***
Ending inventories <sup>1</sup> .....	102	140	128	139	157	25.5	12.9
Inventory/shipment ratio <sup>2</sup> ...	8.8	10.4	9.2	10.6	11.5	0.4	0.9
Production workers.....	414	414	431	403	418	4.1	3.7
Hours worked (1,000s).....	889	889	849	201	227	-4.5	12.9
Total compensation <sup>3</sup> .....	10,823	11,804	11,744	2,843	3,268	8.5	14.9
Hourly compensation.....	\$12.17	\$13.28	\$13.83	\$14.14	\$14.40	13.6	1.8
Productivity <sup>4</sup> .....	\$84.94	\$97.14	\$99.75	\$96.76	\$95.46	17.4	-1.3
Net sales <sup>3</sup> .....	75,118	85,304	84,223	19,257	21,470	12.1	11.5
COGS/sales ratio <sup>2</sup> .....	75.0	72.3	73.9	76.7	70.5	-1.1	-6.2
Operating income <sup>3</sup> .....	2,970	5,902	4,534	348	1,464	52.7	320.7
Op. income/sales ratio <sup>2</sup> ...	4.0	6.9	5.4	1.8	6.8	1.4	5.0

<sup>1</sup> In 1,000 units. <sup>2</sup> In percent. <sup>3</sup> In 1,000 dollars.

<sup>4</sup> Value of total shipments per hour.

Note.--Figures shown for percentage changes of data expressed in the table as a percent (such as market shares) are percentage point changes.

Source: Compiled from data presented in the body of this report.

Table C-3

PEC tools: Summary data concerning the U.S. market, excluding Ryobi Motor Products/Ryobi Electric (from U.S. producers' data only), 1989-91, January-March 1991, and January-March, 1992

Item	<u>Reported data</u>			<u>Jan.-Mar.</u>		<u>Percentage change</u>	
	1989	1990	1991	1991	1992	1989-91	1991-92
	*	*	*	*	*	*	*

Source: Compiled from data presented in the body of this report.

Table C-4

PES tools: Summary data concerning the U.S. market, excluding Makita of America and Ryobi Motor Products/Ryobi Electric (from U.S. producers' data only), 1989-91, January-March 1991, and January-March, 1992

Item	<u>Reported data</u>			<u>Jan.-Mar.</u>		<u>Percentage change</u>	
	1989	1990	1991	1991	1992	1989-91	1991-92
	*	*	*	*	*	*	*

Source: Compiled from data presented in the body of this report.

Table C-5

PES tools: Summary data concerning the U.S. market, excluding Makita of America (from U.S. producers' data only), 1989-91, January-March 1991, and January-March 1992

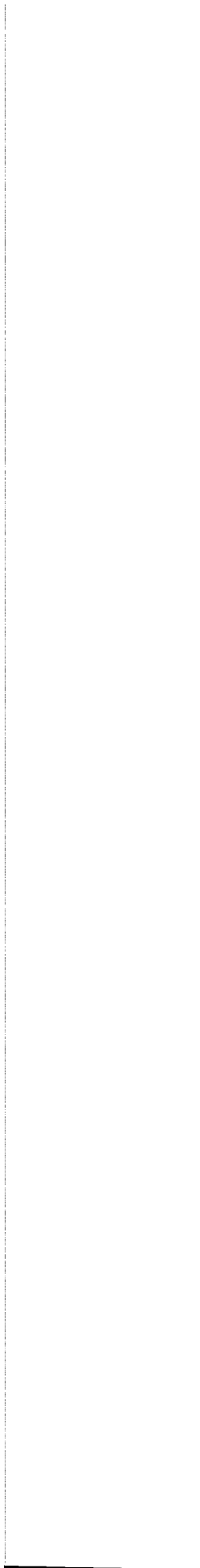
Item	<u>Reported data</u>			<u>Jan.-Mar.</u>		<u>Percentage change</u>	
	1989	1990	1991	1991	1992	1989-91	1991-92
	*	*	*	*	*	*	*

Source: Compiled from data presented in the body of this report.



APPENDIX D

PEC TOOLS AND PES TOOLS: U.S. PRODUCTION, CAPACITY, SHIPMENTS,  
INVENTORIES, AND EMPLOYMENT, EXCLUDING MAKITA CORP. OF AMERICA AND  
RYOBI MOTOR PRODUCTS/RYOBI ELECTRIC, 1989-91, JANUARY-MARCH 1991, AND  
JANUARY-MARCH 1992



Tables D-1-D-4

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**APPENDIX E**

**COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT  
OF IMPORTS OF PEC AND/OR PES TOOLS FROM JAPAN  
ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL,  
AND/OR EXISTING DEVELOPMENT AND PRODUCTION EFFORTS**



**COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT  
OF IMPORTS OF PEC AND/OR PES TOOLS FROM JAPAN  
ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL,  
AND/OR EXISTING DEVELOPMENT AND PRODUCTION EFFORTS**

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of PEC and/or PES tools from Japan on their growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product. The responses are as follows:

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