Pneumatic Directional Control Valves From Japan

Investigation No. 731-TA-988 (Preliminary)

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U.S. International Trade Commission

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U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been designated by asterisks (***).

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-988 (Preliminary)

PNEUMATIC DIRECTIONAL CONTROL VALVES FROM JAPAN

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of pneumatic directional control valves, provided for in subheading 8481.20.00 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 January 14, 2002, a petition was filed with the Commission and the U.S. Department of Commerce by the Pneumatics Group, a trade association of pneumatic directional control valve producers and wholesalers consisting of Festo Corp. of Hauppage, NY; IMI Norgren, Inc., of Littleton, CO; Numatics, Inc., of Highland, MI; and Parker Hannifin Corp. of Cleveland, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of pneumatic directional control valves from Japan. Accordingly, effective January 14, 2002, the Commission instituted antidumping duty investigation No. 731-TA-988 (Preliminary).

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 January 23, 2002 (67 FR 3230). The conference was held in Washington, DC, on February 4, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Lynn M. Bragg dissenting.

VIEWS OF THE COMMISSION

PNEUMATIC DIRECTIONAL CONTROL VALVES FROM JAPAN

Investigation No. 731-TA-988 (Preliminary)

Based on the record in this investigation, we find that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of pneumatic directional control valves from Japan that are allegedly sold in the United States at less than fair value ("LTFV"). [1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping duty determinations requires the Commission to determine, based upon the information available at the time, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

The Court of Appeals for the Federal Circuit has 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.[4] It also has noted that, in a preliminary investigation, the "[t]he statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[5] Moreover, the CIT recently has reaffirmed that in applying the reasonable indication "standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence."[6]

As we discuss below, we find that the record of this preliminary investigation contains clear and convincing evidence that the domestic industry producing pneumatic directional control valves is neither materially injured nor threatened with material injury by reason of the subject imports. Although we recognize that we might obtain additional evidence in a final investigation relating to the domestic industry's condition, the nature of competition between the subject merchandise and domestically produced pneumatic directional control valves, and purchasers' perceptions about the nature of that competition, we see no likelihood that any evidence we obtain in a final investigation would change our

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[1] Commissioner Lynn M. Bragg finds that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports of pneumatic directional control valves from Japan. See Dissenting Views of Commissioner Lynn M. Bragg.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999).

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] American Lamb, 785 F.2d at 1004.

[5] Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[6] R-CALF, 74 F. Supp.2d at 1368 (Ct. Int'l Trade 1999).

findings that there is a limited level of direct competition between the subject imports and the domestic like product and that the domestic PDCV industry has been impacted in a minimal manner, at most, by the subject imports during the period.

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[7] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[8] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[9]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[10] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[11] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[12] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[13]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of this investigation as:

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[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(10).

[10] See, e.g., NEC Corp. v. Dep't of Commerce and U.S. Int'l Trade Comm'n, 36 F. Supp. 2d 380 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[11] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[12] Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

[13] Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

> all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and materials employed in construction . . . The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves.[14]

Commerce specifically excluded from the scope of investigation aerospace-type pneumatic fluid power valves. These valves are defined as pneumatic fluid power valves that have been certified for use in airframes, aircraft engines, or other aerospace applications pursuant to standards established or required by the Federal Aviation Administration or Department of Defense in the United States, or by counterparts of these agencies in other countries.[15]

Pneumatic directional control valves ("PDCVs") are mechanical devices that regulate the direction of air flow in pneumatic systems through a series of channels in the body of the valve.[16] The channels contained in the body of the valve are opened and shut by valve elements, which are moved by manual, solenoid, mechanical, electrical or other means. The movement of the valve elements in the PDCV permits, prevents or regulates the flow of air through the different passages in the valve.[17]

PDCVs are manufactured from a variety of materials, including stainless steel, aluminum, bronze, iron, magnesium, and plastic.[18] Generally, there are four basic classes of PDCVs, each of which is characterized by a specific number of ports and internal positions.[19] Each type of PDCV regulates the flow of air through it in a different manner, thus allowing a designer of a pneumatic system to select the appropriate type of PDCV for a particular part of the system.

PDCVs are used in a wide range of applications. They are used most often in the production of equipment for automated production lines.[20] They also are used in automotive applications (for products like air brake systems), electrical applications (for products like automated medical and semiconductor equipment), portable medical devices, large-scale food processing equipment, and packaging equipment.[21]

PDCVs are sold in the U.S. market as individual valves or as components of valve assemblies, valve panels, or pneumatic systems.[22] Valve assemblies are produced by combining a number of individual valves with other components (such as manifolds, serial interface controllers, fittings, pipes

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[14] Notice of Initiation of Antidumping Duty Investigation: Pneumatic Directional Contol Valves, 67 Fed. Reg. 6485, 6486 (Feb. 12, 2002).

[15] Id.

[16] Confidential Staff Report ("CR") at I-3, Public Staff Report ("PR") at I-2.

[17] CR at I-3, PR at I-2-3.

[18] Id.

[19] CR at I-4, PR at I-3. The four classes of PDCVs include two-way PDCVs (which contain two ports and two internal positions), three-way PDCVs (which contain three ports and three internal positions), four-way PDCVs (which contain four ports and three internal positions), and five-way PDCVs (which contain five ports and two internal positions). Id.

[20] CR at I-4, PR at I-3.

[21] CR at I-4, PR at I-3.

[22] See, e.g., Transcript of Staff Conference ("Tr."), Feb. 4, 2002, at 77-78 (testimony of Mr. Lasch); SMC Postconference Brief at 12-15 & Ex. 6.

and rails, and other accessories) to form a more complex valve product.[23] Valve panels are produced by combining a number of valve assemblies into a more complex pneumatic system.[24]

C. Domestic Like Product

Parties' Arguments. Both petitioners and the Japanese respondent SMC agree that the Commission should find one domestic like product in this proceeding[25] and that the definition of the domestic like product should be coextensive with the definition of the products covered by the scope of this investigation.[26] However, the two parties disagree with respect to the range of products covered by the scope.

At the staff conference in this investigation, counsel for the Japanese respondent SMC argued that the scope of the investigation covers individual PDCVs but not "valve assemblies" and "valve panels."[27] Counsel for petitioners appeared to agree with this position at the staff conference.[28] However, petitioners argued for the first time in their post-conference brief that the scope of the investigation covers both individual PDCVs and downstream products incorporating PDCVs, such as valve assemblies and valve panels. According to petitioners, there is no real difference between "single valves" and "valve assemblies."[29]

Analysis. We decline to define the domestic like product more broadly than the scope of investigation.[30] In assessing what domestic products are like the merchandise subject to this investigation, we have referred to the language of the scope of the investigation. By its plain language, the scope specifically covers only "pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and materials employed in construction . . ." The scope also specifically states that the "subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves."[31] Accordingly, it is clear that the scope language specifically includes in its

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[23] Tr. at 77–78 (testimony of Mr. Lasch).

[24] Tr. at 77-78 (testimony of Mr. Lasch).

[25] We note that Makita USA, Inc., an importer of Japanese merchandise, argued at the staff conference that the pneumatic valves used in Makita's pneumatic nailers should be excluded from the investigation or found to be a separate domestic like product. Tr. at 100-101. Although Makita appeared at the staff conference, it did not provide a definition of the types of pneumatic valves encompassed by its request or file a postconference brief in the investigation. We do not find the record supports Makita's argument that these products are part of a separate domestic like product. Moreover, we note that the Commission consistently has rejected arguments that it should "exclude" a product from the scope of a Title VII investigation. Silicomanganese from India, Kazakhstan and Venezuela, Inv. Nos. 731-TA-929-31 (Preliminary), USITC Pub. 3407 at 4-5, n. 15 (May 2001).

[26] Petitioners' Postconference Brief at 5-9; SMC Postconference Brief at 4-5; Tr. at 116 (testimony of Mr. Porter).

[27] See, e.g., Tr. at 119 (testimony of Mr. Porter).

[28] See Tr. at 137-138 (testimony of Mr. Sandstrom)

[29] Petitioners' Postconference Brief at 7.

[30] We interpret petitioners' comments as suggesting that the Commission expand the scope of investigation. It is not, however, within the Commission's authority to expand the scope adopted by Commerce. See, e.g., Mitsubishi Elec. Corp. v. United States, 898 F.2d 1577, 1582 (Fed. Cir. 1990); Sandvik Steel Co. v. United States, 164 F.3d 595, 600 (Fed. Cir. 1998).

[31] Notice of Initiation of Antidumping Duty Investigation: Pneumatic Directional Contol Valves, 67 Fed. Reg. 6485, 6486 (Feb. 12, 2002).

coverage only individual PDCVs, whether or not imported in assembled form, and the components of PDCVs that are used to move the valve element in the PDCV. The scope language does not, however, include any language indicating that it covers downstream products that incorporate individual PDCVs with other elements or accessories, as petitioners argue.[32]

Further, neither the language of the petition nor the testimony presented by petitioners at the staff conference supports the arguments made by petitioners in their postconference brief. For example, the petition characterizes a PDCV only as "a body with internal flow passages that are opened or closed by a movable part in order to permit or prevent air flow between them, thereby directing air flow to specific parts of the pneumatic system."[33] In addition, the petition specifically states that all individual PDCVs are covered by its scope, independent of their type of valve element, flow coefficient, or method of operation.[34] However, the petition does not state that it includes within its coverage non-PDCV components, such as serial interface controllers or fittings, or downstream products incorporating PDCVs.[35] Instead, the petition and the testimony of industry witnesses at the staff conference[36] both indicate that the scope, as drafted by petitioners and adopted by Commerce, covers only individual PDCVs, and not more complex downstream products.

Indeed, in response to SMC's arguments about the distinction between valves and downstream products such as valve assemblies, counsel for petitioners stated that:

> We have great concern about product definition here. You now understand why we were talking about the scope and the like product as we were. There seems to be this idea that, if you bring in a valve and bury it in an assembly, suddenly it does no longer exist for purposes of this investigation. That is not the case, obviously. First of all, every one of our producers sells assemblies to customers. They don't just sell valves .... This Commission must look at the product we are talking about. Valves are sold individually. They may be sold and often [are] sold as part of assemblies. But we must focus on valves, and we must make sure that the pricing information and other information that is requested to that product focus on that product . . . That is the like product here. That is the product that must be focused on.[37]

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[32] Petitioners' Postconference Brief at 3 & 7-8. While the scope does cover PDCVs "whether assembled or unassembled," this language is generally used in antidumping investigations to address situations in which a covered product may be imported in an unassembled form. In this case, the record evidence indicates that individual PDCVs are comprised of a number of components and may be imported in unassembled form. In their postconference brief, petitioners also appear to argue that downstream products, like valve assemblies, are covered by the scope because the scope states that PDCVs are covered "regardless of . . . configuration . . ." See Petitioners' Postconference Brief at 7-8. However, it is clear that this language was initially intended to indicate that all individual PDCVs were covered by the scope, independent of the form or structure of the PDCV's internal channels, ports, or its methods of operation. See generally Petition at 7-12; see also Tr. at 15-17 (Shellenbarger)(indicating that PDCVs are covered, among other things, irrespective of their "internal" structure). We thus draw a distinction between "assembled" PDCVs – i.e., PDCV components that have been put together – which are included within the scope, and "valve assemblies" – downstream products composed of PDCVs and non-PDCV components -- that are not included in the scope.

[33] Petition at 8.

[34] Petition at 10.

[35] Petition at 7-12.

[36] Tr. at 14-17 (testimony of Mr. Shellenbarger).

[37] Tr. at 137-138 (testimony of Mr. Sandstrom) (emphasis added).

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Accordingly, we find that there is one domestic like product in this proceeding, consisting of all PDCVs as defined in the scope of the investigation. First, the record indicates that all PDCVs share the same broad physical characteristics. Although there are clearly physical differences between the various types and categories of PDCVs,[38] all PDCVs are characterized by having a valve body with several internal channels that permit or prevent the passage of air and a valve element that alternately connects a cylinder port on the valve body to either a supply or exhaust port and thereby changes the flow of air in the valve.[39] In addition, all PDCVs have a mechanical, electrical, or manual element that opens or closes the valve elements in the valve body.[40] These basic characteristics distinguish PDCVs from other forms of valves used in pneumatic and hydraulic systems.[41] Moreover, all PDCVs have the same general end use in that they are used to regulate the flow and direction of air in pneumatic systems through the use of these channels in the valve body.[42] Because of these shared physical characteristics, the record indicates that producers and customers perceive all PDCVs to be part of a broad continuum of products in the same product category.[43]

The record also indicates that PDCVs are produced using common machinery and equipment. Most PDCVs are produced on dedicated customized production lines that are designed specifically to produce particular types of PDCVs.[44] Although production lines generally are used to produce a particular PDCV, they can be re-tooled and reconfigured to produce PDCVs with different specifications.[45] Finally, domestically produced PDCVs generally are sold in similar channels of distribution, with more than *** percent of domestic PDCVs being sold to distributors, and the remainder being sold to end users.[46]

There are distinctions between PDCVs with respect to their interchangeability and pricing. Because of the wide range of specifications and types for PDCVs, the price of individual PDCVs can vary widely, with individual valves costing from $2 to $300 per valve.[47] Similarly, because of the wide variety of forms and configurations of PDCVs, there is a limited level of substitutability amongst types and categories of PDCVs.[48] Nonetheless, these differences in pricing and substitutability are to be expected from a product category that has a broad continuum of product sizes and types.

In sum, although there is a wide range of product types and classes of PDCVs and there are pricing and substitutability distinctions among those categories, the record shows that all domestic PDCVs share the same general physical characteristics and end uses, are produced in common

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[38] For example, PDCVs can range in size from three quarters of an inch to ten inches and may have significantly different internal channel configurations. CR at I-4, PR at I-3. Moreover, PDCVs are differentiated from one another by the number of ports in the valve, the number of switching positions, their normal position, and their method of operation. CR at I-4, PR at I-3.

[39] CR at I-3, PR at I-2-3.

[40] CR at I-3, PR at I-2-3.

[41] Petition at 11. Valves operating at greater than 150 pounds per square inch ("psi") are generally fluid hydraulic valves. It is recognized in the industry that pneumatic systems, driven by compressed air, can operate only at up to 150 psi. CR at I-4, PR at I-2-3.

[42] CR at I-3, PR at I-3.

[43] Tr. at 56 (testimony of Mr. Dodds).

[44] CR at I-4-5, PR at I-3-4.

[45] CR at I-5, PR at I-3-4.

[46] CR at I-6, PR at I-4.

[47] CR at I-6, PR at I-4.

[48] CR at I-5 & II-5-6, PR at I-4 & II-3-4.

production facilities, and are sold in similar channels of trade. Accordingly, we find that the domestic like product consists of all individual, non-aerospace PDCVs, consistent with Commerce's scope.[49]

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

Section 771(4) of the Act defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product."[50] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.[51] Based on our finding that there is one domestic like product in this investigation consisting of all PDCVs, we determine that there is a single domestic industry consisting of all domestic producers of PDCVs.

B. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[52] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[53]

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[49] In this regard, we note that the record indicates that the parties agree that there are significant distinctions between aerospace PDCVs and other forms of PDCVs. SMC Postconference Brief at 4, n. 1. Accordingly, we find that the domestic like product does not include these products.

[50] 19 U.S.C. § 1677(4)(A).

[51] See, e.g., DRAMs From Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 at 6 (Dec. 1999); Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan, Inv. Nos. 701-TA-373 (Final) and 731-TA-769-775 (Final), USITC Pub. 3126, at 7 (Sept. 1998); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 and n.10 (Nov. 1995) (the Commission stated it generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry); see, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain ("OCTG"), Invs. Nos. 701-TA-363-364 (Final) and Invs. Nos. 731-TA-711-717 (Final), USITC Pub. 2911, at I-15 (Aug. 1995) (not including threaders in the casing and tubing industry because of "limited levels of capital investment, lower levels of expertise, and lower levels of employment").

[52] 19 U.S.C. § 1677(4)(B).

[53] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related 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. See, e.g.,

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Five domestic producers of PCDVs reported that they imported subject merchandise during the period of investigation and are therefore related parties. The companies are *** and SMC Corp. of America.[54] *** of these five producers, *** and SMC Corp. of America, are affiliated with Japanese producers of PCDVs.[55]

Petitioners and SMC both agree that SMC Corp. of America should be excluded from the industry as a related party.[56] In addition, SMC argues that *** should be excluded from the domestic industry because it imports substantial volumes of merchandise from Japan.[57] For the reasons set forth below, we find that appropriate circumstances exist to exclude only SMC Corp. of America from the industry as a related party.

SMC Corp. of America ("SMC America"). SMC America is a *** subsidiary of SMC, the dominant producer of PDCVs in Japan.[58] SMC America was the *** of the domestic producers who reported trade data for PDCVs in 2000, accounting for only *** percent, by value, of total reported domestic shipments in that year.[59] SMC America opposes the petition.[60] Throughout the period of investigation, SMC America imported a *** volume of subject merchandise than it shipped from domestic production and its total imports equaled more than *** times the size of its total domestic shipments during each year of the period of investigation.[61] Accordingly, we find that SMC America's interests lie primarily in importation and not in domestic production. Moreover, although SMC America's operating returns fluctuated during the period, the company's operating income ratio was *** than the industry average in 1999 and interim 2000, while in full year 2000 and interim 2001, it was *** the industry average.[62] Given the foregoing, we find that appropriate circumstances exist to exclude SMC America from the industry.

*** *** was the *** largest U.S. producer of PDCVs in 2000, accounting for *** percent of reported domestic shipments in that year.[63] *** supports the petition in this proceeding.[64] Although *** imported a growing volume of subject imports, with its ratio of imports to domestic shipments growing from *** percent in 1998 to *** percent in 1999 and then to *** percent in 2000,[65] the bulk of its U.S. shipments consisted of domestically produced merchandise, indicating that its primary interest remains

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Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

[54] CR and PR at Table III-5.

[55] CR and PR at Table III-1, nn. 7 & 9.

[56] Petitioners' Postconference Brief at 9-10; SMC Postconference Brief at 4.

[57] SMC Postconference Brief at 4.

[58] CR and PR at Table III-1, n. 9.

[59] CR and PR at Table III-1.

[60] CR and PR at Table III-1.

[61] CR and PR at Table III-5.

[62] CR and PR at Table VI-2.

[63] CR and PR at Table III-1.

[64] CR and PR at Table III-1.

[65] CR and PR at Table III-5. However, the ratio of its subject imports to domestic shipments decreased to *** percent in interim 2001.

in domestic production.[66] Finally, *** operating income ratio was *** that of the industry average during the first three years of the period of investigation, indicating that *** did not benefit substantially from its importation of subject merchandise.[67] Given the foregoing, we find that appropriate circumstances do not exist to exclude *** from the industry.

*** *** was the *** largest responding producer of PDCVs in 2000, accounting for *** percent of reported domestic shipments in 2000.[68] *** supports the petition. [69] *** imported a relatively small volume of subject merchandise during the period, with its total imports never exceeding more than *** percent of its total domestic shipments during the period of investigation,[70] indicating that the company's primary interests lie in domestic production rather than importation. Finally, *** operating income ratio was *** than the industry average during the three full years of the period of investigation, indicating that it has not benefitted from its importation significantly.[71] Given the foregoing, we find that appropriate circumstances do not exist to exclude *** from the industry.

*** *** was the *** largest responding producer of PDCVs in 2000, accounting for *** percent of reported domestic shipments.[72] ***.[73] *** imported a relatively small volume of subject merchandise during the period, with its total imports never exceeding more than *** percent of its total domestic shipments during the period of investigation.[74] Accordingly, we find that ***'s interests lie primarily in domestic production and not in importation. Finally, *** operating income ratio was *** than the industry average during the three full years of the period of investigation, indicating that it has not benefitted from its importation significantly.[75] Given the foregoing, we find that appropriate circumstances do not exist to exclude *** from the industry.

*** *** was the *** largest responding domestic producer of PDCVs in 2000, accounting for *** percent of reported domestic shipments.[76] ***.[77] It is related to ***, a *** of PDCVs.[78] *** imported and purchased a relatively small amount of subject merchandise during the period, with its total imports never exceeding more than *** percent of its total domestic shipments during the period of investigation.[79] Accordingly, we find that *** interests lie primarily in domestic production and not in importation. Finally, although *** operating income ratio was *** than the industry average throughout the period of investigation, [80] the relatively low level of its imports compared to domestic production does not suggest that its financial performance was significantly enhanced by imports. Given the foregoing, we find that appropriate circumstances do not exist to exclude *** from the industry.

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[66] CR and PR at Table III-5.

[67] CR and PR at Table VI-2.

[68] CR and PR at Table III-1.

[69] CR and PR at Table III-1.

[70] CR and PR at Table III-5.

[71] CR and PR at Table VI-2.

[72] CR and PR at Table III-1.

[73] CR and PR at Table III-1.

[74] CR and PR at Table III-5.

[75] CR and PR at Table VI-2.

[76] CR and PR at Table III-1.

[77] CR and PR at Table III-1.

[78] CR and PR at Table III-1.

[79] CR and PR at Table III-5.

[80] CR and PR at Table VI-2.

IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In the preliminary phase of antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[81] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[82] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[83] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[84] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[85]

For the reasons discussed below, we determine that there is no reasonable indication that the domestic industry is materially injured by reason of subject imports of PDCVs from Japan that are allegedly sold in the United States at less than fair value.

A. Conditions of Competition[86]

When performing our analysis in this investigation, we took into account the following conditions of competition:

First, demand for PDCVs generally increased throughout the three full years of the period of investigation but declined significantly in interim 2001, when the overall U.S. economy went into recession. In value terms,[87] apparent consumption of PDCVs grew by *** percent from 1998 to 2000,

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[81] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[82] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[83] 19 U.S.C. § 1677(7)(A).

[84] 19 U.S.C. § 1677(7)(C)(iii).

[85] 19 U.S.C. § 1677(7)(C)(iii).

[86] As an initial matter, we note that the domestic industry captively consumes some PDCVs to produce downstream products, such as valve assemblies and pneumatic systems. See, e.g., Tr. at 137 (testimony of Mr. Sandstrom); CR at III-4, PR at III-3. Accordingly, we have considered whether the captive production provision of the statute, 19 U.S.C. §1677(7)(C)(4), applies in this investigation, and find that it does not. The threshold provision of the captive production provision has not been met because internal shipments and related party transfers by the domestic industry accounted for less than *** percent of total domestic production for each year during the period of investigation, as well as interim 2001. CR at III-4, PR at 3. We find that this level of shipments does not constitute a significant amount of production for purposes of the captive production provision.

[87] When analyzing volume and market share trends in this market, we have relied primarily on aggregate value data for PDCVs, rather than aggregate quantity data. We have relied on value data for such analysis because of the wide variety of PDCV product types and sizes covered by the scope of investigation. Both petitioners and Japanese respondents agree with this use of value-based data. Tr. at 38-39 (Sandstrom); SMC Postconference Brief at p. 24, n. 46.

increasing from $*** million in 1998 to $*** million in 1999 and then to $*** million in 2000.[88] However, as the overall economy declined in 2001, apparent consumption of PDCVs declined as well, falling from $*** million in interim 2000 to $*** million in interim 2001.[89]

Second, the domestic PDCV industry is relatively diffuse, with the record indicating that there are at least 30 domestic producers of PDCVs.[90] Nonetheless, three domestic producers (***, ***, and ***) were responsible for the bulk of reported domestic shipments of PDCVs in 2000, accounting for *** percent of reported U.S. shipments by domestic producers of PDCVs in 2000.[91] The domestic industry's capacity increased from 17.7 million units in 1998 to 18.0 million units in 2000.[92] Its capacity was 15.0 million units in interim 2001 as compared to 14.0 million units in interim 2000.[93] The industry's capacity utilization remained stable from 1998 to 2000, ranging between 73.1 percent and 72.0 percent, but fell to 54.9 percent in interim 2001.[94]

Third, domestic PDCVs generally are sold at a different level of trade than the subject imports. The large majority of domestically produced PDCVs are sold to distributors,[95] who often use these PDCVs to design and produce downstream pneumatic components and systems for end users.[96] The majority of subject PDCVs, on the other hand, are sold to distributors, generally after being internally consumed by the importer in the production of downstream products, such as valve assemblies and valve panels.[97] In particular, the largest importer of subject merchandise, SMC America,[98] internally consumes the majority of its imports of PDCVs, by quantity, in the production of downstream pneumatic system products.[99] Given that the bulk of domestic and subject merchandise enter the pneumatic systems markets at different levels of trade, we find that there is a limited level of direct competition between subject and domestic PDCVs in the PDCV market.

Fourth, there is a moderate to limited degree of substitutability between the domestic and subject merchandise.[100] There are as many as 100,000 individual types of PDCVs in the market.[101] Moreover, the domestic and subject producers of PDCVs manufacture the large majority of their PDCVs according

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[88] CR and PR at Table IV-7 & C-1. In quantity terms, apparent consumption of PDCVs increased by *** percent from 1998 to 2000, as consumption grew from *** million units in 1998 to *** million units in 2000. Id.

[89] CR and PR at Table IV-7 & C-1. In quantity terms, apparent consumption of PDCVs declined from *** million units in interim 2000 to *** million units in 2001. Id.

[90] CR and PR at III-1; see also ***.

[91] CR and PR at Table III-; ***.

[92] CR and PR at Table C-2.

[93] CR and PR at Table C-2.

[94] CR and PR at Table C-2.

[95] CR and PR at II-1. Sales of PDCVs to distributors accounted for *** percent of domestic shipments in 2000, while sales of PDCVs to end users accounted for the remaining *** percent of domestic shipments in that year. Id.

[96] See, e.g., CR at I-6 & II-1; PR at I-4 and II-1.

[97] CR at I-6 & II-1-2, PR at I-4 & II-1.

[98] SMC America imported approximately *** percent of all subject imports of PDCVs in 2000. CR at IV-3, n. 3, PR at IV-3, n. 3.

[99] SMC reported that it consumed approximately *** percent of its imports in the production of downstream products in 2000. SMC Postconference Brief at 14; see also CR and PR at Table IV-3.

[100] CR at I-5 & II-6, PR at I-4 & II-4.

[101] CR at I-5, PR at I-4.

to their own proprietary specifications.[102] Nonetheless, PDCVs are generally sold to the end user as part of an overall pneumatic system[103] and there is some level of substitutability between domestic and subject PDCVs at the design stage of a pneumatic system sale. At this stage, a pneumatic system designer and the end user have the ability to choose a particular PDCV to perform a function in a pneumatic system from a variety of domestic and imported PDCVs that have similar functions and configurations.[104] However, once a particular PDCV is chosen and designed into a pneumatic system, it becomes difficult or impossible to replace the valve with that of another producer.[105]

Fifth, there is a trend in the PDCV market toward a greater degree of integrated production and sales operations by domestic and foreign suppliers of PDCVs.[106] Increasingly, PDCV producers and suppliers, such as SMC and SMC America, have been moving toward a marketing strategy for direct sales of PDCVs to end users as part of an overall pneumatic system sale.[107] This strategy, which offers end users an integrated design, service and components package, is gaining popularity in the PDCV and pneumatic systems markets.

Finally, there is a relatively substantial volume of non-subject imports in the market. Non-subject imports accounted for between *** percent and *** percent of the total value of apparent domestic consumption throughout the period of investigation.[108]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[109]

During the three full years of the period of investigation, the volume of subject imports of PDCVs increased at a consistent and sustained rate as apparent consumption increased. In terms of value,[110] the absolute volume of subject imports increased by *** percent between 1998 and 2000, growing from $*** million in 1998 to $*** million in 1999 and then to $*** million in 2000.[111] The

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[102] CR at I-5, PR at I-4. Accordingly, although comparable PDCVs may share the same basic structure and characteristics, individual PDCVs may have different performance characteristics (such as the ability to draw a lower electrical current) that make them preferable to a particular customer. See, e.g., CR at II-7, PR at II-5; SMC Postconference Brief at 18-21.

[103] CR and PR at II-1.

[104] CR at II-5, PR at II-4.

[105] CR at II-5, PR at II-3-4.

[106] See, e.g., Tr. at 71, 73 & 75 (testimony of Mr. Smith); ***.

[107] See, e.g., Tr. at 71, 73 & 75 (testimony of Mr. Smith); ***.

[108] CR and PR at Table IV-7 and C-1.

[109] 19 U.S.C. § 1677(7)(C)(i).

[110] As previously stated, we have relied primarily on value data, rather than quantity data, to assess volume and market share trends in this market because of the significant size and price variations between the large number of PDCV types and configurations.

[111] CR and PR at Table IV-4 & Table C-1. We relied primarily on the staff's calculations of market share, set forth in the staff report, to perform our assessment of market share trends in this investigation. However, in this investigation, we also have examined Commerce's Census data regarding U.S. producers' domestic shipments in assessing market shares. We note that use of the Census data results in the same general volume and market share trends as those calculated by the staff in the staff report. See, e.g., CR at IV-9, n. 4, PR at IV-3, n. 4; see also

U.S. market share held by subject imports followed similar trends, increasing from *** percent in 1998 to *** percent in 1999, and then increasing further to *** percent in 2000.[112]

In interim 2001, however, the volume of the subject imports fell substantially, declining from $*** million in interim 2000 to $*** million in interim 2001.[113] At the same time, along with a sharp drop in apparent consumption, the market share of subject imports fell from *** percent in interim 2000 to *** percent in interim 2001.[114]

We find that the volume of subject imports, and the increase in that volume, both in absolute terms and relative to domestic consumption, is significant. However, these significant volumes must be viewed in the context of the attenuated competition between the subject imports and domestic merchandise. First, although the volume and market share of the subject imports increased during the three full years of the period of investigation, the majority of this increase consisted of merchandise that was internally consumed by SMC America in the production of downstream products.[115] These downstream products do not compete directly with the PDCVs produced by the domestic industry, which are sold mainly to distributors for incorporation into downstream products that are sold to end users as part of a pneumatic system sale.[116] In this regard, we note that, although the industry's share of the overall PDCV market declined by nearly *** percentage points between 1998 and 2000,[117] the industry's market share in the commercial market for PDCVs (which reflects actual commercial shipments of PDCVs) remained essentially stable between 1998 and 2000, ranging between *** percent in 1998 and *** percent in 2000.[118] Likewise, the commercial market share of subject imports, measured by value, grew substantially less than in the overall market, increasing from *** percent in 1998 to *** percent in 2000, and then declining to *** percent in interim 2001.[119]

Second, the domestic industry accounted for a substantial and growing volume of subject imports during the period of investigation. In 2000, the record indicates that three domestic producers imported approximately *** percent of all subject imports of PDCVs[120] and did so primarily to supply to their customers types of PDCVs they do not manufacture.[121] Given that SMC America accounted for *** of the remaining imports in 2000[122] and internally consumed the majority of those imports in the production of downstream products that were sold at a different level of trade than the domestic like product, it cannot be said that the increases in subject import volumes are having an adverse impact on the domestic industry.

Petition at Ex. 10.

[112] CR and PR at Table IV-7 & Table C-1.

[113] CR and PR at Table IV-4 & Table C-1.

[114] CR and PR at Table IV-7 & Table C-1

[115] The record indicates that, of the $*** million increase in U.S. shipments of subject imports from Japan between 1998 and 2000, approximately $*** million or *** percent, was internally consumed by importers. CR and PR at Table IV-3.

[116] CR at I-6 & II-1, PR at I-4 & II-1.

[117] CR and PR at Table IV-7 & C-1 (as adjusted to exclude SMC America data).

[118] CR and PR at Table IV-9 (as adjusted to exclude SMC America data).

[119] CR and PR at Table IV-9. The increases in subject import volumes in the commercial market have occurred primarily at the expense of the non-subject imports. Id.

[120] CR at IV-3, n. 3 and Table IV-2, PR at IV-2, n. 3, & Table IV-2.

[121] See CR at VII-3, PR at VII-1-2; Importers' Questionnaire Responses of ***, *** and *** at p.4.

[122] SMC America accounted for *** percent of all imports in 2000. CR at IV-3, n. 3, PR at IV-2, n.3.

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C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[123]

We find that the record evidence indicates that, despite the existence of underselling, the subject imports have not had a significant adverse impact on domestic prices. As an initial matter, we note that there is a moderate to limited degree of competition between the subject imports and the domestic merchandise that occurs mainly at the design stage of a pneumatic system sale. As discussed previously, the domestic and subject suppliers of PDCVs produce the large majority of their PDCVs to their proprietary specifications and designs.[124] As a result, even when a domestic and subject PDCV have the same basic characteristics (sharing, for example, the same basic internal channel configuration, valve element, method of valve movement, and port configuration), the two products may have significant design differences that will lead a customer to prefer one PDCV over another.[125] We find that the significant differences in design and performance of the subject and domestic merchandise lessen the substitutability of these products and limit the ability of the subject imports to have an adverse impact on domestic prices.[126]

During this investigation, we obtained price comparison data for six PDCV products that were recommended by counsel for petitioners.[127] The price comparison data for these six products indicate that there has been a mixed pattern of underselling by imports, with subject imports underselling the domestic merchandise in 75 of 133 possible price comparison, or 56.4 percent of comparisons.[128] We

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[123] 19 U.S.C. § 1677(7)(C)(ii).

[124] CR at I-5, PR at I-4.

[125] See, e.g., Tr. at 73-77 (testimony of Mr. Smith); SMC Postconference Brief at 18-21. For example, the record indicates that SMC manufactures categories of PDCVs that draw significantly less energy or are significantly smaller than comparable domestically produced PDCVs. Tr. at 74-75 (testimony of Mr. Smith).

[126] CR at II-5, PR at II-4. The limited level of substitutability between similar products in this market can be seen by examining the prices reported by individual domestic producers in response to our questionnaires. Those data indicate that, for a number of these products, there is a wide differential between the unit prices reported for a narrow category of products by individual domestic producers. For example, for distributor sales of comparison product number 4, three domestic producers (***) reported pricing data. *** reported quarterly average unit values for this product ranging between $***. *** reported quarterly AUVs ranging between $***, and *** reported AUVs ranging between $***. See Responses of Domestic Producers to Section IV.A of the Domestic Producers' Questionnaire. Although petitioner contends that these pricing ranges indicate that the domestic producers misreported the data, we conclude that they indicate that similar products produced by domestic and subject producers have quality and other differences that significantly limit their substitutability.

[127] CR at V-3-V-4, PR at V-3.

[128] CR at V-17 & Tables V-1-V-6, PR at V-7 & Tables V-1-V-6. For sales to distributors, the pricing data show underselling in 47 of 71 comparisons. For sales to end users, the pricing data show underselling in 28 of 62

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find that this pattern of underselling by subject imports during the period of investigation is, on balance, significant.

However, we find that there is no indication the subject imports have suppressed or depressed domestic prices to a significant degree. The record shows that prices for the domestic product have not generally exhibited a downward trend during the period of investigation.[129] Although domestic prices fluctuated during the period, the pricing data do not show that those domestic prices fell in response to subject import price movements or that domestic price increases were prevented by lower subject import prices.[130]

Our finding of a lack of significant adverse price effects by reason of the subject imports is consistent with the conditions of competition in which the industry operates. As we discussed above in conditions of competition, the majority of the subject merchandise imported by SMC America is used in the production of downstream pneumatic sub-assemblies that are then sold by SMC America to end users of pneumatic systems.[131] Domestic producers of PDCVs, on the other hand, sell the bulk of their PDCVs to distributors who package these PDCVs into downstream products.[132] In other words, the record indicates that most of the subject imports are not sold in direct, head-to-head price competition with the domestic like product. Indeed, the record indicates that many of the lost sales alleged by petitioners consist of sales that were lost by distributors, not the domestic producers, at the downstream product level.[133]

In sum, we find that, while the record indicates that subject imports have undersold the domestic merchandise during the period of investigation, subject imports have not depressed or suppressed domestic prices to a significant degree. Accordingly, we find that the subject imports have not had significant adverse effects on domestic prices during the period of investigation.

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comparisons. Id.

[129] The pricing data for the comparison products shows that domestic prices were generally stable or increasing from the first quarter of 1998 through the last quarter of 2000. CR and PR at Tables V-1-V-6 & Figures V-2-V-7. Moreover, although we are mindful of the product mix issues presented by the use of average unit values, we note that the domestic industry's reported aggregate average unit values remained essentially stable through the first three years of the period, despite the substantial increases in import volumes during that period. The average unit values of the industry's U.S. shipments declined slightly between 1998 and 1999, dropping from $26.89 to $26.16, but then increased to $26.95 in 2000. CR and PR at C-2. Although domestic AUVs declined to $24.28 in interim 2001 and there were declines in the pricing of certain comparison products in 2001, these declines occurred during the substantial drop in demand that occurred as a result of the overall recession in the U.S. economy and at the same time as a decline in subject import volume and market share.

[130] CR and PR at Tables V-1-V-6 & Figures V-2-V-7. For example, the record evidence shows that, for sales of product 2 to distributors, subject PDCV imports consistently undersold the domestic merchandise throughout the period at margins ranging from *** percent to *** percent. CR and PR at Table V-2 and Figure V-3. Nonetheless, the reported prices for the domestic product generally remained stable throughout the period of investigation. Id. Similarly, for sales of product number 6 to distributors, prices of the domestically produced merchandise generally rose during the period, despite the fact that the subject imports again consistently undersold the domestic merchandise at substantial margins throughout the period of investigation. CR and PR at Table V-6 and Figure V-7.

[131] CR and PR at II-1.

[132] CR and PR at II-1.

[133] CR and PR at II-1.

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D. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[134] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."[135] [136]

We find that the subject imports of PDCVs have not had a significant impact on the condition of the domestic PDCV industry. Although the volume and market share of the subject imports increased substantially during the first three years of the period of investigation, the record does not indicate that these increases had any significant impact on the condition of the industry during this period. This lack of impact is consistent with the fact that a substantial volume of imports is captively consumed by SMC America and does not directly compete with domestically produced PDCVs.

Despite the increases in subject import volumes during the period from 1998 to 2000, the domestic industry's production levels actually grew slightly, from 12.92 million units in 1998 to 12.96 million units in 2000.[137] Similarly, the industry's domestic shipments increased slightly, growing from $307.1 million and 11.4 million units in 1998 to $311.1 million and 11.5 million units in 2000, while its net sales revenues increased from $339.5 million in 1998 to $343.5 million in 2000.[138] Moreover, despite a slight increase in capacity during this period, the industry's capacity utilization rates remained essentially stable, at 73.1 percent in 1998, 72.4 percent in 1999, and 72 percent in 2000.[139] The industry's inventory levels improved during this period, declining in absolute terms from 2.0 million units in 1998 to 1.8 million units in 2000 and as a percentage of shipments, falling from 15.7 percent in 1998 to 14.0 percent in 2000. [140]

The domestic industry's financial performance was robust as well. The industry's operating income ratio ranged between 15.9 percent and 12.6 percent from 1998 to 2000.[141] In sum, despite a substantial increase in subject import volumes and market share, the record indicates that the increase in

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[134] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[135] 19 U.S.C. § 1677(7)(C)(iii).

[136] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its notice of initiation, Commerce announced estimated dumping margins for the subject merchandise from Japan ranging from 9.28 to 107.46 percent. 67 Fed. Reg. at 6487 (Feb. 12, 2001).

[137] CR and PR at Table C-2.

[138] CR and PR at Table C-2.

[139] CR and PR at Table C-2.

[140] CR and PR at Table C-2.

[141] CR and PR at Table C-2.

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subject import volumes had little adverse impact on the financial condition or production operations of the domestic industry.[142]

We recognize that the industry lost nearly *** percentage points of market share from 1998 until 2000.[143] However, as discussed above in our analysis of the volume of subject imports, virtually all of this apparent market share loss was due to a large increase in the volume of subject imports that were internally consumed in the production of downstream products. From 1998 to 2000, the market share of the domestic industry in the commercial market remained essentially stable, ranging between *** percent in 1998 and *** percent in 2000. [144]

Although the industry experienced some declines in its production and sales levels and its overall financial condition in interim 2001, we attribute these declines to the overall downturn in the U.S. economy and the concurrent significant decline in demand for PDCVs. Moreover, these production and sales declines occurred when the volume and market share of the subject imports declined significantly, with the volume of the subject imports declining by *** percent and the market share of subject imports declining by *** percentage points between interim 2000 and interim 2001.[145] Indeed, at the staff conference, witnesses for the industry testified that interim 2001 was an aberrational year for the industry that should not be taken as an indication of its current competitive condition.[146]

As discussed above, we do not find that the subject imports had any adverse effects on domestic prices during the period of investigation. U.S. prices fluctuated over the period but there is no evidence that domestic prices were depressed or suppressed.[147]

In light of the limited direct competition between subject imports and the domestic like product, our finding that subject imports have not suppressed or depressed domestic prices to a significant degree, the robust condition of the domestic industry between 1998 and 2000, and the lack of correlation between import trends and any declines in the condition of the industry in interim 2001, we find no reasonable indication that subject imports are having a material adverse impact on the domestic industry. Accordingly, we find that there is no reasonable indication that the domestic industry is materially injured by reason of the allegedly LTFV imports of PDCVs from Japan.

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[142] We recognize that several industry employment indicators, including the number of production-related workers employed, hours worked and wages paid, fell during the period of investigation. CR and PR at Table C-2. However, the industry's hourly wages and productivity levels both increased. Id. Moreover, any declines in the industry's employment indicators do not outweigh the stability or improvements in other indicators of the industry's condition.

[143] CR and PR at Tables IV-7 & C-1 (as adjusted to exclude SMC America data). As noted above, we relied primarily on the staff's market share calculations when assessing market shares. However, we also considered the Department of Commerce's Census data regarding U.S. producers' domestic shipments. These data show that the industry lost a smaller share of the market (*** percentage points) from 1998 to 2000 than does the staff's market share calculations. CR at IV-9, n. 4, PR at IV-3, n. 4.

[144] CR and PR at Tables IV-9 & C-1-2 (as adjusted to exclude SMC America data). The increases in subject import volumes in the commercial market have occurred primarily at the expense of the non-subject imports. Id.

[145] CR and PR at Table C-1.

[146] Tr. at 65 (testimony of Mr. Dodds & Mr. Buda).

[147] The fact that the industry's cost of goods sold and SG&A expenses increased from 1998 to 2000 more than its net sales revenues explains the minor drop in the industry's profitability from 1998 to 2000, but there is no evidence that subject imports had any effect on the price levels of the industry or contributed to this small decline in profitability.

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V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV SUBJECT IMPORTS FROM JAPAN

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[148] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[149] In making our determination, we have considered all factors that are relevant to this investigation.[150] Based on an evaluation of the relevant statutory factors, we find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of PDCVs from Japan that are allegedly sold in the United States at less than fair value.

As an initial matter, we find that the domestic industry is not vulnerable to a threat of material injury by reason of the subject imports from Japan. As discussed above, the industry's profitability remained robust during the period of investigation, with the industry enjoying operating income ratios of more than 12.5 percent during each of the three full years of the period of investigation.[151] In addition, the domestic industry's production, shipment and sales levels all remained essentially stable during the period from 1998 to 2000,[152] despite an increase in subject import volume and market share. Although the industry's production, shipment, and sales levels declined in interim 2001, these declines were directly related to demand declines that occurred in interim 2001. We note, moreover, that these declines did not limit the industry's ability to operate at a robust level of profit in interim 2001,[153] and that the industry itself characterizes 2001 as an aberrational year.[154]

We find that the rate of increase in the volume and market share of the subject imports does not indicate a likelihood of substantially increased imports. Although the volume and market share of PDCVs from Japan to the United States increased substantially from 1998 to 2000,[155] the increased import volumes had little direct impact on the domestic industry, and there is no evidence that conditions of competition would change in such a way that any increases in the imminent future would have an adverse impact on the domestic industry. Moreover, the volume and market share of the subject imports declined in interim 2001.[156] Accordingly, the most recent trends in subject import volumes do not

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[148] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[149] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[150] 19 U.S.C. § 1677(7)(F)(i). Factors I (regarding countervailable subsidies) and VII (regarding raw and processed agricultural products) are inapplicable to this antidumping investigation.

[151] CR and PR at Table C-2. The industry's operating income levels were between 12.6 percent and 15.9 percent between 1998 and 2000, and remained at a robust 9.1 percent in interim 2001. Id.

[152] CR and PR at Table C-2.

[153] CR and PR at Table C-2.

[154] Tr. at 65 (testimony of Mr. Dodds & Mr. Buda).

[155] CR and PR at Tables IV-4 & C-1.

[156] CR and PR at Table IV-2.

indicate that it is likely that there will be substantially increased imports of subject merchandise in the imminent future.

We also find that there is no indication that unused production capacity or any imminent increases in production capacity in Japan will lead to substantially increased imports in the imminent future. While the record indicates that the subject producers of PDCVs increased their capacity by *** percent between 1998 and 2000 and are projected to increase their capacity further in 2002 and 2003,[157] we do not find that these capacity increases will result in substantially increased imports to the U.S. market. First, the subject producers operated at increasingly high capacity utilization levels during the period of investigation, with their capacity utilization levels growing from *** percent in 1998 to *** percent in 1999 and then to *** percent in 2000.[158] Second, Japanese home market and third-country market shipments rose each year during the period of investigation and have consistently accounted for the bulk of Japanese producers' shipments,[159] indicating that the majority of the capacity increases in Japan will likely be directed to the subject producers' home and third country markets. Finally, although the Japanese industry's capacity utilization rates fell in interim 2001 as compared with interim 2000,[160] subject imports fell substantially as well in interim 2001, indicating that there is a lack of correlation between capacity utilization declines and increased subject imports. Accordingly, we find that it is unlikely that any imminent increases in subject producer capacity will cause a substantial increase in the volume of imports directed to the United States in the imminent future.[161]

Further, the ratios of Japanese producers' home inventories to production and shipments both declined during the period of investigation.[162] The ratio of importers' inventories to imports and U.S. shipments also declined during the period of investigation.[163] Although these ratios increased in interim 2001 as compared to interim 2000, the increases coincided with a decline in exports to the United States

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[157] Aggregate production capacity in Japan increased from *** million units in 1998 to *** million units in 2000. CR and PR at Table VII-1. ***. CR at VII-3, PR at VII-1.

[158] CR and PR at Table VII-1. Capacity utilization declined in the interim period but still reflected an increase from 1998 levels (*** percent). CR and PR at Table VII-1.

[159] CR and PR at Table VII-1.

[160] CR and PR at Table VII-1. We also note that, although the increased capacity levels of the subject producers of PDCVs arguably led to an increase in subject imports during the period from 1998 to 2000, those increases did not have a significant adverse impact on the production and shipment levels or financial operations of the domestic industry.

[161] Moreover, there are no pending antidumping or countervailing duty orders or investigations elsewhere in the world that might encourage shifts in traditional market patterns. CR at VII-6, PR at VII-3.

[162] CR and PR at Table VII-1 (from *** percent in 1998 to *** percent in 2000 and from *** percent in 1998 to *** percent in 2000, respectively).

[163] CR and PR at Table VII-2 (from *** percent in 1998 to *** percent in 2000 and from *** percent in 1998 to *** percent, respectively).

during the same period.[164] Accordingly, we find that inventory levels do not indicate a likelihood of increased imports in the imminent future.[165]

We also find it unlikely that subject imports will enter the U.S. market at prices likely to suppress or depress domestic prices to any significant degree. As discussed above, the record evidence indicates that subject import prices have had no significant adverse effects on domestic prices. We see nothing in the record that indicates that conditions of competition in the industry will change so significantly in the imminent future that domestic prices will likely be adversely affected to a significant degree by subject import prices.

We also find that subject imports are not likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts. Although the industry's capital expenditures declined by 22.9 percent between 1998 and 2000, they have remained at strong levels throughout the period of investigation.[166] Moreover, capital expenditures actually increased by 27.3 percent between 1999 and 2000, when the volume and market share of subject imports increased to their highest levels of the period.[167] Although the domestic producers' research and development expenses declined somewhat between interim periods, the industry's research and development expenses increased by *** percent overall between 1998 and 2000, even though the volume and market share of subject imports were increasing.[168]

Finally, there is no evidence of any other demonstrable adverse trends that indicate a probability that the subject imports will materially injure the domestic industry.[169] On the contrary, trends in the industry's financial performance have been positive, and support our finding that the industry is not threatened with material injury by reason of the subject imports. Accordingly, we find no reasonable indication that the domestic industry producing PDCVs is threatened with material injury by reason of subject imports from Japan.

CONCLUSION

For the reasons stated above, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of pneumatic directional control valves from Japan that are allegedly sold in the United States at less than fair value.

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[164] For Japanese producers, the ratios of inventories to production and inventories to total shipments increased in the interim period to *** percent and *** percent, respectively. For U.S. importers, the ratios of inventories to imports and inventories to U.S. shipments of imports increased to *** and *** percent, respectively. See CR and PR at Tables VII-1 and VII-2. The inventory-to-production and inventory-to-shipment ratios reported by Japanese producers are in the same general range as those reported by the domestic producers. See CR and PR at Tables III-7 and VII-2.

[165] We also find no reasonable indication of likely product shifting in Japan. The record contains no evidence that equipment in Japan used in the production of other products is likely to be directed to the production of subject imports. Indeed, only *** of pneumatic directional control valves in Japan reported producing any other products on the same equipment and machinery used to produce pneumatic directional control valves. CR at II-4, PR at II-3. While a Japanese producer might be able to shift its production from pneumatic directional control valves to downstream products that incorporate pneumatic directional control valves, the record contains no evidence that any such shift is imminent.

[166] CR and PR at Table C-2.

[167] CR and PR at Tables C-2, Tables IV-4 & IV-7.

[168] CR and PR at Table VI-3 (adjusted to exclude data for SMC America).

[169] 19 U.S.C. § 1677(7)(F)(I)(IX). 22

DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

Based upon the limited record in the preliminary phase of this investigation, I find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of pneumatic directional control valves ("valves") from Japan, that are allegedly sold in the United States at less than fair value ("LTFV").

I. The Legal Standard for Preliminary Determinations

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or the establishment of an industry is materially retarded, by reason of allegedly unfairly traded subject imports.[1] In applying this standard, the Commission weighs 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 such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

In this context, based upon the limited record at this stage of the proceedings and the fundamental issues raised and unanswered by the preliminary record, I am unable to affirmatively state that in the context of a threat of material injury analysis there is no likelihood that contrary evidence will arise in any final phase investigation that would support an affirmative determination. Accordingly, I render an affirmative preliminary threat determination.

Importantly, I find that there are considerable record deficiencies regarding several critical outcome determinative issues which, in my view, cannot be resolved at this stage of the proceedings, and require that this investigation be continued to the final phase.[3] A fundamental issue I find to be critical to the injury analysis in this investigation, concerns the different marketing strategies of domestic and subject producers that frame competition in the U.S. market. Specifically, domestic producers and nonsubject producers market and sell individual valves, but Japanese producers market and sell valves incorporated into assembly systems.[4] In order to appropriately understand the market competition and evaluate the significance of these different marketing strategies, the investigation record needs more complete and credible information from the industry and market participants.[5]

Furthermore, this lack of certitude concerning the market competition and the deficiencies of marketing strategy information also point to additional important data problems that warrant continuing this investigation. For instance, although both parties seemingly agree that the Commission should find

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[1] 19 U.S.C.§ 1671b(a) and 1673(a); see also American Lamb Co. v. United States, 758 F.2d 994, 1001-1004 (Fed. Cir. 1986); Maverick Tube Corp. v. United States, 687 F. Supp. 1659, 1673 (Ct. Int'l Trade 1988); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

[2] American Lamb, 785 F.2d at 1001.

[3] I am unaware of record evidence or information which suggests that Petitioners did not comply with Commission rules regarding their petition and its contents, as well as follow-up Staff requests for information.

[4] Confidential Report ("CR") at I-6; Public Report ("PR") at I-4 and CR at II-7-8; PR at II-5.

[5] I note that Petitioners' Annex I, which discussed market information confirmed by ***, raised several unanswered questions about competition in the U.S. market and the operation of different marketing strategies, and thus, further underscores the need to seek additional information to appropriately understand and evaluate this fundamental issue. Petitioners' Post-conference Brief, at 18-19 & Annex I; ***.

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one like product,[6] based on the limited record at this phase, there is uncertainty regarding the range of products covered by the scope; that is, whether the scope covers only individual pneumatic directional control valves and not those imported pneumatic directional control valves that are incorporated in multiple valve assembly systems and other valve panel accessories.[7] In turn, the practical effect of this coverage issue raises further questions regarding the definition of the domestic like product, how imports compete with domestic like product in the U.S. market place, as well as the accuracy and completeness of volume and pricing data for subject imports, all fundamental issues for any Commission determination.

In particular, I note that both domestic production data and import data have coverage inadequacies. It is unknown whether our investigation has captured all valves incorporated into assemblies; for subject imports, this could be a sizable number given that the majority of subject imports are imported into the U.S. market as pneumatic valve assembly systems.[8] Second, I note coverage questions exist regarding pricing data. Specifically, there are price data for only about *** percent coverage of substantially all subject import volume.[9] Thus, there is only a qualified and limited basis for direct price comparisons. A final phase investigation would provide the needed opportunity to address these issues, in part through the collection of purchasers' perceptions, more detailed volume and pricing requests in questionnaires, and parties' comments on these issues.

In light of Commission precedent and judicial standards, the quality and depth of the record data do not support a negative preliminary determination. Accordingly, I am satisfied that the importance of each of these unresolved issues and the apparent limited factual record at this stage of the proceedings, underscore the need for the Commission to hear directly from industry participants, and therefore develop a more reliable and informative factual record in a final proceeding.

II Domestic Like Product and Industry

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[10] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[11] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[12]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual

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[6] Petitioners' Postconference Brief at 5-9; SMC Postconference Brief at 4-5; Transcript of Staff Conference ("Tr") at 116.

[7] Petitioners' Postconference Brief at 3 & 7-8; Tr. at 15-17 (Mr. Shellenbarger) & 61-62 (Mr. Rees & Mr. Shellenbarger), 137-138 (Mr. Sandstrom).

[8] CR at I-6; PR at I-4; CR/PR at IV-1 n.2.

[9] CR at V-4; PR at V-3.

[10] 19 U.S.C. § 1677(4)(A).

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(10).

determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[13] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[14] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[15] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[16]

B. Product Description

Commerce's notice of initiation defines the imported merchandise within the scope of this investigation to include:

> all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and material(s) employed in construction, other than aerospace-type fluid power valves.... The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves.[17]

C. Domestic Like Product

The scope of this investigation defines the subject imports as pneumatic directional control valves, and both parties seemingly agree that the Commission should find one domestic like product.[18] However, this investigation presents an important unanswered question regarding the range of products covered by the scope, which the Commission is obliged to investigate thoroughly, i.e., whether the scope covers only individual pneumatic directional control valves and not those in multiple valves assemblies

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[13] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[14] See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

[15] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[16] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[17] Notice of Initiation of Antidumping Duty Investigation: Pneumatic Directional Control Valves, 67 Fed. Reg 6485, 6486 (Feb. 12, 2002).

[18] Petitioners' Postconference Brief at 5-9; SMC Postconference Brief at 4-5; Tr. at 116.

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and other panel accessories. Respondents contend that the scope of the investigation does not cover pneumatic directional control valves incorporated into valve assemblies and valve panels, which is how the vast majority of subject imports enter the U.S. market.[19] However, petitioners contend that individual pneumatic directional control valves even in complex valve assemblies are within the scope.[20] Similar to respondents' understanding of the scope, the import and domestic volume data obtained in this investigation are evidently limited to individual valves only and do not include valves contained or incorporated within multiple valve assemblies or panel accessories.[21] Thus, in light of questions regarding like product, the value of these data is similarly debatable.

For purposes of my preliminary determination, I note that the limited record indicates that all domestic pneumatic directional control valves are produced using common manufacturing processes and facilities, are sold in similar channels of distribution, and share similar general physical characteristics and end uses.[22] Accordingly, coextensive with the definition of the scope of this investigation, I find that the domestic like product consists of all pneumatic directional control valves, to include all individual pneumatic valves, whether assembled or unassembled.

D. Domestic Industry and Related Parties

In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[23] Based on my definition of the domestic like product, I define the domestic industry to include all domestic producers of pneumatic directional control valves as defined in Commerce's scope.

Next, the Commission must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[24] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[25]

The record indicates that five U.S. producers[26] imported subject merchandise from Japan and are therefore related parties, while *** of these five producers[27] are affiliated with Japanese producers of subject imports. All parties agree, and the record confirms, that SMC of America, which is a wholly-owned Japanese subsidiary of SMC (the primary foreign producer in this investigation), should be

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[19] See, e.g.,Tr. at 119 (Mr. Porter).

[20] Petitioners' Postconference Brief at 7-8.

[21] CR/PR at Tables III-3-4, n.2 at IV-1 & Table D-1. In particular, I note the unreconciled differences between Commission data compiled from data submitted in response to Commission questionnaires and official trade data.

[22] I also note that there is a large variety of product types and classes with significant pricing and substitutability distinctions, as discussed further in the following Conditions of Competition section.

[23] United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir.1996).

[24] 19 U.S.C. § 1677(4)(A).

[25] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[26] ***.

[27] ***.

excluded from the domestic industry given its small domestic production and its large volume of imported subject merchandise (***).[28] Respondents contend *** should also be excluded due to the sizable amount of subject merchandise imported relative to its U.S. shipments.[29] However, the record indicates that *** do not gain a financial advantage by importing subject merchandise from Japan, and each domestic producer imported or purchased only a relatively small amount of subject imports during the period of investigation.[30] Accordingly, I find that appropriate circumstances exist to exclude SMC of America from the domestic industry, but that appropriate circumstances do not exist to exclude ***.

III. Reasonable Indication of Threat of Material Injury by Reason of LTFV Imports from Japan

A. Conditions of Competition

There are four noteworthy conditions of competition in this investigation. First, as discussed above, domestic products and imported products are apparently marketed differently. Domestic producers and nonsubject producers primarily market and sell individual pneumatic directional control valves, while Japanese producers market and sell valves incorporated into assembly systems. Again, the Commission's understanding of this element of competition in this market is critical to this preliminary determination. In addition to providing an unique condition for competition in the U.S. market, this distinction affects the like product issue, as well as the completeness and reliability of the injury analysis due to deficiencies regarding the import volume data and the price data.[31]

Second, U.S. producers reported internal shipments and transfers to related firms that accounted for less than *** percent of U.S. shipments in all reporting periods, which I do not find to be a significant level according to the captive production provision.[32] However, I note the internal shipments and transfers to related firms as a condition of competition, especially considering that *** SMC's U.S. shipments are internal shipments.[33]

Third, the U.S. market has a large product variation, up to 100,000 types of products, with limited substitutability.[34] The vast product variation is especially notable given the specialization and unique engineering required for particular valve assembly systems.[35] Fourth, nonsubject imports represented a larger share of the U.S. market in 1998 and 1999 than did subject imports, but accounted for a lower market share than subject imports in 2000 and interim 2001.[36]

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[28] Petitioners' Postconference Brief at 9-10; SMC Postconference Brief at 4; CR/PR at Tables III-1, III-5 & VI-2.

[29] SMC Postconference Brief at 4.

[30] CR/PR at Tables III-1, III-5 & VI-2.

[31] Given the apparent importance of nonsubject imports in this market, information regarding marketing of these imports is similarly essential in reaching conclusions regarding conditions of competition and the impact of subject imports.

[32] CR/PR at III-4; 19 U.S.C. § 1677(7)(C)(iv).

[33] SAA at 853; PR/CR at Table VII-1.

[34] CR/PR at I-5.

[35] CR/PR at I-5.

[36] PR/CR at Table C-1.

B. Threat of Material Injury Analysis

Based on the best available information and the important deficiencies that are replete in the record of this investigation, I determine that there is a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports from Japan.

The record indicates that subject imports increased both volume and U.S. market share over the period of investigation. In particular, when apparent U.S. consumption increased *** percent between 1998 and 2000, from *** units in 1998, to *** units in 1999, and to *** units in 2000, the volume of subject imports grew exponentially faster from 1998 to 2000, by *** percent.[37] Subject imports' share of apparent U.S. consumption steadily increased from *** percent in 1998, to *** percent in 1999, and to *** percent in 2000.[38] As subject imports captured increasing U.S. market share, domestic producers' share of demand declined from *** percent in 1998, to *** in 1999, and to *** percent in 2000.[39] The volume data thus indicate that Japanese producers have the ability and the incentive, even during stronger economic cycles, to increase imports of subject merchandise into the U.S. market, and thereby imminently threaten the domestic industry with material injury.

The limited record also indicates that Japanese producers' inventories of subject merchandise increased throughout the period of investigation.[40] Importers' inventory of subject imports also increased throughout the investigation period; such current inventories represent approximately *** percent of apparent U.S. consumption and *** percent of domestic production in 2000.[41] Japanese subject producers' production is primarily export-oriented, with a substantial share of Japanese exports to other markets that are available to be shifted to the U.S. market.[42] Importantly, I note that the projected data for 2002 are not comparable to the data for 1998-2000, indicating another weakness in the record.[43]

Given the uninformative coverage of pricing data (*** percent coverage of subject imports and *** percent coverage of domestic products), it is not meaningful that available pricing data demonstrate no apparent trend during the period of investigation and price comparisons are mixed. However, based on the best available pricing data on the record, I did find that underselling is evident (25/27 comparisons) when comparing subject import price with domestic price for two comparable products at the distribution level.[44] I also find that if the trend of increasing subject imports continues, as indicated, there will be an oversupply in the U.S. market, resulting in measurable price declines in the imminent future.

The record also presents an inconclusive picture regarding domestic industry performance. In particular, the domestic industry's performance showed a mixed picture -- that is, at the same time that the U.S. market share of subject import increased, domestic producers' performance indicia were mixed; production, quantity of U.S. shipments, and net sales marginally increased. However, after the domestic

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[37] CR/PR at Table C-1.

[38] Id.

[39] Id.

[40] CR/PR at Table VII-1.

[41] CR/PR at Tables C-1 & 2.

[42] CR/PR at Table VII-1.

[43] CR/PR at Table VII-1 n.1.

[44] I note that product 2 and product 5 represent the largest volume of price comparisons. Imported product 2 undersold the domestic like product in sales to distributors in 15 out of 15 quarters. Similarly, imported product 5 undersold the domestic like product in sales to distributors in 10 out of 12 quarters. Given that the majority of domestic sales are to distributors, I find that the distributor level of sale price data most probative of all price data.

industry experienced three years of persistently increasing volumes of subject import that consistently captured U.S. market share from domestic producers, domestic producers' operating income margins declined over the entire period of investigation, from 15.8 percent in 1998 to 9.0 percent in interim 2001.[45] The industry's number of production workers and hours worked decreased over the investigation period;[46] and eventually, three out of twelve domestic producers operated with losses in interim 2001.[47] I find therefore that the deterioration of the domestic industry's performance trends during the most recent period, which coincided with an upward trend in the volume of subject imports, indicates imminent difficulties, and accordingly supports a preliminary affirmative finding of a reasonable indication of the threat of material injury by reason of subject imports.

IV. Conclusion

Based upon the foregoing analysis, I determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of pneumatic directional control valves from Japan that are allegedly sold in the United States at less than fair value.

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[45] CR/PR at Table C-2 (data excluding SMC of America).

[46] CR/PR at Table C-2.

[47] CR/PR at Table VI-2.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed on January 14, 2002, on behalf of the Pneumatics Group, a trade association of pneumatic directional control valve ("PDCV") producers and wholesalers consisting of Festo Corp. of Hauppage, NY ("Festo");[1] IMI Norgren, Inc., of Littleton, CO ("Norgren"); Numatics, Inc., of Highland, MI ("Numatics"); and Parker Hannifin Corp. of Cleveland, OH ("Parker Hannifin"), alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value ("LTFV") imports of PDCVs[2] from Japan. Information relating to the background of the investigation is provided below.[3]

Date	*Action*
January 14, 2002	Petition filed with Commerce and the Commission; institution of Commission investigation (67 FR 3230, January 23, 2002)
February 4, 2002	Commission's conference[4]
February 12, 2002	Commerce's notice of initiation (67 FR 6485, February 12, 2002)
February 27, 2002	Date of the Commission's vote
February 28, 2002	Commission's determination sent to Commerce
March 7, 2002	Commission's views sent to Commerce

SUMMARY DATA

A summary of data collected in this investigation is presented in appendix C, tables C-1 and C-2. Except as noted, U.S. industry data are based on questionnaire responses of 14 firms which constituted a majority of known U.S. producers during the period 1998 through September 2001, the period for which data were gathered in this investigation. U.S. imports and U.S. shipments of imports are based on a combination of official import statistics as compiled by the Department of Commerce ("Commerce") and data compiled from Commission questionnaire responses. Imports from Japan are based solely on

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[1] ***.

[2] For purposes of this investigation, PDCVs consist of all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and material(s) employed in construction, other than aerospace-type fluid power valves as further described below. The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves.

Specifically excluded from the scope of this investigation are aerospace-type pneumatic fluid power valves, defined as pneumatic fluid power valves that have been certified for use in airframes, aircraft engines, or other aerospace applications pursuant to standards established or required by the Federal Aviation Administration or Department of Defense in the United States, or by the counterparts of these agencies in other countries.

The pneumatic directional control valves subject to this investigation are classifiable under subheading 8481.20.00 (statistical reporting numbers 8481.20.0060 and 8481.20.0070) of the Harmonized Tariff Schedule of the United States ("HTS"). The applicable duty rate for this HTS subheading is 2 percent *ad valorem*. Although the HTS subheading is provided for convenience and customs purposes, the written description of pneumatic directional control valves subject to this investigation is dispositive.

[3] *Federal Register* notices cited in the tabulation are presented in app. A.

[4] A list of witnesses appearing at the conference is presented in app. B.

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questionnaire data. Import data from nonsubject countries are compiled by using questionnaire data for the countries of France, Germany, Sweden, Switzerland, and the United Kingdom and by using official statistics for remaining nonsubject countries.

Both petitioners and SMC Corp. ("SMC"), the largest Japanese respondent, agree that SMC of America, SMC's U.S. subsidiary, should be excluded from the U.S. industry.[5] A summary of data with SMC of America extracted from the U.S. industry data is presented in table C-2.

PREVIOUS AND RELATED INVESTIGATIONS

PDCVs have not been the subject of any prior antidumping or countervailing duty investigations in the United States.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On February 12, 2002, Commerce published a notice in the *Federal Register* of the initiation of the antidumping investigation on PDCVs from Japan. The petitioners' estimated dumping margins, as reported by Commerce, range between 9.28 percent and 107.46 percent.

THE PRODUCT

Commerce has defined the scope of this investigation as follows:

"The scope of this investigation includes all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and material(s) employed in construction, other than aerospace-type fluid power valves as further described below. The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves.

Specifically excluded from the scope of this investigation are aerospace-type pneumatic fluid power valves, defined as pneumatic fluid power valves that have been certified for use in airframes, aircraft engines, or other aerospace applications pursuant to standards established or required by the Federal Aviation Administration or Department of Defense in the United States, or by the counterparts of these agencies in other countries."

The Commission's determination regarding the appropriate domestic product that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.[6]

Physical Characteristics and Uses

A PDCV is a mechanical device that regulates the direction of air flow in a pneumatic system through a series of channels in a valve body. The channels are opened or closed by a movable part in

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[5] Petitioners' postconference brief, p. 10; SMC's postconference brief, p. 4. SMC also contends that *** should be excluded from the U.S. industry. SMC's postconference brief, p. 4.

[6] For purposes of the preliminary phase of this investigation, respondents raise no domestic like product issues. Dan Porter, Counsel for SMC, Willkie Farr & Gallagher, conference transcript, p. 91.

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order to permit or prevent air flow between the different passages inside the valve. The action of the movable part may control system pressure, direction of flow, and the rate of flow, which in turn may move or cease movement of other parts of the pneumatic system. A typical PDCV consists of a valve body with four internal flow passages and a moving part, a spool, which alternately connects a cylinder port to the supply port or exhaust port. The valve body can be made up of various materials, including stainless steel, aluminum, bronze, iron, magnesium, and plastics, depending on the end-use application.

Four different classes of PDCVs are used in pneumatic systems: (1) two-way (two ports and two internal positions); (2) three-way (three ports and three internal positions); (3) four-way (four ports and three internal positions) and (4) five-way (five ports and two internal positions). PDCVs are differentiated in terms of the number of ports, the number of switching positions, their normal (not operated) position, and the method of operation. Specific valves may be operated manually, mechanically, electrically, or by an air pilot arrangement.

The most frequent application of PDCVs is in automated production lines (i.e., robotic production lines). The U.S. producers and some distributors, using in-house engineers, design and build entire automated manufacturing lines using PDCVs as part of this system. There are other applications such as automotive (air brake systems for buses and heavy trucks); electrical (automation of medical and semiconductor manufacturing equipment); portable medical devices (oxygen concentrators and glucose monitors); large scale food processing equipment; and packaging equipment.

With this broad range of applications, the size of the valves themselves varies considerably, as does the price. PDCVs typically range in size from three-quarters of an inch to 10 inches, and can operate to a maximum of 150 pounds per square inch ("psi").[7] More than half of all PDCVs in use have incoming and outgoing ports under 2 inches in size.[8]

Common Manufacturing Facilities and Production Employees

Both petitioners and respondents described their manufacturing processes as "dedicated cell" production. This process dedicates custom equipment (i.e., custom tool dies or plastic injection molds) and workers to the production of a single type of PDCV in the same location.[9] Because of the customized nature of the production equipment, the production lines are used solely to produce that particular PDCV until the production cell is re-tooled or re-configured to the production specifications of another type of product. Because of the engineering and design elements in creating custom tool dies or injection molds, this re-tooling is generally not a quick process. In certain circumstances, it may not be possible to re-configure machinery used to produce one type of valve to produce another type.[10]

Even though both petitioners and respondents generally agree that the production equipment is dedicated to the production of a particular PDCV, a number of producers have utilized production

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[7] Valves operating at greater than 150 psi are generally fluid hydraulic valves. It is recognized in the industry that pneumatic systems, driven by compressed air, can only operate at up to 150 psi.

[8] SMC of America testified at the conference that it leads the industry in two major trends, namely miniaturization and full system integration. With regard to miniaturization, SMC of America stated that SMC was the first company to offer miniature valves, which require less electricity in use, require less raw material to build, reduce costs, and save valuable factory floor space. Also, the smaller size reportedly opened up the new market segments of medical and semiconductors. With regard to system integration, SMC testified that it offers its customers a wider range of products, which allow its customers to come to SMC for 100 percent of their pneumatic system needs. Larry Smith, Indianapolis Factory Manager, SMC of America, conference transcript, pp. 73-76.

[9] David Dodds, Vice President of Marketing, Parker Hannifin, conference transcript, p. 39; Mr. Smith, conference transcript, pp. 104-105.

[10] Mr. Dodds, conference transcript, p. 40.

workers for other tasks, such as the production of related components, e.g., filters, regulators, lubricators, air cylinders, valve accessories, brass fittings, and other solenoid valves.

Interchangeability and Customer and Producer Perceptions

There are up to 100,000 individual types of PDCVs produced, with limited substitutability. The U.S. industry commonly produces PDCVs to proprietary specifications for numerous industry applications. These propriety specifications are often created by in-house engineers and designers and are made to the unique needs of the purchaser. These customization and design processes render it difficult and expensive for a manufacturer to switch to a different competing supplier of PDCVs when replacement is necessary.[11] The initial custom tooling investment, the engineering, and the initial testing also make it difficult or even cost prohibitive to switch PDCV suppliers for an existing pneumatic system unless quality or service are extremely unsatisfactory.[12]

Recently some in the industry have begun utilizing internationally recognized manufacturing product standards (ISO 9000) in the production of PDCV sub-bases.[13] The valve sub-base is what the actual valve is bolted onto in order to integrate it into the pneumatic system. The universality of this sub-base allows for slightly disparate valves to be integrated into the same pneumatic system, alleviating prior compatibility issues. A number of major consumers of PDCVs such as *** have or are contemplating the adoption of ISO standards. One major U.S. producer *** will make it mandatory by 2005 for all U.S. PDCV suppliers to make use of ISO product standards.

Channels of Distribution

The U.S. producers of PDCVs directed approximately *** percent of their shipments in 2000 to distributors and the remaining *** percent to end users. These distributors, as the producers themselves, design and construct entire pneumatic systems using components, including PDCVs, from a variety of manufacturers. SMC of America, representing the largest portion of Japanese imports, however, directed the majority of its shipments to end users and provided its own engineering and design services.[14]

Price

As a result of the wide variety of PDCVs and their applications, the price of PDCVs varies widely. The typical cost range for PDCVs is from $2 to $300 per valve, with most valves sold as part of valve assemblies or circuits which may involve several dozens of valves as well as other components. Components added to valves as part of the assemblies also vary widely in price. See Part V for a comprehensive discussion on the pricing of PDCVs.

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[11] Petitioners, however, argue that PDCVs are "off-the-shelf items from manufacturers' catalogs" and that proprietary designs of one manufacturer regularly compete with proprietary designs of another producer. Petitioners' postconference brief, p. 1. Petitioners acknowledge, however, that custom tooling and engineering design may occur for a specific customer. Pierce Barker, Vice President, Barker Rockford Co., conference transcript, pp. 52-53.

[12] Mr. Smith, conference transcript, p. 73.

[13] Testimony at the conference revealed that the market for PDCVs produced under ISO represents from 3.5 percent to 10 percent of the entire world market. Kenneth Buda, Vice President of Marketing, Parker Hannifin, conference transcript, p. 43; David Pusateri, Non-Actuator Products Group Engineering Manager, SMC of America, conference transcript, p. 107.

[14] SMC of America reported that 80 percent of its shipments are directly to end users, as incorporated parts of assemblies or complete pneumatic systems, while the remaining 20 percent are shipped to distributors. Edward Lasch, Medical Industry, Product Manager, SMC of America, conference transcript, pp. 77-78.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

PDCVs are used in a wide variety of automated equipment, and are sold either directly to end users or to distributors. Almost all PDCVs are sold to end users as part of a complete pneumatic system. Sales of replacement valves account for a very small share of domestic producers' overall sales of PDCVs.[1]

Sales to distributors account for the large majority of responding producers' sales of PDCV. In 2000, sales to end users accounted for *** percent of domestic producers' sales of PDCVs (on a quantity basis) and sales to distributors accounted for *** percent. Distributors work closely with end users to develop a fluid power system tailored for the particular customer. As Mr. Pierce Barker, Vice President of Barker Rockford Company, a distributor of PDCVs, noted:

"My role in our distribution relationship is to -- I'm the front line, nose to nose, toe to toe with the customer and I have to help him implement the standard product that they provide and we'll develop a circuit or an application to do the logic of the collar stitching or the box folding or whatever that is and then assist the customer in the design of the circuits."[2]

In contrast, responding importers of PDCVs from Japan report that the majority of their PDCVs are sold directly to end users. At the conference, Mr. Pusateri, Non-Actuator Products Group Engineering Manager, SMC of America, noted that his company, the importer of subject PDCVs, had worked with a major customer to tailor a system to the end user's needs and change the design of the valve itself. This difference between SMC of America and domestic producers was also apparent from the lost sale and lost revenue allegations reported by domestic producers. Many of these allegations involved quotations by distributors representing the product lines of domestic producers rather than quotations by domestic producers to end users. SMC of America reports that sales of individual PDCVs to distributors account for only 20 percent of its sales, and that most of the remaining 80 percent are sold as components of valve assemblies, which include manifolds, fittings, pipes, and rails.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. PDCV producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced PDCVs to the U.S. market. The main contributing factor to the moderate degree of responsiveness of supply is the availability of unused capacity, moderated by a lack of alternate markets, a lack of production alternatives, and a lack of large inventories.

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[1] Mr. Dodds, Mr. Buda, and Mark Shellenbarger, President, IMI Norgren, Inc., conference transcript, p. 48.

[2] Conference transcript, p. 51.

II-1

Industry capacity

Domestic producers' capacity and production of PDCVs both increased slightly from 1998 to 2000. As a result, capacity utilization was little changed. In interim 2001 compared to interim 2000, capacity increased by *** percent, while production dropped by *** percent. As a result, capacity utilization was much lower in interim 2001 than in any other period examined.

Alternative markets

Domestic producers' exports accounted for approximately *** percent of their total shipments, on a value basis, in each calendar year from 1998 through 2000. In interim 2001, export shipments fell by *** percent compared with interim 2000 (on a value basis), while U.S. shipments by responding domestic producers fell by *** percent in interim 2001 compared with interim 2000. Domestic producers of PDCVs are unlikely to be able to shift a large share of sales to or from export markets in response to price changes.

Inventory levels

Domestic producers' inventories as a share of shipments have changed little since 1998. Inventories as a share of shipments *** percent of total shipments. In interim 2001, inventories as a share of total shipments *** compared to interim 2000, from *** percent. Given the wide variety of types and sizes of PDCVs produced, domestic producers would be unlikely to be able to respond to an increase in demand by drawing down a large volume of PDCVs in inventory.

Production alternatives

Domestic producers of PDCVs do produce other components of fluid power systems in the same facilities in which PDCVs are produced. However, PDCVs are produced on different production lines or cells, which could not easily be switched to the production of alternate products.[3] Consequently, domestic producers of PDCVs would not be able to shift production capacity between alternate products and PDCVs in response to price changes. Given that many PDCVs are sold as part of a complete fluid power system, demand for other components would be expected to rise or fall in tandem with demand for PDCVs.

Subject Imports

Based on available information, Japanese producers are likely to respond to changes in demand with moderate-to-high changes in the quantity of shipments of PDCV to the U.S. market. The main contributing factors to the moderate-to-high degree of responsiveness of supply are the availability of unused capacity and the existence of alternate markets, moderated by a lack of ability to produce alternate products.

[3] Mr. Dodds, conference transcript, pp. 39-40, and Mr. Shellenbarger and Mr. Buda, conference transcript, p. 41.

Industry capacity

Reported capacity to produce PDCVs in Japan increased from 1998 to 2000, and decreased slightly from interim 2000 to interim 2001. Production of PDCVs increased faster than capacity from 1998 to 2000 and declined more than the decline in capacity from interim 2000 to interim 2001. In calendar year 2000 and interim 2000, reported capacity utilization ***. In interim 2001, reported unused capacity ***. Data on the PDCV industry in Japan are presented in Part VII of this report.

Alternative markets

Japanese exports of PDCVs to the United States accounted for less than half of Japan's total exports in every period examined. Commercial shipments in the Japanese home market accounted for a greater share of total shipments than exports to the United States in every period examined, and accounted for a greater share of total shipments than exports to all markets in every year and period except calendar year 2000 and interim 2000.

Inventory levels

End-of-period inventories for reported Japanese producers of PDCVs as a share of total shipments were lower in interim 2000 than for any other period examined, and slightly higher in interim 2001 than for any other period examined. Inventories as a share of total shipments in interim 2001 were higher than those reported by responding domestic producers, but given the wide range of PDCVs produced, would likely not greatly increase the responsiveness of Japanese producers to a price change in the U.S. market.

Production alternatives

Only *** of PDCVs in Japan, ***, reported producing any other products on the same equipment and machinery used to produce PDCVs. This lack of production alternatives would limit the responsiveness of Japanese manufacturers of PDCVs to changes in the price of PDCVs in the U.S. market.

U.S. Demand

Demand Characteristics

Most PDCVs are sold to end users as part of a complete fluid power system, and PDCVs account for less than half of the cost of a typical fluid power system.[4] The competition between domestic PDCVs and subject imports primarily takes place at the design stage for a particular system. Once a PDCV has been specified, it is difficult or impossible to replace one manufacturer's PDCV with another's. Additionally, specifications for PDCVs become part of the specification for a particular piece of automation equipment. "Once specified, parts are literally written into the blueprint of the automation

[4] Mr. Barker reported that PDCVs accounted for approximately $100,000 of a $1.6 million quotation, conference transcript, p. 52. Mr. Lasch noted that PDCVs account for approximately 25 percent of the cost of a system designed for an automobile manufacturer, and 50 percent of the cost of a system designed for a semiconductor manufacturer, conference transcript, p. 83.

equipment."[5] "Once the manufacturer decides on the best design for a specific need, it will usually source that specific valve for as long as the equipment using that valve remains in production."[6]

Substitute Products

There are no practical substitutes for PCDVs in pneumatic systems. At a system level, mechanical, electro-mechanical, or hydraulic systems may be substitutable for pneumatic systems at the design stage. This substitutability is limited by the particular manufacturing process. Pneumatic systems are preferred over hydraulic systems where the potential leakage of hydraulic fluid is unacceptable, in systems with fast-cycling actuators, in systems in which flow is not constant, and in systems which require less than 150 psi of pressure to be applied.[7] Once an automated system has been installed, substitution is generally impossible due to space, weight, and power constraints.

Cost Share

PDCVs are used as components in a wide variety of automated systems such as packaging, sorting, and industrial automation equipment; air-operated equipment on buses and trucks; and in air-operated medical equipment. PDCVs account for a small share of the total cost of these products. Responding producers and importers report that PDCVs account for up to 15 percent of the cost of automated equipment, 3 to 5 percent of the cost of liquid chromatography equipment and medical equipment, and 1 percent of the cost of auto assembly.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported PDCVs depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is moderate substitutability between domestic PDCVs and subject and nonsubject imports at the system level. Once an automated system has been installed, there is limited substitutability between PDCVs from different manufacturers.

Factors Affecting Purchasing Decisions

Most competition for PDCVs takes place at the design stage of a fluid power system or assembly. PDCVs are produced in a wide variety of types.[8] Most domestic producers produce PDCVs that compete in every major segment of the market,[9] but differences do exist between PDCVs from different sources. Counsel for petitioners likened the process of choosing a PDCV to that of choosing a faucet for a kitchen sink.[10] There are differences between products from different manufacturers, but all

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[5] Mr. Lasch, conference transcript, p. 80.

[6] Mr. Smith, conference transcript, p. 73.

[7] Petition, exhibit 3, p. 16-3.

[8] These include differences in the design of the moveable part that physically redirects air flow, materials, and methods of activation.

[9] Mr. Buda, Mr. Shellenbarger, and Mr. Dodds, conference transcript, p. 54.

[10] John Steinberger, attorney, Thompson Hine LLP, conference transcript, p. 44.

manufacturers make a product that will fit in the hole and do the job. Purchasers wanting to standardize their machinery will have a tendency to continue to purchase PDCVs from the same source. Thus importers of PDCVs from Japan have a sales advantage in marketing to firms headquarted in Japan which have begun producing in the United States but have machinery originally designed in Japan.[11]

Comparisons of Domestic Products and Imports[12]

At the conference, *** and in briefs, representatives of SMC and SMC of America state that the vast majority of SMC's sales, and 95 percent of SMC of America's sales, of PDCVs are of proprietary designs that are not interchangeable with those from domestic producers. Approximately five percent of the PDCVs sold by SMC of America meet ISO standards, which specify the manifold connections and the electrical interface.[13] Domestic producers note that, although PDCVs from different sources are not instantly interchangeable without some alteration, one valve of a proprietary design can in fact be used in place of another.[14] *** noted that although only a small share of PDCVs are produced to ISO standards, most of the remainder are used singly in in-line applications, which would make substitution easier.[15] Additionally, PDCVs from all sources compete with one another at the design stage.

Interchangeability

Most domestic producers reported that PDCVs produced in the United States and those imported from Japan are for the most part interchangeable. Half of the responding importers reported that such PDCVs are not interchangeable, or that only the small fraction produced to ISO standards are interchangeable. Importer *** reported that only those produced to the ISO standards are interchangeable, and that competition between PDCVs produced in the United States and those imported from Japan takes place only during the bidding process. Importer *** reported that valves from different sources are similar in function, but are not interchangeable because of differences in inlet and outlet ports and other specifications. Domestic producer *** noted that PDCVs from different sources operate in the same fashion, but are not interchangeable because of different physical dimensions or "footprints."

When asked if there are differences in product characteristics or sales conditions between PDCVs produced in the United States and those imported from Japan, most domestic producers reported no differences or that price is the only difference. Most importers reported differences in product characteristics or sales conditions. Domestic producer *** and importer *** noted the engineering and sales support that *** extends to end-use customers as a difference. Domestic producer *** noted that in addition to differences in price, there are differences in product range. Domestic producer *** noted that its PDCVs have significant patented advantages over imports. Importer *** noted that many of its customers for PDCVs have systems that were designed in Japan, and want complete interchangeability with existing PDCVs. A compilation of the responses of domestic producers and importers is presented in table II-1.

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[11] Mr. Dodds, conference transcript, p. 46, and response of *** to the Commission importer questionnaire.

[12] Much of the data in this section was gathered from questionnaire responses. For this section, the responses of *** were treated as responses from domestic producers, even though some of these firms import PDCVs from Japan or nonsubject sources. Responses of *** were treated as importer responses.

[13] Mr. Smith, conference transcript, p. 72 and Mr. Pusateri, conference transcript, p. 133.

[14] Mr. Steinberger, conference transcript, p. 44 and Mr. Dodds, conference transcript, p. 46.

[15] Telephone conversation with staff, February 12, 2002. ***.

II-5

Table II-1
PDCVs: Interchangeability of PDCVs from different sources

Are PDCVs from different sources used interchangeably?				
Source	U.S. producers		Importers	
	Firms reporting "yes"	Firms reporting "no" or ISO only	Firms reporting "yes"	Firms reporting "no" or ISO only
U.S. vs Japan	8	2	2	2
U.S. vs nonsubject	8	2	2	2
Japan vs nonsubject	8	2	2	2
Are there differences in product characteristics or sales conditions in PDCVs from different sources?				
Source	U.S. producers		Importers	
	Firms reporting "no" or price only	Firms reporting "yes"	Firms reporting "no"	Firms reporting "yes"
U.S. vs Japan	7	3	1	3
U.S. vs nonsubject	8	1	1	3
Japan vs nonsubject	8	0	2	2
Source: Compiled from responses to Commission questionnaires.				

Comparisons of Domestic Products and Nonsubject Imports

The same producers and importers that view PDCVs from domestic sources and those from Japan as interchangeable reported that PDCVs from domestic sources are interchangeable with those from nonsubject countries. Importer *** reported that U.S. connections, voltage requirements, and pressure requirements for PDCVs are different from European standards. Importer *** reports that it imports products into the U.S. market that are not produced domestically.

Comparisons of Subject Imports and Nonsubject Imports

The same producers and importers that view PDCVs from domestic sources and those from Japan as interchangeable reported that PDCVs from Japan are interchangeable with those from nonsubject countries. Importer *** reported that Japanese connections, voltage requirements, and pressure requirements for PDCVs are different from European standards. Importer *** reported that products imported from Japan ***.

II-6

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 14 firms that included all the known large U.S. producers of PDCVs during the period examined.[1]

U.S. PRODUCERS

The Commission sent producers' questionnaires to all 30 firms identified as U.S. producers of PDCVs in the petition. Table III-1 presents a list of U.S. producers who responded to the questionnaire, with each company's production location(s), share of the value of reported U.S. shipments in 2000,[2] and position on the petition. With the exception of ***, all responding firms expressed support for the petition.

[1] The Commission received questionnaire responses from the following companies: (1) Parker Hannifin; (2) Norgren; (3) Numatics; (4) Ross Controls; (5) Humphrey Products; (6) Clippard Instrument Laboratory; (7) Ingersoll-Rand; (8) Versa Products; (9) Mac Valves; (10) Mead Fluid Dynamics; (11) Dynamco; (12) SMC of America; (13) Alkon Corp.; and (14) Bosch Rexroth Corp. Alkon Corp. and Bosch Rexroth Corp. did not include trade or financial data. ***. The 12 firms that provided data accounted for 62.4 percent of the value of total U.S. producers' shipments of PDCVs in 2000 as reported by the Census Bureau.

[2] Value, as opposed to quantity, is generally used throughout this report to compute shares. Because of the wide variety of products covered under the scope of this investigation and the corresponding wide range of prices, quantities and unit values may be of lesser utility. Both petitioners and respondents urged the Commission to give greater weight to value data. Petition, p. 2; Mr. Porter, conference transcript, p. 104.

III-1

Table III-1
PDCVs: U.S. producers, positions on the petition, share of the value of reported U.S. shipments in 2000, and U.S. production locations

Firm	Production locations	Share of shipments (*percent*)	Position on the petition
Alkon	Fremont, OH	(1)	Support
Bosch Rexroth[2]	Lexington, KY	(1)	***
Clippard Instrument	Cincinnati, OH	***	Support
Dynamco[3]	McKinney, TX	***	***
Humphrey Products	Kalamazoo, MI	***	***
Ingersoll-Rand	Woodcliff Lake, NJ	***	Support
Mac Valves[4]	Wixom, MI	***	***
Mead Fluid Dynamics[5]	Chicago, IL	***	Support
Norgren[6]	Littleton, CO Elk Grove Village, IL Livonia, MI Rockford, IL Brookville, OH	***	Petitioner
Numatics	Highland, MI	***	Petitioner
Parker Hannifin[7]	Hollis, NH New Britain, CT Richland, MI Otsego, MI Canton, PA	***	Petitioner
Ross Controls[8]	Madison Heights, MI Lavonia, GA	***	Support
SMC of America[9]	Indianapolis, IN	***	Oppose
Versa Products[10]	Paramus, NJ	***	***

[1] Did not provide trade data.
[2] ***.
[3] ***.
[4] ***.
[5] ***.
[6] ***.
[7] ***.
[8] ***.
[9] ***.
[10] ***.

Source: Compiled from data submitted in response to Commission questionnaires.

III-2

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Total U.S. production of PDCVs increased slightly from 1998 to 2000 and then declined in interim 2001 by *** percent. Capacity grew steadily from 1998 to 2000, with the largest single-period increase of *** percent occurring in interim 2001. Capacity utilization decreased slightly from 1998 to 2000 and then decreased by *** percentage points in interim 2001.

Table III-2
PDCVs: U.S. producers' capacity, production, and capacity utilization, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

All U.S. producers reported relatively constant or increasing capacity[3] during the period examined. *** reported by far the largest increase in capacity, growing from *** units in 1998 to *** units in 2000, an increase of *** percent.

Seven U.S. producers reported that they produced other products either on the same manufacturing equipment or with the same workers as they used in the production of PDCVs. Examples of these other products reported include: filters, regulators, lubricators, air cylinders, valve accessories, brass fittings, and other solenoid valves. At the public conference, however, industry representatives from both the petitioner and the respondent firms acknowledged that manufacturing equipment and production lines are most likely to be dedicated to the production of PDCVs.[4]

Three of the U.S. producers reported plant openings, closures, or other changes in the character of their operations since January 1, 1998. ***.

***, there is no toll production among members of the domestic industry. ***, members of the domestic industry reported no U.S. production of PDCVs in U.S. foreign trade zones.

U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

As detailed in table III-3, the volume of U.S. shipments increased slightly from 1998 to 2000 and then fell by *** percent in interim 2001. The value of U.S. shipments increased by *** percent in 2000, but decreased by *** percent and *** percent, respectively, in 1999 and interim 2001. Internal shipments and transfers to related firms accounted for less than *** percent of U.S. shipments in all reporting periods. Ten U.S. producers reported export shipments, which were made to Australia, Belgium, Brazil, Canada, China, Finland, France, Germany, Israel, Italy, Japan, the Netherlands, Singapore, Spain, Sweden, Switzerland, the United Kingdom , and Venezuela. Table III-4 depicts each individual U.S. producer's U.S. shipments for all periods in the investigation.

Table III-3
PDCVs: U.S. producers' shipments, by type, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

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[3] ***.

[4] *See* Mr. Dodds, conference transcript, pp. 39-40; Mr. Smith, conference transcript, pp. 104-105.

III-3

Table III-4
PDCVs: U.S. producers' U.S. shipments, by individual U.S. producer, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES FROM JAPAN

Table III-5 presents imports and purchases of PDCVs by U.S. producers that are also importers or purchasers, along with their total shipments of U.S.-produced products. *** reported purchases of Japanese imports from third-party importers of the subject product during the period examined. Five U.S. producers, ***, reported direct imports from Japan. Table III-6 presents purchases of PDCVs, by product source, that include purchases of the subject product from all sources except direct imports from foreign sources.

Table III-5
PCDVs: U.S. producers' total shipments of U.S.-produced products, imports from Japan, and purchases of imports from Japan, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table III-6
PDCVs: U.S. producers' purchases other than direct imports, by product source, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of PDCVs for the period examined are presented in table III-7.

Table III-7
PDCVs: U.S. producers' end-of-period inventories, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of PDCVs, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in the investigation are presented in table III-8.

Table III-8
PDCVs: Average number of production and related workers producing PDCVs, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

III-4

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent importer questionnaires to 7 firms believed to be importers of PDCVs from Japan, as well as to all 30 U.S. producers.[1] Questionnaire responses were received from 10 companies. SMC of America, which provided the Commission with a questionnaire response, accounts for a large majority of the imports from Japan.

U.S. import data are based on a combination of official import statistics as compiled by the Department of Commerce and data compiled from Commission questionnaire responses. Subject imports are based solely on questionnaire data. Nonsubject import data are compiled by using questionnaire data for the nonsubject countries of Germany, France, the United Kingdom, Switzerland, and Sweden and by using official statistics for remaining nonsubject countries.[2] Table IV-1 lists all responding U.S. importers and their value of imports, by source, in 2000.

Three importers are related to or have some affiliation to foreign exporters of the subject product in Japan. SMC of America is the wholly-owned U.S. importing subsidiary of SMC, the largest producer of PDCVs in the world. CKD USA is the wholly-owned U.S. importing subsidiary of CKD. ***.

Questionnaire respondents were located in Ohio (2), New Jersey (2), Texas (1), New York (1), Michigan (1), Colorado (1), Indiana (1), and Illinois (1). Eight firms reported imports of PDCVs from one or more of the following nonsubject countries: Austria, Canada, France, Germany, the Netherlands, Sweden, Switzerland, Taiwan, and the United Kingdom. With the exception of ***, which reported activities in a foreign trade zone ("FTZ"), *** U.S. importers entered the subject product into or withdrew it from FTZs or bonded warehouses.

Table IV-1
PDCVs: U.S. imports, by importer and by source of imports, 2000

* * * * * * *

[1] The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by the U.S. Customs Service, may have imported PDCVs since 1999.

[2] Questionnaire data were used in some instances in place of Commerce statistics because of apparent discrepancies between questionnaire data and official statistics. SMC of America reported that "inadvertent classification" errors *** have rendered the official statistics of imports from Japan unreliable. Respondents' postconference brief, pp. 21-22. The Commission has received questionnaire data from SMC of America and a number of other importers representing the vast majority of imports from Japan. With regard to imports from nonsubject countries, discrepancies also exist between questionnaire data and official statistics. For example, *** reported in its questionnaire response imports from Germany in 1999 and 2000 of $*** whereas Commerce statistics report a total amount of $5.9 million. *** reported imports from the United Kingdom and Switzerland for the 1998 to 2000 period of $***. *** also reported imports from these countries, yet Commerce statistics show a total import figure of $5.1 million for the United Kingdom and Switzerland for the period between 1998 and 2000. The petitioners, however, advocate the Commission's use of official statistics to analyze imports from Japan and nonsubject countries. Official import statistics are presented in appendix D, table D-1.

IV-1

U.S. IMPORTS

Table IV-2 shows that the quantity and value of U.S. imports of PDCVs from Japan increased from 1998 to 2000, then decreased from interim 2000 to interim 2001. The quantity and value of imports from nonsubject countries increased from 1998 to 1999 and then decreased in 2000 and interim 2001. More specifically, the value of imports from Japan rose by *** percent from 1998 to 2000 and then decreased by *** percent in interim 2001.

U.S. importers' shipments, by type, are shown in table IV-3. U.S. commercial shipments of imports decreased as a share of the value of total shipments from 1998 to 2000, as SMC of America increased its internal consumption of its Japanese imports. In 1998, *** percent of the value of total shipments was U.S. commercial shipments whereas in 2000 *** percent of these shipments were commercial shipments. SMC of America represents *** of the internal consumption reported by importers. It reports that it ***. A number of U.S. producers *** reported importing the majority of the remaining imports from Japan.[3]

Table IV-2
PDCVs: U.S. imports, by sources, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table IV-3
PDCVs: U.S. importers' shipments of imports from Japan, by type, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

APPARENT U.S. CONSUMPTION

Table IV-4 depicts apparent U.S. consumption using total U.S. producers' U.S. shipments, which includes both U.S. commercial shipments as well as internal consumption by the U.S. producers. Table IV-5 depicts U.S. apparent consumption using only open market sales of the U.S. producers, i.e., only U.S. commercial shipments. Table IV-6 depicts apparent consumption using only the commercial sales of both the U.S. producers and U.S. importers. As presented in table IV-4, the value of apparent U.S. consumption increased steadily from 1998 to 2000 then decreased by *** percent in interim 2001. Table IV-5 depicts a very similar trend for U.S. consumption when computed using only open-market sales of U.S. producers. Table IV-6, however, shows a dissimilar trend with the value of U.S. consumption decreasing slightly from 1998 to 1999 and then slightly increasing in 2000. In all of these tables, U.S. consumption is understated to the extent that questionnaire data were not received from some U.S. producers.

[3] For example, ***

IV-2

Table IV-4
PDCVs: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table IV-5
PDCVs: U.S. commercial shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. commercial consumption, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table IV-6
PDCVs: U.S. commercial shipments of domestic product, U.S. commercial shipments of imports, by sources, and apparent U.S. commercial consumption, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

U.S. MARKET SHARES

Table IV-7 depicts market shares using U.S. producers' total U.S. shipments to account for the U.S. share of the market; such shipments consist of U.S. commercial shipments as well as internal consumption and transfers to related firms by the U.S. producers.[4] Table IV-8 depicts market shares using only commercial sales of the U.S. producers and all U.S. shipments of imports. Table IV-9 depicts market shares using only commercial sales of the U.S. producers and U.S. importers. As presented in table IV-7, the market share of total imports (based on value) increased steadily from 1998 to 2000, then decreased by *** percentage points in interim 2001. The market share of imports from Japan (based on value) increased by *** percentage points from 1998 to 2000, then decreased by *** percentage points in interim 2001. Tables IV-8 and IV-9 depict a very similar trend for the market shares of imports computed on the basis of commercial sales.

Table IV-7
PDCVs: Apparent U.S. consumption and market shares, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

[4] U.S. producers' U.S. shipments of PDCVs (excluding exports), as reported by the Census Bureau are as follows: 1998–$445,238,000, 1999–$459,939,000, and 2000–$503,403,000. If the value of total apparent U.S. consumption were calculated for 1998-2000 using producers' U.S. shipments as reported by the Census Bureau, the U.S. producers' market share would be *** percent in 1998, *** percent in 1999, and *** percent in 2000, and the market share of imports from Japan would be *** percent in 1998, *** percent in 1999, and *** percent in 2000.

IV-3

Table IV-8
PDCVs: Apparent U.S. commercial consumption and market shares using total U.S. shipments of imports, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table IV-9
PDCVs: Apparent U.S. commercial consumption and market shares using commercial U.S. shipments of imports, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

IV-4

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw materials account for approximately one third of the total cost of PDCVs. Valve bodies and internal moving parts are made in a variety of styles and materials, and the raw material costs of producers varies accordingly. However, on average, raw materials accounted for *** percent of the total value of PDCVs sold by responding domestic producers in 2000, and *** percent of the value of those sold in interim 2001, almost unchanged from the raw materials cost reported in 1998. Data on the results of operations of domestic producers of PDCVs are presented in Part VI of this report.

Transportation Costs to the U.S. Market

Transportation costs for PDCVs from Japan to the United States (excluding U.S. inland costs) are estimated to be approximately 1.85 percent of the total cost of such PDCVs. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.[1]

U.S. Inland Transportation Costs

U.S. inland transportation costs account for a small share of the total delivered cost of PDCVs. All responding producers and importers report that the market area includes the entire country. The majority of responding domestic producers and importers indicated that transportation costs accounted for less than 5 percent of the total cost of PDCVs. All responding domestic producers and importers reported that PDCVs are sold f.o.b. warehouse or distribution point, rather than delivered. In most cases, transportation is arranged by the domestic producer or importer, rather than by the purchaser.

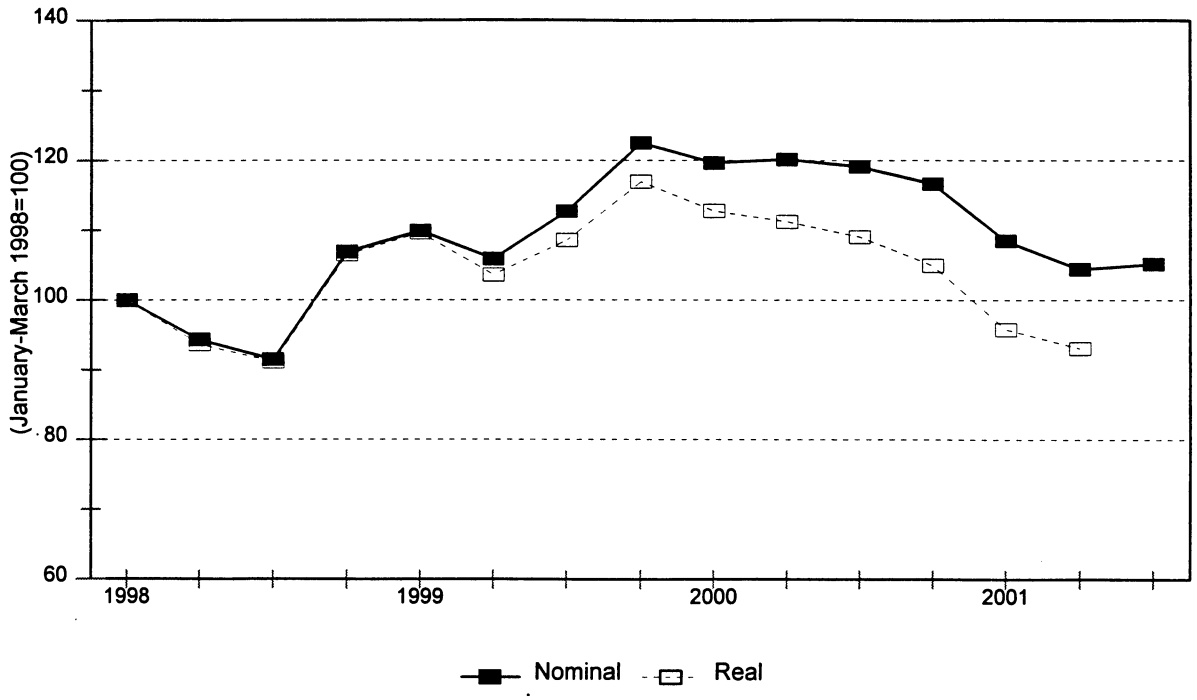
Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal and real value of the Japanese yen relative to the U.S. dollar have declined since the fourth quarter of 1999. In the fourth quarter of 1999, the nominal value of the Japanese yen relative to the U.S. dollar was 22.5 percent higher than the relative value in the first quarter of 1998. The nominal value of the Japanese yen relative to the U.S. dollar in the third quarter of 2001 was 5.2 percent higher than the value in the first quarter of 1998. The real value of the Japanese yen relative to the U.S. dollar has generally been slightly lower than the nominal value, and in the second quarter of 2001 was 6.9 percent lower than its relative value in the first quarter of 1998 (figure V-1).

---

[1] Transportation and insurance costs were calculated using official import statistics for HTS statistical reporting numbers 8481.20.0060 and 8481.20.0070 for calendar year 2000. PDCVs are also apparently imported under other subheadings that include a wide variety of valves and parts for piping systems.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Japanese yen relative to the U.S. dollar, by quarters, January 1998-September 2001



Source: International Monetary Fund, *International Financial Statistics*,

PRICING PRACTICES

Pricing Methods

PDCVs are sold both as individual valves and as part of a larger system. Individual valves are sold to both distributors and end users. In sales of more complex fluid power systems, valves may still be priced individually.[2] Domestic producers *** reported that sales under contract account for *** percent of PDCV sales, respectively. Importer *** reported that sales under contract account for *** percent of sales. All other responding domestic producers and importers reported that sales under contract account for less than half of all sales of PDCVs. Importer *** reported that sales under contract account for *** percent of all its sales of PDCVs.

Sales Terms and Discounts

Producers of PDCVs issue price lists, and distributors commonly receive a set discount from list prices, which may vary by product line. Distributors and end users commonly negotiate prices on larger orders and contracts. Contracts generally specify price, and may stipulate a minimum or estimated quantity. Most responding domestic producers and importers require payment in 30 days, and domestic producers *** give discounts for early payment.

[2] *See*, for example, the ***.

PRICE DATA

The Commission requested U.S. producers and importers of PDCVs to provide quarterly data for the total quantity and value of PDCVs that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1998-September 2001. Sales data were requested for valves only. Data on sales to end users and distributors were collected separately. The products for which pricing data were requested are as follows:

Product 1.--**ISO size 3, solenoid-operated 4-way, 2-position, single solenoid, metal seal, 24VDC (SMC No. VSS8-10-FG-S-3EZ-V1, VSR, or NVP series or similar)**

Product 2.--**"10mm" type miniature, solenoid-operated 3-way, 2-position, single solenoid, spring return, 24 VDC, manifold mount, SAE 10-32 port thread (Clippard EE-3TL-24, SMC SY114 or NVJ114 or similar)**

Product 3.--**ISO size 1, solenoid-operated 4-way, 2-position, single solenoid, rubber seal, 12VDC (SMC No. NVP7-6-FG-S4 or similar)**

Product 4.--**Non-ISO valve, solenoid-operated 4-way, 2-position, double solenoid, internal pilot, base mount, non-plug-in body type, 24VDC, ½ NPTF port size, without indicator light or surge suppresser (SMC No. NVFR4210-5D-04 or similar)**

Product 5.--**Non-ISO valve, solenoid-operated 4-way, 2-position, double solenoid, plug-in body type, 24VDC, 1/4 NPTF port size, without indicator light or surge suppresser (SMC No. NVFS3100-5D-03T or similar)**[3]

Product 6.--**Mechanical valve, C_v 0.4 standard mount, 3-position / open center, 1/4 NPT port (SMC No. VH211-N02 or similar)**

Nine U.S. producers[4] and seven importers[5] provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. Pricing data obtained are presented in tables V-1 to V-6 and figures V-2 to V-7. Because of the wide variety of sizes and types of PDCVs available from domestic producers and importers, pricing data reported by these firms accounted for only approximately *** percent of domestic producers' U.S. shipments of PDCVs and *** percent of U.S. shipments of subject imports from Japan in 2000.[6]

Price Trends

Reported prices for most domestically-produced and imported Japanese PDCVs fluctuated with no apparent overall trend during the period January 1998-September 2001. Prices for the Japanese product 5 decreased over the period.

---

[3] It was later determined that the SMC part number referred to in the definition of product 5 did not match the specifications. Data were collected on PDCVs that matched the specifications rather than the part number.

[4] The nine producers are ***.

[5] The seven importers are ***.

[6] ***.

Table V-1
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 1 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Table V-2
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 2 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Table V-3
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 3 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Table V-4
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 4 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Table V-5
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 5 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Table V-6
PDCVs: Quantities and weighted-average U.S. f.o.b. selling prices of product 6 reported by U.S. producers and importers to distributors and end users, and margins of underselling/(overselling), by quarters, January 1998-September 2001

* * * * * * *

Figure V-2
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 1 from Japan, January 1998-September 2001

* * * * * * *

V-4

Figure V-3
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 2 from Japan, January 1998-September 2001

* * * * * * *

Figure V-4
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 3 from Japan, January 1998-September 2001

* * * * * * *

Figure V-5
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 4 from Japan, January 1998-September 2001

* * * * * * *

Figure V-6
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 5 from Japan, January 1998-September 2001

* * * * * * *

Figure V-7
PDCVs: Price trends and quantities reported by U.S. producers and importers of product 6 from Japan, January 1998-September 2001

* * * * * * *

Price Comparisons

The volume of reported sales was very small for products 1 and 4 imported from Japan, particularly for sales to end users. The volume of reported sales of product 6 to end users was also very small. Margins were mixed for product 1. Margins of underselling were observed for sales of product 4 to end users, and margins of overselling were observed for sales of product 4 to distributors in every period for which a comparison could be made. Imported product 6 from Japan undersold domestic product 6 sold to end users in the last 4 quarters.

Imported product 2 from Japan undersold the domestic product in sales to distributors, and oversold domestic product 2 in sales to end users in every period. Imported product 3 from Japan oversold domestic product 3 sold to distributors in 11 of 13 periods for which comparisons could be made, and oversold domestic product 3 sold to end users in 13 of 15 periods. In contrast, product 5 imported from Japan undersold domestic product 5 sold to distributors in 10 of 12 periods, and in every period since the first quarter of 2000. Imported product 5 from Japan sold to end users undersold domestic product 5 in each of the 11 periods for which comparisons could be made, including every quarter since the third quarter of 1999. Imported product 6 from Japan undersold domestic product 6 sold to distributors in every quarter.

For all products combined, PDCVs imported from Japan undersold comparable domestic products sold to distributors in 47 of 71 comparisons, by margins of up to 54.3 percent. PDCVs

imported from Japan undersold comparable domestic products sold to end users in 28 of 62 possible comparisons, by margins of up to 73.9 percent.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of PDCVs to report any instances of lost sales or revenues they experienced due to competition from imports of PDCVs from Japan during January 1998-September 2001. Of the 14 responding U.S. producers, three reported aggregate lost sales and revenues in the petition and six additional domestic producers reported that they had to either reduce prices or roll back announced price increases. The lost sales allegations were generally not sufficiently specific to confirm whether sales and revenues were lost due to lower prices for PDCVs imported from Japan, or due to other characteristics or other components of associated fluid power systems. An additional alleged lost sale of PDCVs to a Mercedes plant in Tuscaloosa, AL was mentioned in exhibit 19 of the petition. This allegation was addressed by respondents at the conference and in respondents' posthearing brief.[7] However, there was insufficient information provided to either confirm or deny the allegation. Staff contacted six of the purchasers mentioned and a summary of the information obtained is reported in table V-7.

Table V-7
PDCVs: Lost sales and revenues reported by domestic producers

* * * * * * *

[7] Mr. Pusateri, conference transcript, pp. 89-90 and posthearing brief, p. 39.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Twelve producers,[1] accounting for 100 percent of reported U.S. production of PDCVs in 2000, provided financial data on their PDCV operations. SMC of America started U.S. production of PDCVs in 1998.

OPERATIONS ON PDCVs

Income-and-loss data for the U.S. producers on their PDCV operations are presented in table VI-1 and selected financial data, by firm, are presented in table VI-2. The aggregate operating income margin decreased from *** percent of total net sales in 1998 to *** percent in 1999 and to *** percent in 2000, and dropped to *** percent in January-September 2001 compared with *** percent in January-September 2000.

Some firms included commercial sales and transfers of parts along with complete PDCVs in their income-and-loss data. Further, some firms' quantity data do not include the quantity of parts whereas their value data include the value of parts. There is a wide variation in product mix within and between each reporting firm. Hence, per-unit data are not presented in this section of the report. Quantity data are presented in table VI-1 just to show the trend of the sales volume.

In 1999 and 2000, the volume of total sales was higher compared to that of 1998, but other factory costs also rose, increasing the cost of goods sold as a percent of net sales and resulting in reduced gross profit margins. In 2000, SG&A expenses as a percent of net sales increased, resulting in a decreased operating income margin. During January-September 2001, the volume of sales declined, resulting in increasing fixed costs, such as other factory costs and SG&A expenses as a percent of net sales; thus, the cost of goods sold and SG&A expenses rose as a percent of net sales, resulting in a lower gross profit margin and a decreasing operating income margin compared with January-September 2000. Four firms reported operating losses in at least one year or period for which data were collected.

Table VI-1
Results of operations of U.S. producers in the production of PDCVs, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table VI-2
Results of operations of U.S. producers in the production of PDCVs, by firm, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

[1] U.S. producers of PDCVs and their fiscal year ends are ***. The Commission staff reviewed the Form 10-Q for the quarterly period ended September 30, 2001 of Ingersoll-Rand, Numatics, and Parker Hannifin, which filed their reports with the SEC. Ingersoll-Rand's PDCVs total net sales value accounted for about *** percent of its "Industrial Products" segment's sales, Numatics' such sales accounted for about *** percent of its total company sales, and Parker Hannifin's such sales accounted for about *** percent of its "Industrial" segment's sales for January-September 2001. All three firms stated that the decrease in sales and operating income reflects lower volume experienced across virtually all of the industrial North American markets.

VI-1

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' data on capital expenditures, research and development (R&D) expenses, and the value of their property, plant, and equipment for their PDCV operations are shown in table VI-3. Capital expenditures, by firm, are presented in table VI-4. ***.

Table VI-3
Capital expenditures, research and development expenses, and value of assets of U.S. producers of PDCVs, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Table VI-4
Capital expenditures of U.S. producers of PDCVs, by firm, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PDCVs from Japan on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix E.

VI-2

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the alleged dumping margins was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN JAPAN

Table VII-1 presents aggregate data for reported production and shipments of PDCVs from Japan. The Commission sent requests for data to six firms[1] named in the petition and one additional firm as producing PDCVs in Japan, and received five questionnaire responses[2] that are believed to account for the vast majority of the Japanese exports of the subject product to the United States. SMC is the largest manufacturer of PDCVs in the world and, together with Kuroda, represents approximately 90 percent of the exports of PDCVs to the United States from Japan.[3]

Table VII-1
PDCVs: Japan's production capacity, production, shipments, and inventories, 1998-2000, January-September 2000, January-September 2001, and projections for 2002

* * * * * * *

SMC has reported that *** percent of its production in Japan is devoted to PDCVs and that *** percent of its total sales are of PDCVs. It also stated that its total exports of PDCVs to the United States constituted *** percent of all imports of PDCVs into the United States and approximately *** percent of its total shipments of PDCVs from Japan in 2000. In 2000, approximately *** percent of SMC's total shipments were exported to countries other than the United States, such as ***, while approximately *** percent of these shipments were home-market sales. SMC's capacity increased from 1999 to 2000 as a result of increased investment in ***. SMC estimates that both its capacity and production will ***.

Kuroda reported that the largest U.S. importer of its PDCVs from Japan in 2000 was ***.[4] It stated that ***. Kuroda's shipments to the United States represented approximately *** percent of its

---

[1] The Commission requested questionnaire responses from: ***.

[2] All foreign producers with the exception of *** responded to the Commission's questionnaire. The Commission received and granted an entry of appearance request from Makita Corp., a Japanese producer of PDCVs, and Makita USA, Inc., its wholly-owned importing subsidiary in the United States. After its entry was filed, Makita's counsel received the Commission's questionnaire. While entering an appearance and participating in the public conference, Makita failed to provide a response to the Commission's questionnaire. Likewise, Makita USA did not provide an importer's questionnaire response. ***. Rich Aerts, Service Manager, Makita USA, conference transcript, pp. 100-102.

[3] Mr. Smith, conference transcript, p. 71; James Durling, Counsel for SMC, Willkie Farr & Gallagher, conference transcript, p. 68. The remaining three questionnaire respondents reported that their shares of U.S. imports of PDCVs from Japan in 2000 were as follows: ***.

[4] Kuroda reported that ***. Kuroda's foreign producer questionnaire response, p. 3; ***.

VII-1

total shipments in 2000 while shipments to other export markets, which included ***, represented approximately *** percent. According to the petition, Kuroda is an affiliate of Parker-Hannifin.[5]

Koganei reported that the largest U.S. importer of its PDCVs from Japan in 2000 was ***. In 2000, Koganei's shipments to the United States represented approximately *** percent of its total shipments while shipments to other export markets, such as ***, represented approximately *** percent of its total shipments.

Konan Electric's shipments to the United States represented approximately *** percent of its total shipments in 2000. *** the Japanese home market, sales to which represented approximately *** percent of its total shipments in 2000.[6]

CKD reported that the largest U.S. importer of its PDCVs from Japan in 2000 was ***. In 2000, CKD's shipments to the United States represented approximately *** percent of its total shipments while shipments to other export markets, such as ***, represented approximately *** percent of its total shipments. Home-market shipments constitute the remainder of CKD's shipments, approximately *** percent.

U.S. IMPORTERS' INVENTORIES OF PRODUCT FROM JAPAN

Reported inventories held by U.S. importers of subject merchandise from Japan are shown in table VII-2. Six U.S. importers reported end-of-period inventories of subject product from Japan. *** reported that it kept no inventories.

Table VII-2
PDCVs: U.S. importers' end-of-period inventories of imports, by sources, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO SEPTEMBER 30, 2001

The Commission requested importers to indicate whether they imported or arranged for the importation of PDCVs from Japan after September 30, 2001. *** of the 10 responding importers reported that they had imported PDCVs from Japan subsequent to September 30, 2001. *** reported that it imported PDCVs valued at $*** subsequent to that date. *** reported that it placed *** purchase orders representing approximately *** PDCVs. *** reported purchase orders totaling *** PDCVs. *** reported that it places daily orders with ***, and subsequent to September 30, 2001, these orders totaled *** PDCVs. *** reported that it has placed ***[7] of orders for imports from Japan and all have been received at the time of its reporting with the exception of *** orders, totaling *** PDCVs. *** reported *** purchase order of *** PDCVs subsequent to September 30, 2001. *** merely stated that it receives ***.

[5] Petition, p. 15.

[6] Konan Electric reported that ***.

[7] *** did not report the quantity or value of its prior orders of imports from Japan.

VII-2

DUMPING IN THIRD-COUNTRY MARKETS

Questionnaire respondents reported no knowledge of import relief investigations regarding the subject product in any country other than the United States.

VII-3

APPENDIX A

FEDERAL REGISTER NOTICES

A-1

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-988 (Preliminary)]

Pneumatic Directional Control Valves From Japan

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-988 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) 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 imports from Japan of pneumatic directional control valves, provided for in subheading 8481.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by February 28, 2002. The Commission's views are due at Commerce within five business days thereafter, or by March 7, 2002.

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: January 14, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202-708-5408), 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. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 14, 2002, by The Pneumatics Group, a trade association of pneumatic directional control valve producers and wholesalers which includes Festo Corp. of Hauppage, NY; IMI Norgren, Inc. of Littleton, CO; Numatics, Inc. of Highland, MI; and Parker Hannifin Corp. of Cleveland, OH.

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 sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, 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 section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven 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 1 p.m. on February 4, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Christopher J. Cassise (202–708–5408) not later than January 28, 2002, 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 sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 7, 2002, 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 days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 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 title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: January 16, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–1571 Filed 1–22–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–860]

Notice of Initiation of Antidumping Duty Investigation: Pneumatic Directional Control Valves from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of antidumping duty investigation.

EFFECTIVE DATE: February 12, 2002

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Frank Thomson at (202) 482–3836 or (202) 482–4793, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are references to the provisions codified at 19 CFR Part 351 (2001).

The Petition

On January 14, 2002, the Department received a petition filed in proper form by the Pneumatics Group ("the petitioners"), consisting of the following parties: Festo Corporation[1], IMI Norgren, Inc., Numatics, Inc., and Parker Hannifan Corporation. The

[1] Produces pneumatic fluid power products, but not pneumatic directional control valves ("PDCVs"), in the United States

Department received information supplementing the petition on January 30, 2002 and January 31, 2002.

In accordance with section 732(b) of the Act, the petitioners allege that imports of PDCVs from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are an interested party, as defined in sections 771(9)(E) and 771(9)(F) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. (See the Determination of Industry Support for the Petition section below.)

Scope of Investigation

The scope of the investigation includes all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and material(s) employed in construction, other than aerospace–type fluid power valves as further described below. The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air–operated, and solenoid type pneumatic directional control valves.

Specifically excluded from the scope are aerospace–type pneumatic fluid power valves, defined as pneumatic fluid power valves that have been certified for use in airframes, aircraft engines, or other aerospace applications pursuant to standards established or required by the Federal Aviation Administration or Department of Defense in the United States, or by the counterparts of these agencies in other countries.

The subject merchandise is currently classified under subheadings 8481.20.0060 and 8481.20.0070 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Aerospace–type fluid power valves, which are excluded from the scope, are not entered under the subheadings just described, but are instead entered under various other subheadings.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service ("Customs") purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[2]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

The petition covers PDCVs as defined in the Scope of the Investigation section, above, a single class or kind of merchandise. The Department has no basis on the record to find the petitioners' definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

On January 25, 2002, the Department received comments regarding industry support from the Japan Fluid Power Association (a majority of whose members, including SMC Corporation, are producers in Japan of PDCVs). On January 29, 2002 and February 1, 2002, the Department received comments regarding industry support from SMC Corporation, a Japanese producer of PDCVs and SMC Corporation of America, a U.S. importer of the subject merchandise (collectively, "SMC Corporation").

The Department has reviewed the comments of both the Japan Fluid Power Association and SMC Corporation. In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied on the petition and amendments thereto, and Department research. See the Industry Support Attachment to the Import Administration AD Investigation Checklist, dated February 4, 2002 ("Initiation Checklist") (public version on file in the Central Records Unit of the Department of Commerce, Room B–099) for further description.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Information contained in the petition and its supplements, and information gathered through Department research demonstrate that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who

[2] See Algoma Steel Corp. Ltd., v. United States, 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) and section 732(c)(4)(D) are met. See Initiation Checklist. Furthermore, because the Department received no domestic opposition to the petition, the domestic producers or workers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petitions. See Initiation Checklist. Thus, the requirement of section 732(c)(4)(A)(ii) is met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Initiation Checklist.

Period of Investigation

The anticipated period of investigation ("POI") is January 1, 2001, through December 31, 2001.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to home market and U.S. price are detailed in the Initiation Checklist.

The Department has analyzed the information in the petition and considers the country-wide import statistics for the anticipated POI and pricing information used to calculate the estimated margin to be sufficient for purposes of initiation. Based on the information submitted in the petition, adjusted where appropriate, we are initiating this investigation, as discussed below and in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will re-examine the information and may revise the margin calculation, if appropriate.

Constructed Export Price

The petitioners identified one company that they believe accounts for a substantial majority of imports of subject merchandise from Japan. The petitioners state that this producer sells subject merchandise through its U.S. affiliate. The petitioners based constructed export price ("CEP") on the affiliate's price list. The list prices include all import charges and duties, but do not include U.S. inland transportation. To arrive at a net-price, the petitioners deducted from the list price an amount for SMC Corporation of America's ("SMC-USA's") standard-discount. To arrive at ex-factory price, petitioners deducted import charges based on the average import charge reported in U.S. import statistics for entries of the subject merchandise during the last four quarters for which data are available (2000Q4 – 2001Q3). Petitioners made a further deduction for import duties and a deduction to account for SMC-USA's U.S. selling expenses. Petitioners based U.S. selling expenses on the aggregate selling expense ratio experienced by the PDCV-producing members of the Pneumatics Group during the year 2000.[3] The petitioners stated that SMC-USA's selling expense ratio is not publicly available and cannot reasonably be estimated by other publicly available means. Therefore, the petitioners calculated a net U.S. price by subtracting import charges and duties, and U.S. selling expenses. The petitioners provided a publically available selling expense ratio in their January 30, 2002, amendment to the petition. However, because the non-public selling expense ratio provided in the original petition is more conservative, we have continued to use the ratio that was provided in the original petition.

Normal Value

With respect to normal value ("NV"), the petitioners provided home market prices that were obtained from a party in Japan for PDCVs that are comparable to the products exported to the United States which serve as the basis for CEP. Petitioners applied relevant discounts to the yen-denominated price and then converted the net price to U.S. dollars by using exchange rates applicable to the twelve-month period preceding the petition, as published by the Federal Reserve Board. Petitioners did not deduct inland freight from the sales value.

Based on the comparison of CEP to NV, petitioners calculated estimated dumping margins from 9.28 to 107.46 percent. Based on an examination of the information submitted in the petition, adjusted where appropriate, and comparing CEP to NV, we have determined that, for purposes of this initiation, there is a reasonable basis to believe or suspect that dumping has occurred (see Initiation Checklist).

[3] The PDCV-producing members of the Pneumatics Group are not publically held companies, therefore it was necessary to aggregate and average these three companies' selling expenses to derive an appropriate ratio.

Fair Value Comparisons

The Department has examined the adequacy and accuracy of the information the petitioners used in their calculations of U.S. and home market prices and has found that it represents information reasonably available to petitioners supporting the allegation of dumping (see Initiation Checklist).

Based on the data provided by the petitioners, there is reason to believe that imports of PDCVs from Japan are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The petitioners contend that the industry's injured condition is evident in the decline of U.S. producers' output, sales, market share, profits, productivity, return on investment, and capacity utilization, as well as negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, investment, and existing development and production efforts. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have examined the accuracy and adequacy of the evidence provided in the petition and have determined that the petition alleges the elements necessary for the imposition of a duty under section 731 of the Act and contains information reasonably available to the petitioners supporting the allegations (see Initiation Checklist, Material Injury section).

Initiation of Antidumping Investigation

Based upon our examination of the petition on PDCVs from Japan and the petitioners' responses to our supplemental questionnaire clarifying the petition, we have found that the petition meets the requirements of section 732 of the Act. See Initiation Checklist. Therefore, we are initiating an antidumping duty investigation to determine whether imports of PDCVs from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. See Case Calendar section of the Initiation Checklist.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Japan. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine, no later than February 28, 2002, whether there is a reasonable indication that imports of PDCVs from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

February 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-3387 Filed 2-11-02; 8:45 am]

BILLING CODE 3510-DS-S

APPENDIX B

LIST OF CONFERENCE WITNESSES

B-1

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject:	Pneumatic Directional Control Valves from Japan
Inv. No.:	731-TA-988 (Preliminary)
Date and Time:	February 4, 2002 - 1:00 p.m.

The conference was held in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

Thompson Hine LLP
Washington, DC
on behalf of

The Pneumatics Group

Mark Shellenbarger, President, IMI Norgren, Inc.
Kenneth Buda, Vice President of Marketing, Parker Hannifin Corp.
David Dodds, Vice President of Sales and Marketing, Numatics, Inc.
Pierce Barker III, Vice President of Sales, Barker Rockford Co.
Douglas Dietz, Vice President and General Manager, N.B. Cochrane Co.
Tarek El-Sawaf, Vice President of Sales, Festo Corp.

Mark Sandstrom)
John Steinberger) –OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Willkie Farr & Gallagher
Washington, DC
on behalf of

SMC Corp. and SMC Corp. of America

Larry A. Smith, Indianapolis Factory Manager, SMC Corp. of America
Edward Lasch, Medical Industry Product Manager, SMC Corp. of America
Dave Pusateri, Engineering Manager, Non-Actuator Products Group,
SMC Corp. of America

James P. Durling)
Daniel L. Porter) –OF COUNSEL

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In Opposition to the Imposition of Antidumping Duties:–Continued

Thompson Coburn LLP
Washington, DC
on behalf of

Makita Corp. and Makita USA, Inc.

Rich Aerts, Makita USA, Inc.

William Zeitler)
David Schwartz) –OF COUNSEL

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APPENDIX C

SUMMARY DATA

C-1

Table C-1
PDCVs: Summary data concerning the U.S. market, 1998-2000, January-September 2000, and January-September 2001

(Quantity=units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit; period changes=percent, except where noted)

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	1998	1999	2000	2000	2001	1998-2000	1998-1999	1999-2000	2000-2001
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Japan	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Japan	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from--									
Japan:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers':									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (units/1,000 hours)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

C-3

Table C-2
PDCVs: Summary data concerning the U.S. market (excluding SMC of America), 1998-2000, January-September 2000, and January-September 2001

(Quantity=units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per unit; period changes=percent, except where noted)

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	1998	1999	2000	2000	2001	1998-2000	1998-1999	1999-2000	2000-2001
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Japan	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Japan	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. producers':									
Average capacity quantity	17,680,879	17,651,878	18,006,648	14,006,363	15,005,117	1.8	-0.2	2.0	7.1
Production quantity	12,916,012	12,777,147	12,957,348	10,057,277	8,236,107	0.3	-1.1	1.4	-18.1
Capacity utilization (1)	73.1	72.4	72.0	71.8	54.9	-1.1	-0.7	-0.4	-16.9
U.S. shipments:									
Quantity	11,422,081	11,555,761	11,544,179	8,888,738	7,692,435	1.1	1.2	-0.1	-13.5
Value	307,125	302,259	311,137	239,688	186,772	1.3	-1.6	2.9	-22.1
Unit value	$26.89	$26.16	$26.95	$26.97	$24.28	0.2	-2.7	3.0	-10.0
Export shipments:									
Quantity	1,413,538	1,343,746	1,543,030	1,223,974	1,018,047	9.2	-4.9	14.8	-16.8
Value	30,637	30,179	33,585	26,331	23,222	9.6	-1.5	11.3	-11.8
Unit value	$21.67	$22.46	$21.77	$21.51	$22.81	0.4	3.6	-3.1	6.0
Ending inventory quantity	2,008,898	1,912,044	1,838,520	1,707,869	1,719,375	-8.5	-4.8	-3.8	0.7
Inventories/total shipments (1)	15.7	14.8	14.0	12.7	14.8	-1.6	-0.8	-0.8	2.1
Production workers	2,497	2,292	2,340	2,251	2,023	-6.3	-8.2	2.1	-10.1
Hours worked (1,000s)	4,808	4,389	4,415	3,344	2,917	-8.2	-8.7	0.6	-12.8
Wages paid ($1,000s)	64,236	61,980	62,883	47,858	43,227	-2.1	-3.5	1.5	-9.7
Hourly wages	$13.36	$14.12	$14.24	$14.31	$14.82	6.6	5.7	0.9	3.5
Productivity (units/1,000 hours)	2,686.4	2,911.2	2,934.8	3,007.6	2,823.5	9.2	8.4	0.8	-6.1
Unit labor costs	$4.97	$4.85	$4.85	$4.76	$5.25	-2.4	-2.5	0.0	10.3
Net sales:									
Quantity	12,660,702	13,443,305	12,977,684	10,144,201	8,195,347	2.5	6.2	-3.5	-19.2
Value	339,537	340,154	343,548	269,068	212,558	1.2	0.2	1.0	-21.0
Unit value	$26.82	$25.30	$26.47	$26.52	$25.94	-1.3	-5.7	4.6	-2.2
Cost of goods sold (COGS)	226,663	235,125	235,985	182,046	148,954	4.1	3.7	0.4	-18.2
Gross profit or (loss)	112,874	105,029	107,563	87,022	63,604	-4.7	-7.0	2.4	-26.9
SG&A expenses	58,798	59,284	64,436	47,451	44,322	9.6	0.8	8.7	-6.6
Operating income or (loss)	54,076	45,745	43,127	39,571	19,282	-20.2	-15.4	-5.7	-51.3
Capital expenditures	15,525	9,407	11,971	8,492	8,398	-22.9	-39.4	27.3	-1.1
Unit COGS	$17.90	$17.49	$18.18	$17.95	$18.18	1.6	-2.3	4.0	1.3
Unit SG&A expenses	$4.64	$4.41	$4.97	$4.68	$5.41	6.9	-5.0	12.6	15.6
Unit operating income or (loss)	$4.27	$3.40	$3.32	$3.90	$2.35	-22.2	-20.3	-2.3	-39.7
COGS/sales (1)	66.8	69.1	68.7	67.7	70.1	1.9	2.4	-0.4	2.4
Operating income or (loss)/ sales (1)	15.9	13.4	12.6	14.7	9.1	-3.4	-2.5	-0.9	-5.6

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

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APPENDIX D

OFFICIAL DEPARTMENT OF COMMERCE IMPORT STATISTICS

D-1

Table D-1
PDCVs: U.S. imports based on Commerce statistics, by source, 1998-2000, January-September 2000, and January-September 2001

Source	1998	1999	2000	January-September 2000	January-September 2001
	Quantity (1,000 units)				
Japan	5	1,020	4,895	3,559	1,807
All other	2,967	3,152	2,507	2,052	1,773
Total	2,973	4,172	7,402	5,610	3,579
	LDP value ($1,000)				
Japan	1,658	17,756	58,969	38,609	26,864
All other	32,862	33,823	28,071	22,498	18,123
Total	34,520	51,579	87,040	61,107	44,987
	LDP unit value ($/unit)				
Japan	$309.51	$17.41	$12.05	$10.85	$14.87
All other	$11.07	$10.73	$11.20	$10.97	$10.22
Average	$11.61	$12.36	$11.76	$10.89	$12.57

Source: Compiled from official Commerce statistics (HTS 8481.20.0060 and 8481.20.0070).

D-3

APPENDIX E

EFFECTS OF SUBJECT IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

E-1

The Commission requested comments from domestic producers regarding the significance of imports of PDCVs from Japan in terms of their actual or potential negative effects on return on investment or on their growth, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or scale of capital investments. The responses are as follows:

Actual Negative Effects

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Anticipated Negative Effects

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E-3