

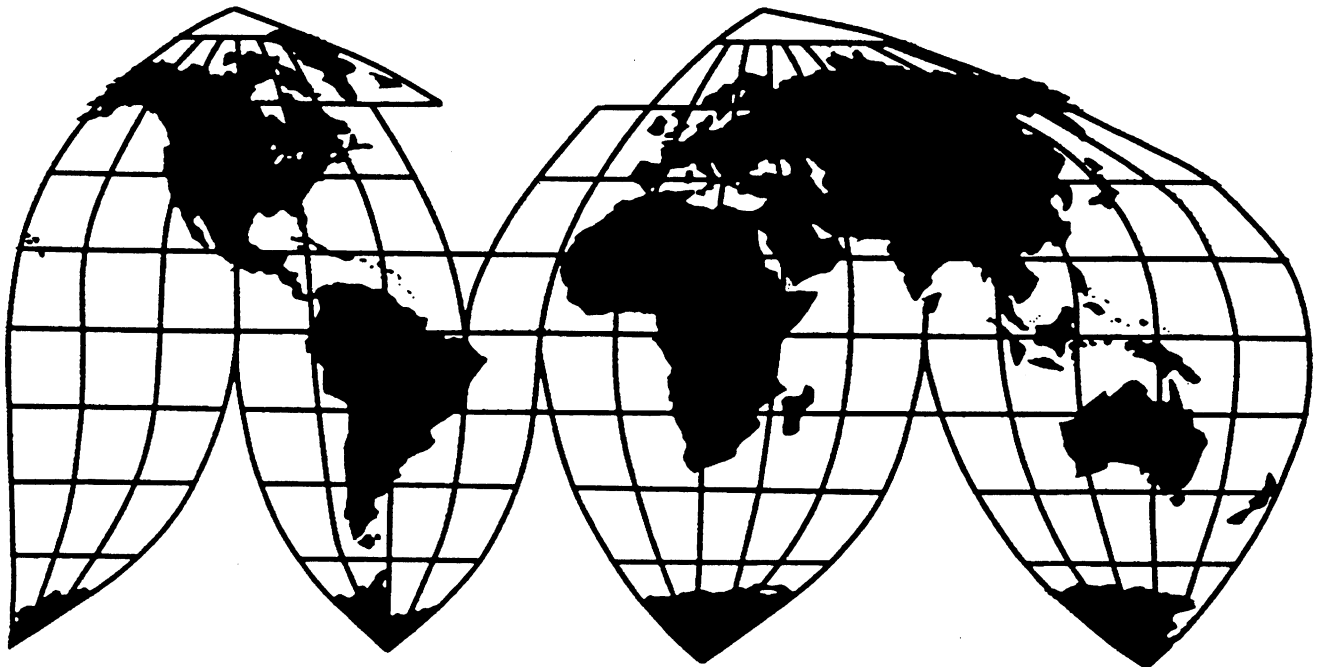
Open-End Spun Rayon Singles Yarn from Austria

Investigation No. 731-TA-751 (Final)

Publication 3059

September 1997

U.S. International Trade Commission



Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

GLOSSARY

| | |
|------------------------|---|
| ATC | Agreement on Textiles and Clothing |
| Beavertown | Beavertown Mills Inc. |
| BMYC | Burlington Madison Yarn Co. |
| Borckenstein | G. Borckenstein und Sohn AG |
| Carolina | Carolina Mills, Inc. |
| Collins & Aikman | Collins & Aikman Products Co. |
| Commerce | United States Department of Commerce |
| Commission | United States International Trade Commission |
| Customs | United States Customs Service |
| EU | European Union |
| Freistadt | Freistadt GmbH & Co. KG |
| Grover | Grover Industries, Inc. |
| HTS | Harmonized Tariff Schedule of the United States |
| JPS | JPS Converter & Industrial Corp. |
| Linz | Linz Textil GmbH |
| Loris | Loris Industries, L.L.C. |
| LTFV | Less than fair value |
| Milliken | Milliken and Co. |
| Mt. Vernon | Mt. Vernon Mills |
| NAFTA | North American Free Trade Agreement |
| National | National Spinning Co. |
| New River | New River Industries |
| NRB | NRB Industries |
| PRWs | Production and related workers |
| R&D | Research and development |
| SG&A | Selling, general & administrative |
| Stonecutter | Stonecutter Mills Corp. |
| Ti-tex | Ti-tex International Inc. |
| Uniblend | Uniblend Spinners, Inc. |
| United | United Merchant & Manufacturers |
| USDA | United States Department of Agriculture |
| WTO | World Trade Organization |

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Austria of open-end spun rayon singles yarn,² provided for in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective August 20, 1996, following receipt of a petition filed with the Commission and the Department of Commerce by the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers, Gastonia, NC.³ The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of open-end spun rayon singles yarn from Austria were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 7, 1997 (62 F.R. 16606). The hearing was held in Washington, DC, on August 12, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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 The product covered by this investigation is open-end spun singles yarn containing 85 percent or more rayon staple fiber.

³ Firms comprising the membership of the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers consist of Burlington Madison Yarn Co., Greensboro, NC; Carolina Mills, Inc., Maiden, NC; National Spinning Co., Washington, NC; and Uniblend Spinners, Inc., Union, SC.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of open-end spun rayon singles yarn from Austria that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).¹

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the “domestic like product” and the “industry.” 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.”² 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.”³

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁴ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁵ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁶ Although the Commission must accept the determination of Commerce 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.⁷

In its final determination, Commerce defined the scope of merchandise subject to investigation as open-end spun singles yarn containing 85 percent or more of rayon fiber (“OE spun rayon yarn”).⁸ OE spun

¹ The question of whether establishment of a domestic industry in the United States has been materially retarded by reason of LTFV imports is not an issue in this investigation.

² 19 U.S.C. § 1677(4)(A).

³ 19 U.S.C. § 1677(10).

⁴ See, e.g., Nippon Steel Corp. v. United States, 19 CIT ___, Slip Op. 95-57 at 11 (Apr. 3, 1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer and producer perceptions; and, where appropriate, (6) price. See *id.* at 11 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁵ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁶ 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).

⁷ Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

⁸ 62 Fed. Reg. 43701, 43702 (Aug. 15, 1997).

rayon yarn is an intermediate product used primarily in the construction of woven fabric for women's apparel.⁹

In our preliminary determination, we determined that OE spun rayon yarn constituted the pertinent domestic like product. We made this determination because we found that OE spun rayon yarn has distinct physical characteristics and end uses, is not interchangeable with other products, is perceived by producers and customers as a distinct product, and is priced differently than other types of rayon yarn, such as ring spun rayon yarn.¹⁰ The information in the record, which is essentially the same as that available for the preliminary determination,¹¹ does not indicate that the domestic like product definition should be modified from the one used in the preliminary determination. Moreover, no party in this final phase of the investigation has requested the Commission to define the domestic like product differently than it did in the preliminary determination. Accordingly, we determine that there is one domestic like product in this investigation, OE spun rayon yarn, for the same reasons stated in the preliminary determination.

B. Industry and Related Parties

The Commission is directed to consider the impact of the subject imports on the domestic industry, defined as "the producers as a whole of a domestic like product."¹² Based on our domestic like product definition, there is one domestic industry consisting of producers of OE spun rayon yarn.

We must further determine whether certain producers of the domestic like product should be excluded from the domestic industry as related parties. Three domestic producers of OE spun rayon yarn, Burlington Madison Yarn Co. ("BMYC"), ***, imported the subject merchandise during the period of investigation. Each of these three producers therefore falls within the related party provision, and we may exclude any or all of these producers from the domestic industry if "appropriate circumstances" exist.¹³

We determine that appropriate circumstances do not exist for exclusion of any of the related party producers. BMYC's domestic production during the period of investigation greatly exceeded its importation of OE spun rayon yarn from Austria, and its financial results indicate that its domestic production operations *** due to its importation activities.¹⁴ Although *** had the greatest ratio of imports to domestic production among the related parties, its domestic production activities predominated and the circumstances surrounding its importation indicate it has not imported subject merchandise to benefit from LTFV pricing.¹⁵ ***

⁹ Confidential Report ("CR") at I-2, Public Report ("PR") at I-2.

¹⁰ Open-End Spun Rayon Singles Yarn from Austria, Inv. No. 731-TA-751 (Preliminary), USITC Pub. 2999 at 6 (Oct. 1996).

¹¹ See CR at I-3-9, PR at I-3-6.

¹² 19 U.S.C. § 1677(4)(A).

¹³ Factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the percentage of domestic production attributable to the importing producer; the reason the U.S. producer has decided to import the product subject to investigation; whether inclusion or exclusion of the related party will skew the data for the rest of the industry; the ratio of import shipments to U.S. production for related producers; and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). See also Engineered Process Gas Turbo-Compressor Systems from Japan, Inv. No. 731-TA-748 (Final), USITC Pub. 3042 at 10 n.26 (June 1997).

¹⁴ CR at III-9, VI-8, PR at III-6, VI-3.

¹⁵ CR at II-3, III-9, PR at II-2, III-6. *** imported OE spun rayon yarn from Austria to meet customer specifications and because such product was not available from domestic sources. *Id.* ***. CR at II-3 n.7, PR at II-2 n.7.

importation was very small in comparison with its domestic production and the circumstances surrounding its importation also suggest that it has not imported subject merchandise to benefit from LTFV pricing.¹⁶ Accordingly, we define the pertinent industry to encompass all domestic producers of OE spun rayon yarn.

II. CONDITION OF THE DOMESTIC INDUSTRY¹⁷

In assessing whether a domestic industry is materially injured or threatened with material injury by reason of LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹⁸ 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 affected industry.”¹⁹

We note several conditions of competition pertinent to our analysis of the domestic OE spun rayon yarn industry. First, we must decide whether to apply the statutory captive production provision for purposes of this determination.²⁰ Captive consumption and commercial shipments each constituted approximately 50 percent of total domestic shipments of OE spun rayon yarn during the period of investigation.²¹ Based on this information, we find that the domestic OE spun rayon yarn industry internally consumes significant production of the domestic like product in the production of downstream articles, and also sells significant production of the domestic like product in the merchant market. Thus the threshold criteria for applying the statutory captive production provision are present.²² OE spun rayon yarn, whether captively consumed or

¹⁶ CR at III-9, PR at III-6. *** imported OE spun rayon yarn from Austria to meet customer specifications. *Id.*

¹⁷ Commissioner Crawford joins her colleagues in this investigation in a discussion of the “condition of the industry” even though she does not make her determination based on industry trends. Rather she views the discussion as a factual recitation of the data collected concerning the statutory impact factors.

¹⁸ 19 U.S.C. § 1677(7)(C)(iii).

¹⁹ *Id.*

²⁰ Commissioner Newquist takes no position as to whether the captive production provision applies and thus does not join in the following discussion. He notes, however, that it is within his discretion to focus his analysis primarily on the merchant market and he does so here. *See Polyvinyl Alcohol from China, Japan, and Taiwan*, Inv. No. 731-TA-726-727, 729 (Final), USITC Pub. 2960 at 11 n.70 (May 1996).

²¹ *See* Table III-2, CR at III-8, PR at III-5.

²² 19 U.S.C. § 1677(7)(C)(iv) sets forth the factors to be considered by the Commission in determining whether the captive production provision is applicable. If the threshold criteria are present, *i.e.*, domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, then the Commission shall determine whether:

(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product;

(II) the domestic like product is the predominant material input in the production of that downstream article; and

(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article . . .

(continued...)

sold in the merchant market, is used primarily to produce fabric used in the production of women's apparel.²³ Because the vast majority of both merchant market and captively consumed OE spun rayon yarn is used to produce the same downstream articles, the third statutory factor is not satisfied.²⁴ We consequently do not apply the statutory provision for purposes of this determination.

Nevertheless, even when the statutory captive production provision is not satisfied, we may consider as a condition of competition the fact that a significant portion of domestic consumption is captively consumed.²⁵ We consequently exercise our discretion to treat as a condition of competition the fact that the subject imports affect merchant market producers in this industry in a different way than they affect integrated producers. Accordingly, in addition to examining data concerning the industry as a whole, we also examined the data concerning the merchant market producers.²⁶

Another pertinent condition of competition is that OE spun rayon yarn is a low value-added product and that its production is extremely capital-intensive.²⁷ Raw materials account for a substantial production of the cost of producing OE spun rayon yarn. The cost of rayon staple fiber accounts for approximately 41 to 80 percent of the cost of producing the yarn, depending on the thickness of the yarn.²⁸ Domestic producers' costs for rayon staple fiber increased during 1994 and 1995, and declined slightly in 1996; between the first quarter of 1994 and the fourth quarter of 1996, the average prices for rayon staple fiber reported by U.S. producers increased by 7.8 percent.²⁹

Finally, demand for OE spun rayon yarn is derived primarily from demand for rayon blend fabrics used in women's apparel. Demand for the fabric, and hence the yarn, fluctuates due to changes in fashion (e.g., women's apparel) and consumer preferences for certain fabrics.³⁰ Numerous domestic producers, importers, and purchasers reported that reductions in demand for the fabrics in which OE spun rayon yarn is used tended to lead to lower prices for these fabrics. In this connection, end users of OE spun rayon yarn

²²(...continued)

19 U.S.C. § 1677(7)(C)(iv). If the Commission finds that these criteria are satisfied, it must "focus primarily on the merchant market for the domestic like product" in examining market share and the domestic industry's financial condition.

²³ See CR at I-4-5, PR at I-3-4.

²⁴ See Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela, Inv. Nos. 701-TA-368-371, 731-TA-763-766 (Preliminary), USITC Pub. 3037 at 14-15 (Apr. 1997); Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom, Inv. No. 731-TA-738 (Preliminary), USITC Pub. 2930 at 10 (Oct. 1995). We consequently need not consider the remaining two criteria.

²⁵ See Needle Bearing Wire from Japan, Inv. No. 731-TA-760 (Preliminary), USITC Pub. 3033 at 9-10 (April 1997); Beryllium Metal and High-Beryllium Alloys from Kazakstan, Inv. No. 731-TA-746 (Final), USITC Pub. 3019 at 9 (Feb. 1997); Foam Extruded PVC and Polystyrene Framing Stock, USITC Pub. 2930 at 10.

²⁶ Commissioner Crawford recognizes the captive consumption of a substantial proportion of domestic OE spun rayon yarn production as a condition of competition, but bases her examination of quantitative data concerning the domestic industry on available data for the entire industry because excluding the producers of captive production from the statutory analysis would not represent analysis of the "producers as a whole" of the domestic like product.

²⁷ See Hearing Transcript ("Tr.") at 30 (Eyer); 35 (B. Miller), 94 (Redinger), 128 (von Conrad).

²⁸ CR at V-1-2, PR at V-1.

²⁹ CR at V-1-2, PR at V-1.

³⁰ See CR at II-5-6, PR at II-3-4; Tr. at 69 (Sullivan). In the home furnishings markets, where OE spun rayon yarn is used to a lesser extent than it is used in women's apparel, firms reported a shift from rayon to cotton fabrics. CR at II-6, PR at II-4.

reported that declines in demand for their fabrics had resulted in price declines ranging from 15 to 33 percent.³¹

The fluctuations in the apparent U.S. consumption of OE spun rayon yarn during the period of investigation illustrate these changes in demand. Measured by either quantity or value, apparent U.S. consumption increased from 1994 to 1995, and declined from 1995 to 1996; however, the 1996 level was above that of 1994.³² The domestic industry's share of apparent U.S. consumption, measured by quantity, increased from 66.8 percent in 1994 to 72.9 percent in 1995, and then declined to 67.1 percent in 1996.³³ The domestic industry's share of commercial shipments of OE spun rayon yarn, measured by quantity, increased from 50.5 percent in 1994 to 57.5 percent in 1995, and then declined to 48.9 percent in 1996.³⁴

Data concerning the domestic industry's capacity and production are confidential. Both these figures increased from 1994 to 1995 at a rate exceeding that by which apparent U.S. consumption increased. Both capacity and production declined from 1995 to 1996 to figures above the respective 1994 levels.³⁵ Capacity utilization increased from 66.7 percent in 1994 to 71.0 percent in 1995, and then declined to 64.9 percent in 1996.³⁶ Among merchant market producers, capacity utilization increased from 58.4 percent in 1994 to 66.7 percent in 1995, and then declined to 57.7 percent in 1996.³⁷

Data concerning domestic producers' U.S. shipments are confidential. Both the quantity and value of such shipments increased from 1994 to 1995, and then declined from 1995 to 1996 to a level above that of 1994.³⁸

³¹ CR at II-5-7, PR at II-3-4.

³² Measured by quantity, apparent U.S. consumption rose from *** pounds in 1994 to *** pounds in 1995, and then fell to *** pounds in 1996. Measured by value, apparent U.S. consumption rose from *** in 1994 to *** in 1995, and then declined to *** in 1996. Table IV-2, CR at IV-6, PR at IV-4. In the merchant market, apparent U.S. consumption rose from *** pounds in 1994 to *** pounds in 1995 and then declined to *** pounds in 1996. The value of apparent U.S. consumption in the merchant market increased from *** in 1994 to *** in 1995, and then fell to *** in 1996. Table IV-3, CR at IV-7, PR at IV-5.

³³ Table IV-2, CR at IV-6, PR at IV-4. Measured by value, the domestic industry's share of apparent U.S. consumption increased from 66.1 percent in 1994 to 72.1 percent in 1995, and then declined to 68.0 percent in 1996. *Id.*

³⁴ Table IV-3, CR at IV-7, PR at IV-5. Measured by value, the domestic industry's share of commercial shipments increased from 49.5 percent in 1994 to 56.7 percent in 1995, and then declined to 49.4 percent in 1996. *Id.*

³⁵ Capacity increased from *** pounds in 1994 to *** pounds in 1995, and then fell to *** pounds in 1996. Production rose from *** pounds in 1994 to *** pounds in 1995, and then declined to *** pounds in 1996. Table III-1, CR at III-6, PR at III-4.

For merchant market producers, capacity increased from *** pounds in 1993 to *** pounds in 1994, and then declined to *** pounds in 1996. Production increased from *** pounds in 1994 to *** pounds in 1995 and then declined to *** pounds in 1996. Table C-2, CR at C-6, PR at C-6.

³⁶ Table III-1, CR at III-6, PR at III-4.

³⁷ Table C-2, CR at C-6, PR at C-6.

³⁸ Domestic producers' U.S. shipments increased from *** pounds in 1994 to *** pounds in 1995 and then fell to *** pounds in 1996. The value of these shipments increased from *** in 1994 to *** in 1995 and then declined to *** in 1996. Table III-2, CR at III-8, PR at III-5.

U.S. producers' commercial shipments increased from *** pounds in 1994 to *** pounds in 1995, and then declined to *** pounds in 1996. The value of U.S. producers' commercial shipments increased from *** in 1994 to *** in 1995, and then declined to *** in 1996. *Id.*

Substantial inventories are not retained in the OE spun rayon yarn industry because most yarn is made to order.³⁹ The inventories of U.S. producers declined from 2.0 million pounds in 1994 to 1.3 million pounds in 1995, and then increased to 1.4 million pounds in 1996.⁴⁰

The number of production and related workers increased from 334 in 1994 to 418 in 1995, and then fell to 374 in 1996. The number of hours worked rose from 656,000 in 1994 to 807,000 in 1995, and then declined to 714,000 in 1996. Wages paid rose from \$6.3 million in 1994 to \$7.8 million in 1995, and then declined to \$6.9 million in 1996. Unit labor costs fell from 1994 to 1995, and remained stable from 1995 to 1996.⁴¹

The domestic industry's sales revenues rose from \$56.2 million in 1994 to \$78.9 million in 1995 and then fell to \$75.9 million in 1996. Cost of goods sold (COGS) rose from \$49.4 million in 1994 to \$69.4 million in 1995 and fell to \$68.7 million in 1996. Unit COGS declined from \$1.51 in 1994 to \$1.49 in 1995, despite an increase in per-unit rayon fiber costs, because other factory costs declined on a per-unit basis. Unit COGS then increased to \$1.57 in 1996, as both rayon fiber and other factory costs increased on a per-unit basis from 1995 to 1996. The amount of selling, general, and administrative expenses increased each year, rising from \$2.8 million in 1994 to \$4.1 million in 1995 and to \$4.2 million in 1996. Operating income increased from \$3.9 million in 1994 to \$5.3 million in 1995, and then declined to \$3.0 million in 1996. Because expenses increased at a greater rate than revenues from 1994 to 1995, and did not decline at as great a rate as revenues from 1995 to 1996, the ratio of operating income to sales declined from 7.0 percent in 1994 to 6.7 percent in 1995 and to 3.9 percent in 1996.⁴² The financial results of domestic commercial market producers of OE spun rayon yarn, which are confidential, showed similar patterns to those as the industry as a whole, although operating ratios were lower.⁴³

³⁹ CR at II-4, PR at II-2.

⁴⁰ Table III-4, CR at III-11, PR at III-7. Among merchant market producers, inventories declined from *** pounds in 1994 to *** pounds in 1995, and then increased to *** pounds in 1996. Table C-2, CR at C-6, PR at C-6.

⁴¹ Table III-5, CR at III-12, PR at III-8. Among merchant market producers, the number of production workers increased from *** in 1994 to *** in 1995 and then declined to *** in 1996. The number of hours worked increased from *** in 1994 to *** in 1995, and then fell to *** in 1996. Wages paid rose from *** in 1994 to *** in 1995, and then declined to *** in 1996. Table C-2, CR at C-6, PR at C-6.

⁴² Table VI-1, CR at VI-2-3, PR at VI-2.

⁴³ Commercial producers' sales revenues increased from *** in 1994 to *** in 1995, and then declined to *** in 1996. COGS rose from *** in 1994 to *** in 1995, and then declined to *** in 1996. SG&A expenses rose from *** in 1994 to *** in 1995, and then declined to *** in 1996. Operating income increased from *** in 1994 to *** in 1995, and then fell to *** in 1996. The ratio of operating income to net sales declined from *** percent in 1994 to *** percent in 1995 and to *** percent in 1996. Table VI-5, CR at VI-11, PR at VI-5.

Domestic producers' capital expenses increased from 1994 to 1995, and then declined from 1995 to 1996 to a level below that of 1994.⁴⁴ Research and development expenses were reported by only one firm and were not significant in magnitude.^{45 46}

III. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS⁴⁷

In the final phase of an antidumping investigation, the Commission determines whether an industry in the United States is materially injured by reason of the LTFV imports under investigation.⁴⁸ In making this determination, the Commission must consider the volume of 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.⁴⁹ Although the Commission may consider causes of injury to the industry other

⁴⁴ Capital expenses increased from \$9.4 million in 1994 to *** in 1995, and then declined to \$3.8 million in 1996. Table VI-8, CR at VI-14, PR at VI-6. By contrast, commercial producers' capital expenses declined from *** in 1994 to *** in 1995, and then increased to *** in 1996. Table C-2, CR at C-6, PR at C-6.

⁴⁵ CR at VI-14, PR at VI-5-6.

⁴⁶ Based on the foregoing, including the business cycle which is characteristic of the OE spun rayon yarn and related fashion and apparel industries, Commissioner Newquist concludes that the domestic OE spun rayon yarn industry is not experiencing material injury. He therefore does not join part III of the opinion, but proceeds directly to the question of threat of material injury in part IV.

⁴⁷ Chairman Miller's analysis of material injury by reason of LTFV imports is presented in her Additional and Separate Views.

⁴⁸ 19 U.S.C. § 1673d(b). The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A).

⁴⁹ 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 . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

than the LTFV imports,⁵⁰ it is not to weigh causes.^{51 52} For the reasons discussed below, we determine that the domestic OE spun rayon yarn industry is not materially injured by reason of LTFV imports from Austria.

A. Volume of Subject Imports

Both the quantity and value of subject imports increased during each year of the period of investigation.^{53 54} Three factors, however, mitigate the significance of this increase.

⁵⁰ Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

⁵¹ See, e.g., Gerald Metals, Inc. v. United States, 937 F. Supp. 930, 936 (Ct. Int'l Trade 1996); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

⁵² Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the subsidized and LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of subsidized and LTFV imports, not by reason of the subsidized and LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979). However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the subsidized and LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 96-249 at 74 (1979). Rather, it is to determine whether any injury "by reason of" the subsidized and LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

For a detailed description of Commissioner Crawford's analytical framework, see Polyvinyl Alcohol from China, Japan, and Taiwan, Inv. Nos. 731-TA-726, 727, and 729 (Final), USITC Pub. 2960 at 25-26 (May 1996). Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with Commissioner Crawford's mode of analysis, expressly holding that her mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, 1361 (Fed. Cir. 1996), *aff'g* 873 F. Supp. 673, 694-95 (Ct. Int'l Trade 1994).

⁵³ Because there are only three Austrian producers of OE spun rayon yarn, the data are confidential. The quantity of subject imports increased from *** pounds in 1994 to *** pounds in 1995 and *** pounds in 1996. The value of subject imports rose from *** in 1994 to *** in 1995 and *** in 1996. Table IV-1, CR at IV-3, PR at IV-2.

⁵⁴ Commissioner Crawford notes the presence of nonsubject imports in the domestic market. The quantity of nonsubject imports increased from *** pounds in 1995 to *** pounds in 1996. Table IV-1, CR at IV-3, PR at IV-2. Nonsubject imports increased their share of the domestic market from 4.8 percent in 1995 to 6.5 percent in 1996. Table IV-2, CR at IV-6, PR at IV-4.

First, notwithstanding the annual fluctuations in U.S. apparent consumption, subject imports were a sizable factor in the market during the entire period of investigation. Subject import market share, measured by quantity, declined from 23.8 percent in 1994 to 22.3 percent in 1995, and then increased to 26.4 percent in 1996.^{55 56}

Second, a majority of the subject imports were produced in Austria by respondent G. Borckenstein und Sohn AG (“Borckenstein”).⁵⁷ Borckenstein’s sole U.S. importer during the period of investigation was Beavertown Mills, Inc. (“Beavertown”) or its successor firm, each of which consumed the OE spun rayon yarn it imported in the production of fabric.⁵⁸ Beavertown initially began sourcing OE spun rayon yarn from European sources in 1989-90 because it could not acquire U.S.-produced yarn in the quantities it required.⁵⁹ It subsequently began to obtain Austrian-produced yarn from Borckenstein and ultimately decided during 1994-95 to designate Borckenstein as the sole supplier of its OE spun rayon yarn because it perceived the quality of Borckenstein’s yarn to be superior.⁶⁰ Consequently, most of the subject imports were imported by a company that had never previously purchased U.S.-produced OE spun rayon yarn in commercial quantities and was not likely to do so in light of its sole sourcing arrangement and its perception that Austrian yarn is of superior quality.

Third, a substantial proportion of the increase in subject import quantities was attributable to increased purchases of such product by related-party producers. As indicated in section I.B. above, the importation of the related parties was principally for nonprice reasons. Indeed, *** of the increase in subject import quantities from 1995 to 1996 was due to the increased purchases of a single related-party producer which purchased product from Austria only after a domestic producer refused to supply it with product.⁶¹

B. Price Effects of Subject Imports

1. Analysis of Vice Chairman Bragg

The Commission obtained very extensive pricing data in this investigation -- information was obtained for approximately 76 percent of open-market shipments of the domestic like product and 82 percent of subject imports.⁶² These data indicate that prices for both the subject imports and the domestic like product fluctuated throughout the period of investigation. In general, the prices for those OE spun rayon yarn

⁵⁵ Table IV-2, CR at IV-6, PR at IV-4. Measured by value, subject import market share declined from 23.9 percent in 1994 to 23.0 percent in 1995, and then increased to 25.6 percent in 1996. *Id.*

⁵⁶ Vice Chairman Bragg notes that the subject imports’ share of U.S. commercial shipments, measured by quantity, declined from 35.4 percent in 1994 to 35.0 percent in 1995, and then increased to 41.0 percent in 1996. Table IV-3, CR at IV-7, PR at IV-5.

⁵⁷ See CR at VII-2, PR at VII-1; Borckenstein Posthearing Brief at 3.

⁵⁸ See CR at IV-2, PR at IV-1; Borckenstein Posthearing Brief at 3. Beavertown and New River Industries, Inc. (“New River”) merged on August 2, 1996 to form NRB Industries (“NRB”). CR at IV-2 n.3, PR at IV-1. ***.

⁵⁹ Transcript of Conference in Preliminary Phase Investigation (“Preliminary Tr.”) at 90-91 (Bergman).

⁶⁰ See Preliminary Tr. at 93-98 (Bergman); Borckenstein Prehearing Brief at 6-7.

⁶¹ See CR at II-3 nn.6, 7, IV-2, PR at II-2 nn.6, 7, IV-1.

⁶² CR at V-5. PR at V-3. Vice Chairman Bragg has relied principally on pricing data provided by U.S. producers and importers, because of the high degree of coverage. Pricing coverage for purchaser questionnaires, particularly with respect to the subject imports, was not as complete. See CR at V-6, PR at V-3-4.

products for which the Commission collected data declined during 1994, rose during 1995, and declined during 1996. Prices in the fourth quarter of 1996 were below those in the first quarter of 1994.⁶³

The price fluctuations, however, more closely tracked changes in domestic demand than changes in subject import volumes. During 1994, as petitioner acknowledges, demand for OE spun rayon yarn was weak.⁶⁴ During this year, prices generally declined. By contrast, demand for OE spun rayon yarn strongly increased in 1995. Prices generally rose in 1995. In 1996, demand declined from the previous year's levels, and prices again generally declined. The nexus between prices for the domestic like product and domestic demand is understandable given that OE spun rayon yarn accounts for a significant percentage of the total costs of the fabrics in which it is used as an input. Several purchasers reported declines in the price of these fabrics over the course of the period of investigation. One would therefore expect that purchasers would attempt to keep OE spun rayon yarn producers from raising their prices during periods of declining demand.⁶⁵ Indeed, the record contains specific instances where a purchaser stated that it was under pressure to seek lower OE spun rayon yarn prices because of declining market conditions for the fabrics the yarn was used to produce.⁶⁶ Thus Vice Chairman Bragg determines that fluctuations in demand, not the subject imports, caused the price declines that occurred during the period of investigation.

The record indicates mixed overselling and underselling. Underselling occurred in 25 of 42 comparisons between commercial sales of the domestically-produced product and purchases of the Austrian product by importers for their own use and 9 of 18 comparisons between commercial sales of the domestically-produced product and importers' resales of the Austrian product. Because prices for the domestic like product and the subject imports did not tend to track each other on a quarterly basis, there was no discernible pattern as to the incidences of underselling. Nor was there any clear pattern of overselling and underselling margins, which fluctuated throughout the period of investigation. Margins were below 10 percent in 15 of the 18 reseller comparisons and 41 of the 42 end-user comparisons and were below 5 percent in 9 of the 18 reseller comparisons and 30 of the 42 end-user comparisons.⁶⁷

The significance of the underselling data is diminished by information in the record indicating the importance of non-price factors in purchasing decisions. Purchasers most often cited yarn quality as the most important factor influencing purchase of OE spun rayon yarn and every responding purchaser reported that the lowest price offered for OE spun rayon yarn will not always win the contract or sale.⁶⁸ As stated above, Beavertown, the largest importer of OE spun rayon yarn from Austria, used Borckenstein product because of its perceived superior quality. Other individual purchasers repeatedly cited quality problems with U.S.-produced OE spun rayon yarn, or problems in obtaining supplies, as reasons for declining to purchase this product.⁶⁹ Several purchasers indicated that prices for OE spun rayon yarn from Austria would have to be

⁶³ Tables V-1-4, CR at V-9-12, PR at V-4.

⁶⁴ See Petitioner's Posthearing Brief, Attachment at 5.

⁶⁵ See CR at II-6-8, PR at II-3-5.

⁶⁶ See CR at V-20, V-23, PR at V-6, V-8.

⁶⁷ Table V-5, CR at V-14, PR at V-5.

⁶⁸ CR at II-9, PR at II-5.

⁶⁹ See CR at V-20, V-22, V-25-26, PR at V-5, V-8-9.

Petitioner contends that it lost sales at major accounts solely because of price undercutting by the subject imports. Petitioner postulates that these firms' purchases of subject imports would increase as subject import prices declined. Even assuming *arguendo* that petitioner's method of analyzing pricing data outside the context of market conditions is legitimate, a review of several major purchasers' transactions does not support petitioner's conclusions. There were several instances where an individual purchaser's quantity of particular subject import products increased

(continued...)

five to 15 percent higher before they would consider switching to the U.S. produced product.⁷⁰ In light of the importance of non-price factors in purchasing decisions, the mixture of underselling and overselling, the lack of any discernible pattern to the underselling that occurred, and the small underselling margins, Vice Chairman Bragg concludes that the underselling by the subject imports is not significant.

2. Analysis of Commissioner Crawford

To evaluate the effects of the alleged dumping on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports were dumped with what domestic prices would have been if the subject imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In this investigation, the alleged dumping margins for subject imports are low. The final LTFV margin for Borckenstein is 2.36 percent; for Linz 9.92 percent; and, all others 6.18 percent. Thus, subject imports likely would have been priced only slightly higher had they been fairly traded. The degree of substitution between domestic OE spun rayon yarn and subject imports is limited. Purchasers of OE spun rayon yarn indicate that non-price factors are most important in purchasing decisions. Yarn quality was noted as the most important factor influencing purchase decisions for OE spun rayon.⁷¹ OE spun rayon yarn purchasers expressed a willingness to purchase Austrian OE spun rayon yarn at 5 percent to 15 percent higher prices before considering switching to the domestic product.⁷² Purchasers would have resisted any significant increase in domestic producer prices. On the supply side, any attempt by an individual supplier in the domestic industry to increase its prices in response to any shift in demand would have been challenged by competitors. There are several OE spun rayon yarn producers in the U.S. market that compete directly with each other and with nonsubject imports in the market. The domestic industry has production capacity available with which domestic producers would have competed among themselves and nonsubject imports for sales, if some degree of demand shifted away from subject imports. Under such supply and demand conditions, any effort by a domestic supplier to raise its prices significantly would have been beaten back by its competitors, or resisted by OE spun rayon yarn purchasers, the fabric manufacturers. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of subject imports. Consequently, Commissioner Crawford finds that subject imports are not having significant effects on prices of domestic OE spun rayon yarn.

⁶⁹(...continued)

appreciably notwithstanding concomitant increases in subject import prices. See Questionnaire Responses of ***.

Moreover, officials at each of the three major accounts cited by petitioner indicate that their purchasing decisions were not motivated solely by price. An official at ***, the first major account listed by petitioner, stated ***. CR at V-20, 22, 25-26, PR at V-5, V-8, V-9. The second major account, ***. CR at II-3, PR at II-2. The third major account, ***. CR at II-10, PR at II-6. ***. CR at V-24, PR at V-8.

⁷⁰ CR at II-11 n.25, PR at II-7 n.25. Three firms indicated that the price of the Austrian OE spun rayon yarn would have to be five percent higher, one indicated that it would have to be ten percent higher, and one indicated that it would have to be 15 percent higher.

⁷¹ CR at II-9, PR at II-5.

⁷² CR at II-11 n. 25, PR at II-7 n.25.

C. Impact of Subject Imports⁷³

1. Analysis of Vice Chairman Bragg⁷⁴

The subject imports do not appear to have had a significant impact on the domestic OE spun rayon yarn industry. The subject imports retained a sizable presence in the market throughout the period of investigation while the domestic industry's profitability varied. Moreover, there was no discernible nexus between subject import volumes and pricing patterns.

Domestic industry performance over the period of investigation correlated with changes in consumption patterns, rather than subject imports volumes. From 1994 to 1995, demand increased significantly and so did the domestic industry's shipments, production, capacity utilization, and employment.⁷⁵ Because of the increased demand, domestic producers were able to raise prices. Thus, operating income rose substantially on an aggregate basis, and operating margins remained relatively stable.⁷⁶ This all occurred notwithstanding an increase in subject import volumes.

By contrast, from 1995 to 1996, domestic demand for OE spun rayon yarn declined. The domestic industry's shipments, production, capacity utilization and employment declined as well.⁷⁷ The industry's operating performance also deteriorated because domestic producers, in addition to facing reduced sales, could not raise prices to recover increased raw materials costs.⁷⁸ As previously explained in the discussion on price effects, the domestic industry's inability to raise prices cannot be attributed to the subject imports in light of the importance of nonprice factors in purchasing decisions and the lack of any nexus between subject import volumes and prices for the domestic like product. Moreover, as explained in the discussion on volume, purchases made for nonprice reasons help explain both subject import volume levels and why subject import volumes increased from 1995 to 1996.

⁷³ The statute specifies that the Commission is to consider "the magnitude of the margin of dumping" in its evaluation of the impact of imports on the domestic industry. 19 U.S.C. § 1677(7)(C)(iii)(V); *see also* 19 U.S.C. § 1677(35)(C); URAA Statement of Administrative Action ("SAA"), H.R. Rep. 316, 103d Cong., 2d Sess., vol. I at 850 (this provision "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive of the Commission's material injury analysis"). The statute further states that the dumping margins that the Commission is to consider in making a final determination are those "most recently published by the administering authority prior to the closing of the Commission's administrative record." 19 U.S.C. § 1677(35)(C)(ii). The Commission reopened the record -- and permitted the parties to comment on the reopened record -- to include amended margins that Commerce issued on September 12, 1997. The amended margins range from 2.36 percent to 9.92 percent. *See* Memorandum from Russell Morris to Jeffrey P. Bialos (Sept. 12, 1997).

⁷⁴ Vice Chairman Bragg notes that she does not ordinarily consider the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

⁷⁵ Tables III-1, III-2, III-5, CR at III-6, III-8, III-12, PR at III-4, III-5, III-8.

⁷⁶ Table VI-1, CR at VI-2, PR at VI-2. In examining the impact of subject imports on the domestic industry, Vice Chairman Bragg relied principally on the impact on the industry as a whole, although she also examined the impact on the merchant market. She finds that the trends in the merchant market are the same as those in the industry as a whole, although the magnitude of the changes are different with respect to particular factors.

⁷⁷ Tables III-1, III-2, III-5, CR at III-6, III-8, III-12, PR at III-4, III-5, III-8. At the hearing, the petitioner contended that the effect of the declines in production and capacity utilization from 1995 to 1996 were understated as a result of changes in product mix. However, most of the producers indicated in their questionnaire responses that product mix did not change significantly during the period of investigation. CR at VI-9, PR at VI-1.

⁷⁸ *See* Table VI-1, CR at VI-2-3, PR at VI-2.

Neither the industry's positive performance from 1994 to 1995 nor its deterioration from 1995 to 1996 can be linked to the subject imports.⁷⁹ Consequently, the disparate results in the domestic industry's performance during the three years encompassed by the period of investigation must be attributed to changing patterns of demand.

In light of the lack of significant volume and price effects, Vice Chairman Bragg concludes that there is not a nexus between the subject imports and the domestic industry's condition. Accordingly, she determines that there is no material injury to the domestic OE spun rayon yarn industry by reason of LTFV imports from Austria.

2. Analysis of Commissioner Crawford

As previously stated, Commissioner Crawford does not evaluate impact based on trends in statutory impact factors. In her analysis of material injury by reason of LTFV imports, Commissioner Crawford evaluates the impact of subject imports on the domestic industry by comparing the state of the industry when the imports were dumped with what the state of the industry would have been had the imports been fairly traded. In assessing the impact of the subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors as required by 19 U.S.C. § 1677(7)(C)(iii). These factors together either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices, sales and overall revenues is critical, because the impact on the other industry indicators (e.g., employment, wages, etc.) is derived from this impact.

As noted above, there is no indication that the domestic industry would have been able to increase its prices significantly if subject imports had been sold at fairly traded prices. Had subject imports been fairly priced, there would have been an insignificant shift in demand from subject imports to the domestic industry. At slightly higher prices, purchasers would have continued to buy significant quantities of Austrian OE spun rayon yarn. Purchasers' preferences for higher quality subject imports would have limited the amount of substitution between Austrian OE spun rayon yarn and the domestic like product. The domestic industry and nonsubject imports would have competed for any shift in demand away from Austrian OE spun rayon yarn. The amount of shift in demand that the domestic industry would have captured would not have been significant. In other words, had subject imports not been dumped, the domestic industry would not have been able to increase its output and sales, and therefore its revenues, significantly. Consequently the domestic industry would not have been materially better off if the subject imports had been fairly traded. Therefore, Commissioner Crawford does not find that subject imports are having a significant impact on the domestic industry and she finds that the domestic industry producing OE spun rayon yarn is not materially injured by reason of LTFV imports of OE spun rayon yarn from Austria.

⁷⁹ Petitioner contends that the domestic industry has continued to experience difficulties in 1997. The principal developments it cited in this respect were closures of two spinning plants operated by members of the petitioning coalition: the Union, S.C., yarn spinning facility of Uniblend, and a facility operated by National. See Petitioner's Posthearing Brief at 3, ex. 3. With respect to the Uniblend facility, the record indicates that ***. Investigator's Telephone Notes (Sept. 3, 1997). Similarly, while National's witness testified at the hearing that the facility it closed employed 72 people, Tr. at 37 (B. Miller), the firm's questionnaire response indicates that ***. CR at III-4 n. 11, PR at III-3 n. 11. National's questionnaire response further indicates ***. National Questionnaire Response. Because the closed facilities principally produced products other than OE spun rayon yarn, the closures have not been accorded substantial weight.

IV. NO THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry 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.”⁸⁰ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.⁸¹ In making our determination, we have considered all statutory factors⁸² that are relevant to these investigations.⁸³

There is very little existing unused capacity for the production of OE spun rayon yarn in Austria. Austrian OE spun rayon yarn producers maintained very high capacity utilization rates throughout the period of investigation, and expect to maintain such rates through 1998.⁸⁴ There are also no plans for the imminent increase of OE spun rayon yarn production capacity in Austria. To the contrary, projected capacity in 1997 and 1998 is less than that in 1996 because Borckenstein has shipped 12 spinning machines to Loris Industries, Inc. (“Loris”), a U.S. producer of OE spun rayon yarn that began production operations in June 1997, pursuant to an equipment sales agreement between the firms and does not intend to replace this equipment with other equipment for producing OE spun rayon yarn.⁸⁵

Although subject import volumes and market share increased during the period of investigation, there is no likelihood of further increases in subject import volume and market penetration for three reasons. First, as previously stated, Austrian production capacity for OE spun rayon yarn has declined. Second, Borckenstein’s exports to the United States are likely to decline because the U.S. firms to which it sold OE spun rayon yarn will now be supplied by U.S. production from Loris.⁸⁶ Third, Austrian OE spun rayon yarn producers currently export a majority of their production to markets other than the United States and project further growth in these export markets.^{87 88}

⁸⁰ 19 U.S.C. § 1673b(a) and 1677(7)(F)(ii).

⁸¹ 19 U.S.C. § 1677(7)(F)(ii). While the language referring to imports being imminent (instead of “actual injury” being imminent and the threat being “real”) is a change from the prior provision, the SAA indicates the “new language is fully consistent with the Commission’s practice, the existing statutory language, and judicial precedent interpreting the statute.” SAA at 854.

⁸² The statutory factors have been amended to track more closely the language concerning threat of material injury determinations in the Antidumping and Subsidies Agreements, although “[n]o substantive change in Commission threat analysis is required.” SAA at 855.

⁸³ 19 U.S.C. § 1677(7)(F)(i). Factor I regarding consideration of the nature of the subsidies is inapplicable because there have not been any subsidies alleged. Factor VII regarding raw and processed agriculture products is also inapplicable to the products at issue. Additionally, the record indicates that there are no dumping findings or antidumping remedies in effect in other countries with respect to OE spun rayon yarn from Austria. CR at VII-5, PR at VII-2. See 19 U.S.C. § 1677(7)(F)(iii)(I).

⁸⁴ Table VII-1, CR at VII-4, PR at VII-2.

⁸⁵ See Table VII-1, CR at VII-4, PR at VII-2; Borckenstein Prehearing Brief at 20-21; Tr. at 92 (Redinger).

⁸⁶ See Borckenstein Posthearing Brief, Part II at 2.

⁸⁷ See Tr. at 106 (Lemmerhofer), Borckenstein Posthearing Brief, Part II at 4.

⁸⁸ Commissioner Newquist notes, however, that under different circumstances than those here, such third country shipments could be diverted to the United States.

As we have explained elsewhere, the current volumes of subject imports entering the United States are not having significant price effects on U.S.-produced OE spun rayon yarn.⁸⁹ This lack of price effects will continue at likely future import volumes.

Inventories of the subject merchandise in Austria remained essentially stable during the period of investigation, and inventories of the subject merchandise in the United States declined. The ratio of inventories to shipments was low for both the inventories maintained in Austria and those maintained in the United States.⁹⁰

In light of the production techniques used by the Austrian producers, there is no significant potential for product shifting.⁹¹ As previously stated, research and development expenditures in the domestic OE spun rayon yarn industry are minimal, and there is no indication that the subject imports will have any actual or potential negative effects on the domestic industry's existing development and production efforts. Finally, there is no indication of any other demonstrable adverse trends that indicate that there is likely to be material injury by reason of imports of the subject merchandise.

Evaluating all the statutory threat factors, we find that the record indicates neither that substantially increased volumes of OE spun rayon yarn from Austria are imminent nor that material injury by reason of LTFV imports would occur absent issuance of an antidumping order. Accordingly, we determine that the domestic OE spun rayon yarn industry is not threatened with material injury by reason of LTFV imports from Austria.

CONCLUSION

For the foregoing reasons, we determine that the domestic OE spun rayon yarn industry is neither materially injured nor threatened with material injury by reason of LTFV imports from Austria.

⁸⁹ Although Commissioner Newquist did not join section III.B.1. of this opinion, he generally agrees with that discussion for purposes of the instant analysis. In addition, with regard to the importance of nonprice factors in purchasing decision, he notes that in some instances, particularly where "fashion" is involved, the Commission has recognized that heightened consideration of customer or end-user preference and demand may be appropriate. See Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, Inv. Nos. 731-TA-448-450 (Final Views on Remand), USITC Pub. 2577 at 23 (Nov. 1992).

Commissioner Newquist additionally notes that, in his analytical framework, "evaluation of the magnitude of the margin of dumping" is not generally helpful in answering the questions posed by the statute: whether the domestic industry is threatened with material injury, and, if so, whether such threat of material injury is by reason of the subject imports.

⁹⁰ Tables VII-1-2, CR at VII-4-5, PR at VII-2-3.

⁹¹ See CR at VII-1-2, PR at VII-1-2; Linz Prehearing Brief at 20-21.

**ADDITIONAL AND SEPARATE VIEWS OF
CHAIRMAN MARCIA E. MILLER**

I concur with my colleagues that a domestic industry is neither materially injured nor threatened with material injury by reason of imports of open-end spun rayon singles yarn ("OE spun rayon yarn") from Austria which have been determined to be sold at less than fair value (LTFV) by the Department of Commerce. I join the Views of the Commission with regard to domestic like product, domestic industry and related parties, condition of the domestic industry and threat.

My analysis of present material injury differs in some respects in this case from that of my colleagues. My analysis was affected significantly by the apparent importance of derived demand for OE spun rayon yarn. In particular, I considered most important the relationship between changes in demand for fabric made from OE spun rayon yarn and prices for OE spun rayon yarn. I gave less weight to the evidence concerning perceived differences in quality between domestic and Austrian OE spun rayon yarn. I also expressly evaluated the significance of subject import volumes based on their share of the commercial market, as well as on the basis of the total market. Accordingly, I think it is useful to present my analysis separately here.

The statute directs the Commission to evaluate the volume of subject imports by considering whether the volume, or any increases in that volume, are significant.¹ I evaluated both the volume and the changes in the volume of subject imports during our period of investigation. In terms of overall volume, I note that subject imports were a sizeable presence in the market both when domestic industry performance was improving and when it was not. Specifically, market share held by subject imports fluctuated between 23.8 and 26.4 percent in the total market, and between 35 and 41 percent in the commercial market from 1994 to 1996.² Thus, subject imports did not become a new factor in the commercial market during the period examined.

Further, more than half of the subject imports that entered the United States were produced by the Austrian firm of G. Borckenstein und Sohn AG ("Borckenstein") and imported solely by fabric producer Beavertown Mills, Inc. ("Beavertown") and, after August 1996, its successor NRB. Beavertown initially sourced OE spun rayon yarn from other European producers as early as 1989. Beavertown eventually began sourcing product from Borckenstein and, in 1994-95, decided to designate Borckenstein as its sole supplier.³ Thus, a significant portion of market share that was held by the subject imports during the period examined previously had been held by non-subject imports, and not by the domestic industry. In that connection, I observed that market share held by non-subject imports fell from 9.5 to 6.5 percent in the total market and from 14.1 to 10.1 percent in the commercial market between 1994 and 1996.⁴

In analyzing the increases in the volume of subject imports, I took note that subject imports increased between 1994 and 1995.⁵ However, the increase was comparable to the rate of increase in domestic consumption.⁶ Thus, market share held by the subject imports in the commercial market remained fairly

¹ See 19 U.S.C. § 1677(7)(C)(I).

² Tables IV-2, IV-3, CR at IV-6, IV-7, PR at IV-4, IV-5.

³ See CR at IV-2, VII-2, PR at IV-1, VII-1; Borckenstein Posthearing Brief at 3, 6.

⁴ See Tables IV-2 and IV-3, CR at IV-6, IV-7, PR at IV-4, IV-5.

⁵ Subject imports increased *** percent by volume from 1994 to 1995. See Table C-1, CR at C-3, PR at C-3.

⁶ Total domestic consumption increased *** percent by volume from 1994 to 1995. See Table C-1, CR at C-3, PR at C-3. In the commercial market, domestic consumption increased *** percent by volume during the same period. See Table C-2, CR at C-5, PR at C-5.

stable, moving from 35.4 to 35.0 percent.⁷ In short, I found that the increase in subject import volume in the first two years of the period was attributable to an expansion in the market.

From 1995 to 1996, subject imports increased again, although domestic consumption of OE spun rayon yarn declined slightly.⁸ Hence, market share held by subject imports in the commercial market also increased, from 35 to 41 percent.⁹ However, a substantial proportion of the increase in subject imports in 1996 was due to a purchase by a domestic producer who initially had sought to purchase the product from another domestic supplier but was refused.¹⁰

Consequently, much of the increase in the volume of subject imports during the period of investigation was due either to increases in domestic consumption or lack of available domestic supply. For these reasons, I find that the significance of both the volume of subject imports and their increase during the period examined is greatly mitigated.

Turning to price effects, two factors I viewed as important in limiting the ability of domestic producers to raise their prices were the downturn in demand for the fabrics produced from OE spun rayon yarn, and the expansion in domestic capacity in this capital-intensive industry. Some end users of OE spun rayon yarn reported that prices for the downstream fabrics declined between 15 and 33 percent between 1994 and 1997.¹¹ Purchasers also reported that prices for downstream fabrics either remained flat or fell during the period examined.¹² OE spun rayon yarn accounts for between 20 to 40 percent of the cost of such downstream fabrics as blitz, crepe, and dobby, and as much as 51 percent for some knit fabrics.¹³ It is not surprising, therefore, that producers of fabrics made from OE spun rayon yarn would not readily accept price increases for an important input when prices for their products were declining.

Reported commercial production capacity utilization levels were below 60 percent in 1994, yet commercial producers significantly expanded capacity in 1995.¹⁴ Although domestic consumption increased from 1994 to 1995, commercial producers' capacity utilization levels nevertheless remained below 70 percent in 1995.¹⁵ This excess capacity likely limited the ability of commercial producers to raise their prices when the market expanded in 1995.

I also note that purchasers reported that domestic and Austrian OE spun rayon yarn were comparable in most respects.¹⁶ Some of the larger purchasers, however, noted differences in product characteristics and conditions of sale that limited the degree of substitutability between subject imports and domestic product. In

⁷ Table IV-3, CR at IV-7, PR at IV-5.

⁸ Subject imports increased *** percent by volume during 1995-96. Total domestic consumption decreased *** percent by volume from 1995 to 1996. See Table C-1, CR at C-3, PR at C-3. Commercial market consumption decreased *** percent during the same period. See Table C-2, CR at C-5, PR at C-5.

⁹ Table IV-3, CR at IV-7, PR at IV-5.

¹⁰ See CR at II-3 nn. 6,7, IV-2, PR at II-2 nn. 6,7, IV-1. *** reported that it sought to purchase OE spun rayon yarn from ***, but the producer refused to supply the product. The producer separately confirmed that the order was turned down.

¹¹ See CR at II-6-7; PR at II-4.

¹² See CR at II-7; PR at II-4.

¹³ See CR at II-8; PR at II-5.

¹⁴ Although commercial market producers reported that their capacity utilization was only 58.4 percent in 1994, they nevertheless expanded capacity by nearly *** percent in 1995. See Table C-2, CR at C-6; PR at C-6.

¹⁵ *Id.*

¹⁶ See Table II-1, CR at II-13, PR at II-8.

particular, problems with delivery and availability of domestic supply, as well as technical performance, were cited by these purchasers as shortcomings of certain domestic producers.¹⁷

Producer and importer prices in our record accounted for 76 percent of commercial-market shipments of U.S. product and 82 percent of U.S. imports.¹⁸ Pricing data were presented in several ways. I considered importers' prices for sales to end-users to be most probative of price effects because it appears most sales were made directly to end-users.¹⁹

Price trends both for producers' sales and importers' sales declined in 1994, increased in 1995, and declined again in 1996, following the trend in consumption patterns.²⁰ As discussed earlier, the evidence indicates a strong connection between demand for downstream fabrics and demand for OE spun rayon yarn. In my view, it was this factor, and not competition from the subject imports, that caused the price declines that occurred during the period examined. Additionally, as noted above, increases in domestic capacity during 1994-95 likely prevented domestic producers from increasing their prices even more than they did in response to the increase in domestic consumption.

Aggregated pricing data reveal mixed overselling and underselling. In comparisons of sales of U.S. product and subject imports to end-users, subject imports undersold domestic yarn in 25 out of 42 instances, with margins ranging between 0.2 and 7.7 percent.²¹ In the other comparisons, the imports oversold the domestic product by margins ranging between 0.1 and 15.3 percent.²² In this case, price was reported as only one among many factors that purchasers considered to be important in their decision making; as previously discussed, purchasers also reported a variety of specific non-price reasons for not purchasing domestic OE spun rayon yarn. In particular, they noted supply shortages and delivery problems, as well as perceived differences in quality. Moreover, the volumes of sales associated with particular prices sometimes increased as prices increased, while at other times they decreased as prices decreased. Sales volumes also increased as prices decreased, but not to the extent suggested by petitioners.²³ Thus, I do not find a strong correlation between underselling on the one hand, and movement in prices or shifts in volume on the other. Rather, in my view, shifts in domestic demand during this period determined the direction of domestic prices.²⁴ Consequently, I do not find the record indicates that subject imports had significant adverse effects on domestic prices.

I then examined the record for other evidence that subject imports had an adverse impact on the domestic industry, and considered the data for the industry as a whole as well as for the commercial market.

¹⁷ See CR at II-3, n. 6, II-9; PR at II-2, n. 6, II-5-6.

¹⁸ See CR at V-5, PR at V-3.

¹⁹ See Tables V-1 - V-4, CR at V-9 - V-12, PR at V-4.

²⁰ *Id.*; see also Tables IV-2, IV-3, CR at IV-6, IV-7, PR at IV-4, IV-5.

²¹ See Table V-5, CR at V-14, PR at V-5.

²² *Id.*

²³ See Tables V-1 - V-4, CR at V-9 - V-12, PR at V-4.

²⁴ Petitioners also urged the Commission to disaggregate the pricing data and examine Beavertown's prices separately from those of the other importers. See Hearing Transcript at 53-54 (Love). The Commission does not typically disaggregate import prices in this manner. However, in order to evaluate fully the price data in this case, I examined Beavertown's prices and other importer prices separately. See Memorandum EC-U-043, dated September 4, 1997. For Beavertown, the comparisons show ***. *** indicates that Beavertown was paying a premium for the product, which is consistent with its testimony that it perceived Borckenstein's product to be superior in quality to other OE spun rayon yarn, irrespective of origin. The other subject imports did show a greater degree of underselling. Nevertheless, for the reasons already discussed, I did not find a strong correlation between the underselling and domestic prices when examined on this basis either.

My discussion here focuses on the latter since that is where the impact of subject imports, if any, would most likely be found. For the commercial market, industry indicators showed improvement in several areas from 1994 to 1996, but declines in several instances when examined from 1995-96. On an overall basis, commercial market capacity, production, shipments, employment, and net sales all increased. Although these same indicators decreased from 1995-96, they were still significantly higher at the end of the period examined than they were at the beginning.

Increases in cost of goods sold on a per-unit basis occurred between 1995 and 1996, due to increases in raw fiber costs. These cost increases coincided with a decline in demand for the fabrics that are made from OE spun rayon yarn. Producers could not readily pass along price increases to cover these rising costs in the face of declining demand for the downstream fabric. Consequently, operating income suffered. Petitioners contend that the rise in subject imports had a suppressing effect on domestic prices in 1996 when costs were going up. But the record does not indicate a significant change in the relationship between domestic and importer prices in 1996 (when prices fell) from that which existed in 1994 (when prices also fell) and 1995 (when prices increased).

The Uruguay Round Agreements Act amended the antidumping law to direct the Commission to take into account the magnitude of the margins of dumping in assessing the impact of dumped imports on the domestic industry.²⁵ In this case, the dumping margins ranged between 2.36 percent and 9.92 percent.²⁶ In light of the apparent importance of domestic demand for fabric made from OE spun rayon yarn in determining demand and prices for the yarn itself, the fact that a large portion of the increase in subject imports in 1996 was attributable to non-price reasons, and the lack of a strong correlation between subject imports and domestic price trends, I do not find the magnitude of the dumping margins to have a bearing on the state of the industry in this case.²⁷

In conclusion, market conditions, including demand for downstream fabrics, and production costs determined the domestic industry's performance during the period of investigation, not subject imports. Accordingly, I determine that the domestic industry is not materially injured by reason of subject imports.

²⁵ 19 U.S.C. § 1677(7)(C)(iii)(V); *see also* 19 USC § 1677(35)(C); URAA Statement of Administrative Action, H.R. Rep. 316, 103d Cong. 2d Sess., vol. I at 850.

²⁶ *See* Memorandum from Russell Morris to Jeffrey P. Bialos (Sept. 12, 1997).

²⁷ Rather than restate the analysis, I also incorporate herein by reference the discussion concerning the closing of the Uniblend and National facilities in 1997 that appears in the Views of the Commission, footnote 79, *supra*.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers, Gastonia, NC,¹ on August 20, 1996, 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 open-end spun rayon singles yarn² from Austria. Information relating to the background of the investigation is provided below.³

| <i>Date</i> | <i>Action</i> |
|-------------------------|--|
| August 20, 1996 | Petition filed with Commerce and the Commission; institution of Commission investigation |
| September 13, 1996 . . | Commerce's notice of initiation |
| October 4, 1996 | Commission's preliminary determination |
| March 26, 1997 | Commerce's preliminary determination |
| April 7, 1997 | Scheduling of final phase of Commission investigation (62 F.R. 16606) |
| August 12, 1997 | Commission's hearing ⁴ |
| August 15, 1997 | Publication of Commerce's final determination (62 F.R. 43701) ⁵ |
| September 15, 1997 . . | Date of the Commission's vote |
| September 22, 1997 . . | Commission determination transmitted to Commerce |

SUMMARY DATA

A summary of data collected in the investigation is presented in tables C-1 and C-2 of appendix C.⁶ Except as noted, U.S. industry data presented are based on questionnaire responses of 10 firms that are believed to account for all U.S. production of open-end spun rayon singles yarn during 1996. U.S. import data presented are based on questionnaire responses of 14 firms that are believed to account for virtually all importers of open-end spun rayon singles yarn during the period for which information was requested in the final phase of the investigation.

¹ Firms comprising the membership of the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers consist of Burlington Madison Yarn Co. (BMYC), Greensboro, NC; Carolina Mills, Inc. (Carolina), Maiden, NC; National Spinning Co. (National), Washington, NC; and Uniblend Spinners, Inc. (Uniblend), Union, SC.

² The product covered by this investigation is open-end spun singles yarn containing 85 percent or more rayon staple fiber. Open-end spun rayon singles yarn is provided for in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States (HTS) with a 1997 most-favored-nation tariff rate of 10.4 percent *ad valorem*, applicable to products of Austria.

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

⁴ The calendar of the hearing is presented in app. B.

⁵ Commerce's final LTFV margins were revised on Sept. 12, 1997. The revised final LTFV margins are as follows: G. Borckenstein und Sohn AG (Borckenstein), 2.36 percent; Linz Textil GmbH (Linz), 9.92 percent; and all others, 6.18 percent.

⁶ The data presented in table C-1 are for the total U.S. market and the data presented in table C-2 are for the U.S. commercial market.

THE PRODUCT

The imported product subject to this investigation is open-end spun rayon singles yarn, which consists of singles yarn⁷ containing 85 percent or more rayon staple fiber that is produced on the open-end spinning system.⁸ Open-end spun rayon singles yarn is an intermediate product used primarily in the construction of woven fabric for women's apparel.⁹ This yarn is produced for sale to firms involved in the downstream production of textile fabric, as well as for internal use in the production of such fabric.

Open-end spun rayon singles yarn is classified in HTS subheading 5510.11.00, which includes all singles yarn containing 85 percent or more by weight of artificial staple fiber, no matter what spinning method is used. It is believed that rayon staple yarn accounts for essentially all of the U.S. imports entering under this subheading; however, staff estimates that just over two-thirds of product entering the United States under this subheading is open-end spun rayon singles yarn.¹⁰ This section presents information on both imported and domestically produced open-end spun rayon singles yarn, as well as information related to the Commission's "domestic like product" determination.¹¹

During the preliminary phase of this investigation, only one issue concerning the domestic like product was presented: whether the domestic like product should be limited to open-end spun rayon singles yarn, in the same manner that the scope of investigation has been limited by Commerce, or whether it should also include ring spun rayon singles yarn. The petitioners requested that the domestic like product be defined as open-end spun rayon singles yarn. Respondent Borckenstein, an Austrian producer of the subject merchandise, requested that the domestic like product include ring spun rayon singles yarn in addition to open-end spun rayon singles yarn. The Commission found in the preliminary phase of this investigation that the differences between open-end spun rayon singles yarn and ring spun rayon singles yarn are sufficiently substantial to constitute a clear dividing line and, therefore, defined the domestic like product to be open-end spun rayon singles yarn.¹²

⁷ Singles yarn is the most basic yarn, i.e., a single continuous strand of fibers. In contrast, plied yarns and corded yarns involve two or more singles yarns twisted together. These yarns are provided for in other HTS provisions and are excluded from the scope of this investigation. No parties have argued that plied or corded yarns should be included in the "domestic like product" and they are not discussed further in this report.

⁸ Spun rayon yarn is made by two main methods: ring spinning and open-end spinning. Other yarn-forming methods include air-jet spinning, friction spinning, wrap spinning, and twistless spinning, in which the fibers are held together by an adhesive. Spun rayon singles yarn produced on the ring-spinning system or any yarn-forming method other than open-end spinning are not subject to this investigation.

⁹ Open-end spun rayon singles yarn is also used to a more limited degree in home furnishings fabrics (i.e., upholstery and drapery fabrics).

¹⁰ Staff estimates are based on data provided by the U.S. Customs Service (Customs) and by questionnaire responses of U.S. importers of open-end spun rayon singles yarn.

¹¹ The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and, where appropriate, (6) price.

¹² *Open-End Spun Rayon Singles Yarn*, Inv. No. 731-TA-751 (Preliminary), USITC Pub. 2999 (Oct. 1996), pp. 4-6. In accordance with the Commission's domestic like product determination, the data presented in this report consist of open-end spun rayon singles yarn.

During the final phase of the investigation, the petitioners once again requested that the domestic like product be defined as open-end spun rayon singles yarn.¹³ Respondents did not state their position on the issue in this final phase of the investigation.

Physical Characteristics and Uses

Open-end spun rayon singles yarn is made up of rayon staple fibers that are twisted together to form a continuous strand of fiber suitable for weaving or otherwise intertwining to form a textile fabric. Rayon is a cellulosic or “artificial” manmade fiber produced from regenerated wood pulp.¹⁴ The subject yarn is available in a range of sizes and twists per inch. Yarn size is indicated by a yarn number or count, which is the number of 840-yard hanks in a pound of yarn. For example, if 24 hanks weigh one pound, the yarn is called a 24s yarn (24/1¹⁵ count yarn); if 50 hanks weigh one pound, the yarn is a 50s yarn (50/1 count yarn). Thus, a higher yarn number means a smaller or finer yarn diameter. Twist is measured by the number of turns per inch of yarn. Typically, the more twist applied to the yarn the stronger it will be, up to a certain point. Although the subject yarn may occasionally include a blend of rayon with another manmade fiber such as polyester or nylon, or with a natural fiber such as cotton or wool, it is almost exclusively 100-percent rayon.

Open-end spun rayon singles yarn is an intermediate product used primarily in the construction of woven fabric for women’s apparel. More specifically, the yarn is used primarily as the filling (widthwise) yarn in fabric produced on high-speed air-jet weaving looms. Because of its “hairy” surface, open-end yarn runs well on high-speed air-jet weaving looms, which use air to project the yarn from side to side in the fabric-forming process. In most cases, open-end spun rayon singles yarn is woven with another type of yarn, such as acetate filament yarn in the warp (lengthwise) direction, to produce printed fabrics that are currently popular in women’s dresses, blouses, slacks, and skirts.

Interchangeability

The extent to which different types of yarn are interchangeable is determined by the look, feel, and performance required of the downstream fabric and by the requirements of the downstream weaving equipment. Because the physical properties of a yarn impart specific appearance and performance characteristics to the downstream fabric, yarn purchasers specify certain requirements, such as yarn size, twist per inch, fiber content, and method of spinning. Any variance in the required yarn properties can greatly affect the overall appearance and performance of a downstream fabric or garment. Weaving looms also require that yarns have certain physical properties in order to run at optimal efficiency. Changes in yarn properties generally require equipment adjustments or retooling.

Given the wide availability of technology, machinery, and raw fiber, the domestic and imported products are generally considered to be interchangeable. In general, both domestic and foreign products are offered in comparable size, twist, strength, and quality ranges. Information provided by producers, importers, and purchasers concerning the interchangeability of U.S.-produced, Austrian, and nonsubject imports is presented in part II of this report in the sections entitled *Comparison of Domestic Products and Subject Imports* and *Comparisons of Domestic Products and Subject Imports to Nonsubject Imports*.

¹³ Petitioners’ prehearing brief, p. 9.

¹⁴ Rayon fiber is formed by extruding a chemical solution through the tiny holes of a spinneret into a solidifying solution. The resulting continuous filament fiber or tow is then cut into short lengths (1 to 3 inches) to form staple fiber that can be spun into yarn. Rayon filament yarn may be produced from a single continuous filament or two or more filaments twisted together.

¹⁵ The “1” refers to the number of plies, which for singles yarn is 1.

Channels of Distribution

Integrated producers of open-end spun rayon singles yarn consume their production of open-end spun rayon singles yarn internally in the production of fabric; such internal consumption of yarn production accounted for approximately 50 percent of U.S. producers' U.S. shipments of open-end spun rayon singles yarn during 1994-96. The fabric so produced is typically sold outside the firm to unrelated apparel manufacturers. As a result, open-end spun rayon singles yarn produced by integrated firms generally does not enter the normal channels of trade. However, open-end spun rayon singles yarn produced by nonintegrated producers and open-end spun rayon singles yarn imported from Austria and other sources compete for sales at the same customer level--namely, direct sales to end-use customers that produce fabric. As is the case with integrated producers, some importers also produce the downstream fabric in which the yarn is used and therefore import open-end spun rayon singles yarn for their own internal use. Indeed, captive consumption by one importer (NRB Industries (NRB))¹⁶ alone accounted for over *** percent of U.S. importers' U.S. shipments of open-end spun rayon singles yarn during 1994-96.

Customer and Producer Perceptions

For some firms, perceived quality differences exist concerning domestically produced open-end spun rayon singles yarn and the product which is imported from Austria. Respondents allege significant quality differences that distinguish the Austrian product from the domestic product. For example, domestic open-end spun rayon singles yarn is alleged to be of inferior quality when measured in terms of breakage and aesthetic qualities.¹⁷ Some domestic yarn may also be perceived as an inferior product because, for example, in multiple-fiber mills, fibers such as acrylic or polyester could become mixed with rayon fiber, resulting in what some consumers view as inferior yarn.¹⁸ Importers also mentioned the quality of the Austrian product as a significant factor affecting their sales or use of open-end spun rayon singles yarn. In the final phase of this investigation, importers were asked whether differences other than price between U.S.-produced and Austrian-produced open-end spun rayon singles yarn are a significant factor in their sales or use of this type of yarn. Three importers answered "No"¹⁹ and five importers answered "Yes." Quality was most frequently listed as a difference other than price between the U.S.-produced and Austrian-produced open-end spun rayon singles yarn.²⁰ Importers *** added that the Austrian product was superior to the U.S. product, while *** stated that "***."

Counter to these arguments, the petitioner asserts that domestically produced open-end spun rayon singles yarn is comparable in every respect with the product imported from Austria.²¹ Petitioner's assertion

¹⁶ NRB is the surviving corporation of an Aug. 1996 merger of New River Industries (New River) and Beavertown Mills Inc. (Beavertown). Most of NRB's imports were from Austria.

¹⁷ Postconference brief of respondent Borckenstein, p. 14. At the conference, David Bergman, president of the importer Ti-tex International Inc. (Ti-tex), discussed a yarn test in which the Austrian (Borckenstein) product exhibited less breakage than the domestic (Carolina) product in the finer (20s and 24s) yarns. (Breakage levels were equal when 12s yarns were tested.) Conference transcript, pp. 91-95, and Borckenstein's prehearing brief, pp. 11-12.

¹⁸ Postconference brief of respondent Linz, p. 24.

¹⁹ Two of the three importers that answered "No" are also U.S. producers of open-end spun rayon singles yarn.

²⁰ Other differences listed were availability, multiple sources of supply, and customer specifications.

²¹ Hearing transcript, p. 22. Petitioner's prehearing brief, pp. 48-49 and apps. 1 and 6. Testimony of Dan Sullivan, president of BMYC, conference transcript, p. 20. Also see testimony of Kim Eyer, plant manager, BMYC, conference (continued...)

of comparable quality is partly based on ***. The petitioner indicates that the *** customer feedback demonstrates the comparability of Austrian and U.S. open-end spun rayon singles yarn.²² Petitioner's assertion is also based on yarn test trials comparing yarn produced by BMYC with that produced by the Austrian producer ***. According to petitioner, the data from the test trials revealed that there were no significant quality differences between the products and that, in certain test categories, the data slightly favored the domestic product.²³ In addition, none of the U.S. producers indicated that differences other than price between U.S.-produced open-end spun rayon singles yarn and the product imported from Austria are a significant factor in their sales of open-end spun rayon singles yarn.

In the final phase of this investigation, purchasers were asked to list the major factors generally considered by their firm in deciding from whom to purchase open-end spun rayon singles yarn for any one order. Twelve of the 19 purchasers that provided information in this investigation listed quality as the most important factor in their purchasing decision.²⁴ Purchasers were also asked to make comparisons between the imported and U.S.-produced open-end spun rayon singles yarn. Sixty percent of purchasers indicated that the U.S. and Austrian products were comparable in terms of quality, and 30 percent of purchasers indicated that the quality of the U.S.-produced open-end spun rayon singles yarn was inferior to the Austrian product.

Use of Common Manufacturing Facilities and Production Employees

The manufacturing process for open-end spun rayon singles yarn occurs in four stages: (1) opening, (2) carding, (3) drawing, and (4) open-end spinning. In the opening stage of the process, rayon staple fibers are opened or fluffed to separate the individual fibers and ensure a random and even distribution of fibers. Opened fibers then progress to the carding phase of the process. The carding process aligns the fibers by running them between a toothed drum and stationary wires, paralleling the fibers. The paralleled fibers come off the carding machine in the shape of a wide web and are drafted down into a sliver, a continuous section of aligned fiber about the thickness of a pencil. Numerous strands of sliver are drawn together in the drawing phase, which merges them into fewer strands of "drawing sliver." In the final or spinning stage of the process, the drawing sliver is fed into a spinning machine, which opens up the fibers and feeds them to a "transfer channel" tube and a spinning rotor. Twist is inserted and yarn is formed at the open-end or break in the fibers.

In response to the Commission's questionnaire, four of ten U.S. producing firms noted that they do not currently produce other products on the same machinery and equipment used to produce open-end spun rayon singles yarn.²⁵ Seven U.S. producers indicated that, in addition to open-end spun rayon singles yarn, they could produce various other yarns (including ring spun rayon singles yarn, open-end spun acrylic singles yarn, cotton yarn, or other blends of singles yarn) on such machinery and equipment,²⁶ but five firms noted

²¹ (...continued)
transcript, pp. 57-59, and conference exh. 1.

²² Petitioner's prehearing brief, pp. 48-49, and app. 6.

²³ Petitioner's postconference brief, exh. 3, and petitioner's prehearing brief, app. 6.

²⁴ Other factors include price, availability, traditional supplier, and "can we make it internally."

²⁵ These four firms (***) accounted for 43 percent of U.S. production of open-end spun rayon singles yarn during 1996. *** sell their product to end-use customers and *** consumes its product in the weaving of fabric. *** sells the majority of its production to unrelated end users and transfers the rest to other divisions in ***.

²⁶ These seven firms (***) accounted for about 60 percent of U.S. production of open-end spun rayon singles yarn during 1996. *** sell their product to end-use customers; *** consume their product in the weaving of fabric; and ***

(continued...)

that in order for them to use their machinery and equipment for the production of products other than open-end spun rayon singles yarn, substantial or extensive equipment modification is required. One firm noted in its questionnaire response that it had converted its machinery and equipment to produce other products when demand for open-end spun rayon singles yarn dropped and another firm reported that switching production from open-end rayon singles yarn to yarns of other fibers is relatively simple.²⁷ All but one firm reported that production and related workers (PRWs) used to produce open-end spun rayon singles yarn also produce other products in the mills where open-end spun rayon singles yarn is produced.²⁸

Price

For information concerning average annual unit values of open-end spun rayon singles yarn as reported by U.S. producers and importers, see parts III and IV of this report entitled *Condition of the U.S. Industry* and *U.S. Imports, Apparent Consumption, and Market Shares*. For information concerning average quarterly price data for certain sizes of open-end spun rayon singles yarn, see part V of this report entitled *Pricing and Related Data*.

²⁶ (...continued)

consumes a portion of its production of open-end spun rayon singles yarn in the weaving of fabric and sells a portion of it to end-use customers.

²⁷ *** reported in its questionnaire response that the decision to make such a switch depends on the market demand for the product. It also indicated that its yarn-spinning facility is set up to run *** and that a switch of products involves ***.

²⁸ *** reported that its PRWs that produce open-end spun rayon singles yarn are dedicated to the production of that product.

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

DISTINCTIVE INDUSTRY CHARACTERISTICS

Open-end spun rayon singles yarn is an intermediate product used in the production of woven and, to a lesser extent, knit fabric. Typically, the product is used as a filler yarn in the production of various types of rayon blend woven fabrics. The primary end use for these fabrics is women's apparel.¹ The yarn is also used in the production of fabric used in home furnishings, such as mattress ticking and different types of upholstery fabric.

Under the World Trade Organization (WTO) Agreement on Textiles and Clothing (ATC), U.S. imports from many countries of open-end spun rayon singles yarn, as well as most downstream products such as fabric and apparel, are currently covered by quotas. However, imports of these products from Austria and other major suppliers identified by importers and purchasers (e.g., Canada and member countries of the European Union (EU)) are not subject to quotas. Provisions implemented pursuant to the North American Free Trade Agreement (NAFTA) create some incentive for U.S. fabric manufacturers to use U.S.-produced yarn.² However, it is not known what share of the U.S. fabric made from the subject yarn is exported (or is cut and the garment parts exported) for use in making apparel.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, staff believes that open-end spun rayon singles yarn producers are likely to respond to changes in demand with fairly large changes in the quantity of shipments to the U.S. market. The primary factor contributing to the industry's ability to react to price changes is its unused capacity. Factors that might serve as constraints to supply responsiveness are relatively low inventory levels and limited export markets.

Of the 10 known domestic producers of open-end spun rayon yarn, 5 of these firms manufacture the product solely for sale in the commercial market and 3 (***) manufacture yarn solely for their own use in the production of fabric. The latter group accounted for *** percent of total U.S. production in 1996. The remaining firms, ***, reported production for their own use or use by affiliated firms as well as sales to the commercial market. *** also reported purchases of U.S.-produced open-end spun rayon singles yarn in the commercial market during the period of investigation.

¹ Different types of fabric (e.g., crepes, blitz, bengaline, and faille) are produced with open-end spun singles rayon yarn. These fabrics are produced using different yarn sizes and frequently contain an acetate warp. Although the most significant end use for the yarn is woven fabric, open-end spun rayon singles yarn is also used to produce knit fabrics that are used in women's dresses and sportswear.

² NAFTA preferences apply to goods that "originate" in the United States, Canada, and Mexico, that is, the goods meet the NAFTA rules of origin. Most apparel is subject to a yarn-forward origin rule, whereby all manufacturing steps from the point of yarn formation forward must take place in North America.

Capacity in the U.S. industry

Nine domestic producers reported capacity utilization data.³ After increasing from 66.7 percent in 1994 to 71.0 percent in 1995, average capacity utilization declined in 1996 to 64.9 percent. Average capacity utilization for the three firms that produce solely for their own use was considerably higher than the overall industry average, amounting to *** percent in 1996.⁴

Estimated U.S. production capacity increased by *** percent in 1997 with the addition of a new production facility. The production equipment for the facility was purchased by Loris Industries, L.L.C. (Loris) from Borckenstein, the second largest Austrian producer of the subject product.⁵

Despite available U.S. capacity, a few firms reported problems purchasing yarn from domestic producers when needed. Two firms cited problems with ***.^{6,7} One U.S. importer, ***, reported that Austrian yarn was always available in 3 to 4 weeks, whereas U.S. yarn producers often required long lead times.

Production alternatives

Equipment used to produce open-end spun rayon singles yarn can be used to produce other types of singles yarn. Seven of the 10 U.S. producers reported the ability to produce other types of yarn on the same equipment.⁸ Moreover, 9 of the 10 domestic producers reported that they used the same production workers to produce other types of yarn such as ring spun rayon, cotton, acrylic, and rayon blends.⁹ However, information regarding the cost and time associated with switching from one type of yarn to another that was reported by U.S. producers varies considerably. ***¹⁰.

Inventory levels

Since yarn is often made to order, the industry's inventory levels are relatively low. As a percentage of total shipments, inventories decreased from 5.8 percent in 1994 to 2.5 percent in 1995 and then increased slightly to 3.1 percent in 1996. These levels suggest that U.S. producers have limited flexibility to increase sales if prices or orders increase.

³ ***.

⁴ ***.

⁵ This purchase and shift in production capacity from Austria to the United States is discussed in parts III and VII of this report.

⁶ *** reported that it wanted to purchase the open-end spun rayon singles yarn from ***, but that the firm refused to supply the product. *** indicated that it had dropped *** as a result of poor delivery performance.

⁷ ***.

⁸ These firms are ***.

⁹ These firms are ***.

¹⁰ ***.

Export markets

Three producers -- *** -- reported exports of the subject yarn.¹¹ However, only ***. These data suggest that U.S. producers do not have the ability to shift significant sales from or to the U.S. market in response to changes in the price of the product.

Subject Imports -- Capacity Utilization and Export Markets

Between 1994 and 1996, Austrian producers increased their capacity by *** percent. Capacity utilization also increased from *** percent to *** percent over the period of investigation. In 1997, Borckenstein sold open-end spinning production equipment that represented approximately *** percent of its production capacity to a U.S. firm (Loris), located in South Carolina. This reduced total Austrian capacity by an estimated *** percent in 1997. Most Austrian open-end spun rayon singles yarn is sold in the EU, but ***.

U.S. Demand

Overall demand for open-end spun rayon singles yarn increased by *** percent between 1994 and 1996. Apparent total U.S. consumption increased by *** percent from 1994 to 1995 and then declined by *** percent in 1996. Apparent U.S. commercial-market consumption exhibited less of an increase (*** percent) between 1994 and 1996, but followed a similar trend.

Demand for open-end spun rayon singles yarn is derived from demand for rayon blend fabrics used primarily in women's apparel. The yarn is also used to a lesser extent in upholstery and other home furnishings fabric. In addition to changes in overall economic conditions, the demand for fabrics made from the subject product is affected by changes in consumer preferences that result in the use of different types of yarn, competition from imported fabrics, and any reductions in the fabric manufacturer's customer base resulting from imported apparel.

Nine of 13 responding importers and domestic producers reported that demand for products incorporating open-end spun rayon singles yarn had declined or remained essentially the same over the period of investigation. Purchasers responded similarly. Seven out of the 13 firms that provided responses to this question indicated that demand for their final products had declined. The reasons most often cited for the decline include changes in fashion (in the case of apparel) and generally depressed market conditions. ***, for example, noted that "the fashion emphasis has peaked, but still represents a substantial market for the product." *** indicated that the decline in demand for their open-end spun rayon singles yarn stemmed from changes in fashion and yarn imports. ***, one of the principal importers of Austrian yarn, indicated that demand for fabric, and consequently demand for the subject product, has become more seasonal. Moreover, the firm noted that a variety of fabrics made of different types of fiber now compete for the same end uses (women's apparel). The firm noted that demand for U.S.-produced fabric has also been affected by increasing competition from fabric imports and that increased apparel imports have also had a negative effect on demand for U.S.-produced fabric and, consequently, yarn.

In contrast, *** reported an increase in demand "... by fashion in womenswear." *** did not respond to the question directly. However, the firm reported increased production of the subject product and noted that demand for two types of end-use products (crepes and spun/filament fancies) had increased substantially during 1994-96, while demand for blitz had declined.

¹¹ ***.

Firms producing for the home furnishings market reported a shift from rayon to cotton fabrics. This shift was the result of changing consumer preferences towards less "shiny" fabrics as well as lower costs for cotton yarn.¹² *** and *** reported shifts in production to fabrics containing cotton as a result of market demand.

End users of open-end spun rayon singles yarn were asked to describe the effect that changes in demand for their final products have had on product prices. *** reported average price declines of 15 to 20 percent for all fabric types between 1994 and 1996. *** reported price decreases for blitz greige fabric (33 percent) and crepe fabric (19 percent) during 1994-97. Purchasers responding to the question indicated that prices generally had either remained the same or declined during 1994-96. One firm that manufactures knit fabrics containing open-end spun rayon singles yarn indicated that prices for its fabrics closely tracked changes in yarn prices, but that because of competition it often did not pass through small increases in input costs.¹³

Substitute Products

Although the majority of producers and importers indicated that other yarns could technically substitute for open-end spun rayon singles yarn, most reported that such substitution was limited (to varying degrees).¹⁴ For example, *** noted that open-end spun cotton and open-end spun polyester are options but the product made would not be the same. Similarly, *** identified cottons and acrylics as substitutes in some applications, but indicated that other yarns do not have all of the same characteristics of rayon such as hand, luster, drape effect, care, and comfort.

Four U.S. producers and three importers indicated that there were no viable substitutes. *** noted, for example, that its customers request open-end rayon singles for special end uses. The firm indicated that substitutes would not yield the same result.

Cost Share

Open-end spun rayon singles yarn is usually used as a filling yarn with an acetate filament warp to manufacture fabric. The relative cost share of the rayon yarn depends on its weight, the warp fiber of the fabric, and the pick level of the fabric.¹⁵ In addition to purchasers, U.S. producers and importers that use this yarn to produce fabric were asked to provide information regarding the percentage of the total production of their products accounted for by the open-end spun rayon singles yarn. Fifteen firms provided usable information. The data show considerable variance across firms, but cost ranges for the most commonly listed fabrics are shown in the following tabulation:

¹² *** reported a drop in cotton prices in 1995.

¹³ Interview with ***.

¹⁴ A few producers and importers indicated that other yarns could be used as substitutes, without qualifying their responses. These firms included ***. One importer/purchaser that manufactures fabric used for apparel (***) noted that ring spun rayon, blends of rayon and polyester, and cotton yarns could be used as substitutes.

¹⁵ Pick level refers to the number of filling threads in a piece of fabric of a given length.

| <u>Fabric type</u> | <u>Yarn (cotton count)</u> | <u>Cost of yarn as a percent of total product cost</u> |
|------------------------------|----------------------------|--|
| Blitz | 20/1 - 30/1 | 20 - 34 |
| Crepe/mechanical crepe | 8/1 - 24/1 | 20 - 40 |
| Dobby | 12/1 - 20/1 | 32 - 38 |

Upholstery fabric manufacturers reported a wider variance in cost shares, ranging from 6.5 to 40.0 percent. Much of this difference corresponds to the type of fabric (e.g., jacquard versus dobby). The reported cost share for knit fabrics ranged from 25 to 51 percent.

SUBSTITUTABILITY ISSUES

U.S. Purchasers

The Commission received questionnaire responses from 19 purchasers of open-end spun rayon singles yarn. Purchases reported by these firms accounted for approximately 76 percent of shipments of U.S.- produced open-end spun rayon singles yarn in 1996. *** of these firms both produce and import the subject product.¹⁶ Six other firms also import the product.¹⁷ Twelve of the 19 firms reported producing fabric used in apparel, one firm manufactures medical-grade fabric, and the remaining firms produce fabric used for home furnishings products.¹⁸

Factors Affecting Purchasing Decisions

Producers, importers, and purchasers were asked a variety of questions regarding the factors that influence the purchasing decisions of the end users of open-end spun rayon singles yarn. Information obtained from these firms indicates that quality and/or the technical performance of the product, price, and availability are considered the most important factors affecting purchasing decisions.

Quality was cited most often as the most important factor influencing purchases of the subject product.¹⁹ Quality of open-end spun rayon singles yarn relates to factors such as weave performance (yarn related loom stops), yarn evenness, appearance, the quality of the fiber used to produce the yarn, and dyeability. Availability and price were the next most-frequently-cited factors. However, all of the responding purchasers reported that the lowest price offered for open-end spun rayon singles yarn will not always win the contract or sale. Although supplier certification was not cited as a standard requirement, 9 of the 19 purchasers indicated that they required suppliers to become either certified or pre-qualified with respect to the quality, strength, chemistry, and other performance characteristics associated with the product. *** stated

¹⁶ These firms are ***.

¹⁷ These firms are ***.

¹⁸ One firm did not provide information regarding the end use of its fabrics.

¹⁹ Purchasers were asked to report the top three factors considered in purchase decisions. Sixty-three percent of the purchasers reported that quality (or technical performance) was the most important factor.

that “***.”²⁰ In addition, “***.”²¹ Other factors mentioned by purchasers as being important included supplier reliability, delivery, service, and extension of credit.

Purchasers were also asked to rate 17 factors in terms of their importance in their decision to purchase open-end spun rayon singles yarn. Possible ratings were “very important,” “somewhat important,” and “not important.” Factors most frequently cited as being very important were product quality, availability, product consistency, reliability of supply, and delivery time. Other factors that were identified as either very important or somewhat important were price, packaging, technical support, and warranty.

Comparison of Domestic Products and Subject Imports

Product Interchangeability

Producers and importers were asked whether U.S.-produced and imported open-end spun rayon singles yarn from Austria are used interchangeably (i.e., can physically be used in the same applications). Eight producers answered “Yes” and two did not answer the question. Six importers (three of which were also U.S. producers) answered “Yes”²² and three answered “No.”²³ Questions were also asked on whether U.S.-produced and imported open-end spun rayon singles yarn from nonsubject countries are used interchangeably and on whether Austrian open-end spun rayon singles yarn and imports from nonsubject countries are used interchangeably; producers and importers generally agreed that the U.S.-produced and imported yarn from nonsubject countries are used interchangeably and that the nonsubject-country and Austrian yarn are used interchangeably.²⁴

Purchasers were asked whether U.S.-produced, Austrian-produced, and open-end spun rayon singles yarn from other sources can be used in each purchaser’s own applications. Most responding purchasers indicated that the U.S.-produced and Austrian yarn can be used in their applications, and a few added that Canadian, German, Malaysian, or other-country yarn can also be used. Notable exceptions were ***, which indicated that it could use the Austrian yarn but not the U.S.-produced yarn, adding that “Some of our customers specify yarn supplier and weaving mill because of aesthetic quality of the finished fabric,” and ***, which stated that “Based on quality, we no longer use U.S. spun yarns in finer counts (above 20/1)” and “Cannot use Austrian spun yarns if fabric customers require NAFTA certification.”

Product Substitutability

While the domestic and Austrian products are in many respects comparable, a number of purchasers indicated that specific product characteristics and conditions of sale may limit substitutability. Factors affecting the degree of substitutability include product performance, testing requirements, availability, and price. For the most part, purchasers did not report changing suppliers on a regular basis. Although the price

²⁰ ***. Interview with ***, Aug. 19, 1997.

²¹ ***. Interview with ***, Aug. 20, 1997.

²² One importer, ***, that answered “Yes” qualified its answer, stating “(P)rovided level of quality was the same. In most cases, Austrian was better.”

²³ One importer, ***, that answered “No” also stated that “***. Other than that the yarns were interchangeable.”

²⁴ One importer that indicated that nonsubject and Austrian yarn are not interchangeable added “Because Austria makes the best open end spun rayon.”

of open-end spun rayon singles yarn is an important factor, product quality and their customer's requirements tend to make these firms less responsive to small changes in price.²⁵

Purchasers were asked to compare domestic and Austrian open-end spun rayon singles yarn in terms of 14 factors. On average, these firms indicated that open-end spun rayon singles yarn from both sources was comparable. A summary of their responses is shown in table II-1.

Comparisons of Domestic Products and Subject Imports to Nonsubject Imports

Imports from nonsubject countries accounted for approximately 30 percent of total U.S. imports in 1996. Sources for nonsubject imports included Belgium, Canada, Finland, Germany, and Japan. One purchaser (***) reported purchases of Malaysian open-end spun rayon singles yarn. Most importers reported that differences other than price between nonsubject imports and either domestic or subject imports were not a significant factor in their sales or use of open-end spun rayon singles yarn.

ELASTICITY ESTIMATES

The following elasticity estimates are used in the COMPAS analysis, which is presented in appendix D.²⁶

U.S. Supply Elasticity²⁷

The domestic supply elasticity for open-end spun rayon singles yarn measures the sensitivity of quantity supplied by U.S. producers to a change in the U.S. market price of open-end spun rayon singles yarn. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced open-end spun rayon singles yarn.²⁸ Analysis of these factors earlier indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market. Staff estimates that the supply elasticity is between 3 and 5.

²⁵ Firms that purchased imported open-end spun rayon singles yarn in 1996 were asked how much higher would the price for the imported product have to have been to prompt the firm to switch to the U.S.-produced product. Five firms provided estimates. *** indicated that the price of the Austrian product would have to have increased by approximately 15 percent. The firm noted that purchases of the Austrian product were "... ***." *** stated that the Austrian product would have to have been 10 percent higher. *** reported that the Austrian price would have to have been 5 percent higher. In addition, *** noted that "... If imports were any bit higher, and if domestics could fill our needs (unlikely) we would discontinue imports -- probably would continue small programs to maintain continuity relationship." *** noted that U.S.-produced open-end spun rayon singles yarn was not available to the firm. *** reported that its purchases were based on quality and availability. *** noted that it purchased the Austrian product because of no availability from ***. Nine of the remaining 10 firms either indicated that the question was not applicable or did not respond. The remaining purchaser (***) reported that ***.

²⁶ Neither the petitioner nor the respondents commented on the staff's elasticity estimates.

²⁷ A supply function is not defined in the case of a non-competitive market.

²⁸ Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors affecting increased quantity supplied to the U.S. market also affect decreased quantity supplied to the same extent.

Table II-1
 Open-end spun rayon singles yarn: Comparison of U.S. to Austrian product¹
 (Percent)

| Factor | U.S. superior | Comparable | U.S. inferior | No response |
|---------------------------------|------------------|------------|---------------|-------------|
| Availability | 30 | 50 | 20 | 0 |
| Delivery terms | 30 | 60 | 10 | 0 |
| Delivery time | 60 | 30 | 10 | 0 |
| Discounts offered | 10 | 60 | 30 | 0 |
| Lowest price | 10 | 20 | 70 | 0 |
| Minimum quantity required .. | 20 | 60 | 20 | 0 |
| Packaging | 0 | 70 | 30 | 0 |
| Product consistency | 0 | 50 | 40 | 10 |
| Product quality | 0 | 60 | 30 | 10 |
| Product range | 30 | 50 | 20 | 0 |
| Reliability of supply | 20 | 60 | 10 | 10 |
| Technical support/service ... | 50 | 40 | 0 | 10 |
| Transportation network | 30 | 50 | 10 | 10 |
| U.S. transportation costs | 10 | 60 | 20 | 10 |

¹ Nine of the 19 firms did not provide responses to these questions.

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

U.S. Demand Elasticity

The U.S. demand elasticity for open-end spun rayon singles yarn measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of open-end spun rayon singles yarn. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of open-end spun rayon singles yarn in the production of downstream products. Open-end spun rayon singles yarn generally accounts for a moderate to large cost share of the fabric in which it is used. Moreover, substitute products, albeit limited, exist. Based on available information, the aggregate demand elasticity for open-end spun rayon singles yarn is likely to range from 0.75 to 1.25.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.²⁹ Product differentiation, in turn depends upon such factors as quality (e.g., strength, evenness, and dyeability) and conditions of sale (e.g., availability, service, and credit). Based on available information, the elasticity of substitution between U.S.-produced open-end spun rayon singles yarn and subject imported open-end spun rayon singles yarn is likely to range from 2 to 4.

²⁹ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject product (or vice versa) when prices change.

PART III: CONDITION OF THE U.S. INDUSTRY

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 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 10 firms that accounted for all of the U.S. production of open-end spun rayon singles yarn during 1996.¹

U.S. PRODUCERS

The Commission sent questionnaires to the 4 firms comprising the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers as well as to 10 other firms identified as being domestic producers of open-end spun rayon singles yarn. Three firms indicated that they did not produce open-end spun rayon singles yarn during the period for which information was requested² and one firm did not provide the Commission with a questionnaire response.³ The remaining 10 firms, 5 of which produced open-end spun rayon singles yarn wholly or in part for captive use,⁴ responded to the Commission's questionnaire.

In addition to the aforementioned firms, a newly established facility, Loris Industries, L.L.C. (Loris), began production of open-end spun rayon singles yarn in 1997. Loris, a privately held company ***,⁵ was established as a U.S. producer of open-end spun rayon singles yarn just prior to its *** purchase of equipment previously used by Borckenstein to produce the subject product in Austria. Loris indicated that it began its production startup phase in mid-June 1997 and that it expects to reach its full production level of *** pounds of open-end spun rayon singles yarn per week in ***.⁶ (On an annual basis, this is equal to approximately *** percent of total U.S. apparent consumption of the yarn in 1996.) ***.⁷

The names of the producing firms, the locations of each firm's production facility, each firm's share of the volume of reported total production of open-end spun rayon singles yarn in 1996, and each firm's position with respect to the petition are shown in the following tabulation.⁸

¹ The data presented in this section of the report are for the total U.S. market (except as noted). For data concerning the U.S. commercial market, see table C-2 in app. C.

² The three firms that reported no production of open-end spun rayon singles yarn during the period for which information was requested are ***.

³ United Merchant & Manufacturers (United), Fort Lee, NJ, reported that its spinning operations were sold to Uniblend in March 1994 and that the company records were transferred to Uniblend at the time of the sale. Uniblend indicated that it reviewed the documentation that was transferred at the time of the sale, but was unable to provide the Commission with United's data for the first quarter of 1994. Therefore, the 1994 data presented in this report for U.S. producers are somewhat understated.

⁴ The producers are ***.

⁵ ***.

⁶ As of Aug. 20, 1997, Loris was running ***.

⁷ ***.

⁸ *** produced open-end spun rayon singles yarn only for internal use in the weaving of fabric. The majority of production of open-end spun rayon singles yarn by *** was used internally in the production of fabric, although a portion was sold on the commercial market. The majority of open-end spun rayon singles yarn produced by *** was sold on the commercial market, although a portion was transferred to other divisions of *** for use in the production of

(continued...)

| Firm | Location of production facility | Share (percent) of reported total production of open-end spun rayon singles yarn in 1996 | Position on the petition |
|-----------------------------|---------------------------------|--|--------------------------|
| BMYC | Gastonia, NC | *** | Petitioner |
| Carolina | Maiden, NC and Newton, NC | *** | Petitioner |
| Collins & Aikman | Norwood, NC | *** | *** |
| Grover | Grover, NC | *** | *** |
| JPS | Greenville, NC, and Stanley, NC | *** | *** |
| Loris | Loris, SC | *** | *** |
| Milliken | Gaffney, SC, and Greenville, SC | *** | *** |
| Mt. Vernon | Alto, GA | *** | *** |
| National | Washington, NC | *** | Petitioner |
| Stonecutter | Spindale, NC | *** | *** |
| Uniblend | Conway, SC, and Union, SC | *** | Petitioner |

As the tabulation shows, the four petitioning firms accounted for *** percent of U.S. production of open-end spun rayon singles yarn in 1996. Three firms, which accounted for *** percent of open-end spun rayon singles yarn production in 1996, indicated their support of the petition and four firms, which accounted for *** percent of such production, chose to take no position on the petition. Two of the four firms which chose to take no position on the petition purchased the Austrian product during the period for which information was requested in this investigation, and one of the four firms (***) is ***.

Most U.S. producers of open-end spun rayon singles yarn are firms that are independently owned and have a single location in which they produce open-end spun rayon singles yarn.⁹ As shown in the tabulation, the great bulk of U.S. production is concentrated in two states, North and South Carolina.

⁸ (...continued)
fabric.

⁹ The only firms that are not independently owned are ***.

U.S. PRODUCTION CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

In the Commission's questionnaire, firms were asked to report any changes in the character of their operations (e.g., plant openings, expansions, consolidations, closures, prolonged shutdowns, etc.) that related to their production of open-end spun rayon singles yarn. Three firms (***) reported cutbacks or curtailments in production of open-end spun rayon singles yarn during the period for which information was requested. Carolina reported that it has been forced to operate its Newton facility for over two years on a reduced four-day-per-week schedule instead of a normal six-day-per-week schedule "because of lost business and low prices of imported OES spun rayon yarns from Austria." It added that its Maiden plant closed for three weeks in 1997 and ran "mostly a four-day week the rest of the time because of the cheap Austrian imports."¹⁰ *** noted that its production of open-end spun rayon singles yarn was curtailed in 1996 as a result of reduced demand for the product. *** reported the consolidation of its *** open-end spun rayon singles yarn facilities into *** facilities at ***.¹¹

Although it did not report any changes in the character of its business in its response to the Commission's questionnaire, BMYC stated at the hearing that "since 1994, we have faced significant declines in our operating schedules. This decline is due to low priced imports being dumped in our market." Specifically, BMYC reported that "in March quarter of '94, we consistently ran full operating schedules of six days per week and one of every three Sundays . . . By March quarter of '97, we were down to an average of 3.3 operating days per week. This loss in volume is the equivalent of having stored our operation for six-and-a-half weeks year to date in 1997."¹²

Firms were also asked to report any major capital expenditures that influenced their capacity to produce open-end spun rayon singles yarn. Six U.S. producers of open-end spun rayon singles yarn reported capital investments in new equipment since January 1, 1994. *** reported \$*** in capital expenditures for new equipment dedicated to open-end spun rayon singles yarn in ***; *** reported over \$*** in capital expenditures in *** to increase capacity of its open-end spinning facility; *** reported investments in new spinning machinery of \$*** in ***; and *** reported almost \$*** in open-end equipment acquisitions in ***. Carolina reported that, since 1993, it has invested over \$12 million in the replacement of *** equipment in order to improve the productivity and quality of its open-end spun rayon singles yarn; the company noted, however, that the expenditures in replacement equipment, the last of which was installed in September 1996, ***.¹³ *** also reported the acquisition of approximately *** open-end spinning frames during the period covered by the questionnaire. However, it noted that "Due to current demand and competitive conditions we were unable to use them in the production of OE spun rayon singles." The firm similarly reported in its questionnaire response during the preliminary phase of the investigation that "they have run very little O/E rayon yarn... ***."

¹⁰ Testimony of George Moretz, Vice President, Carolina, hearing transcript, pp. 32-33.

¹¹ On August 11, 1997, Uniblend announced the planned shutdown of its Union, SC plant in September 1997. *** Counsel for petitioner also indicated that National ceased all production of open-end spun rayon singles yarn at *** of 1997. Hearing transcript, p. 15; petitioner's posthearing brief, p. 3; and Mr. John Fry, Economic Consulting Services Inc., staff telephone interview, Sept. 3, 1997. In its questionnaire response, National indicated ***.

¹² Testimony of Kim Eyer, Plant Manager, BMYC, hearing transcript, pp. 28-29.

¹³ Testimony of George Moretz, Vice President, Carolina, hearing transcript, p. 31; and producers' questionnaire response of Carolina.

Of the 10 U.S. producing firms that supplied a response to Commission questionnaires, all provided production data; however, ***. As shown in table III-1, U.S. producers experienced an increase in open-end spun rayon singles yarn capacity, production,¹⁴ and capacity utilization from 1994 to 1995, with a decline reported in 1996. Reported capacity was slightly greater than total apparent U.S. consumption of open-end spun rayon singles yarn in 1995 and 1996.

Table III-1

Open-end spun rayon singles yarn: U.S. producers' production capacity, production, and capacity utilization, 1994-96

| Item | 1994 | 1995 | 1996 |
|---|------|------|------|
| Capacity (1,000 pounds) | *** | *** | *** |
| Production (1,000 pounds) | *** | *** | *** |
| Capacity utilization (percent) ¹ | 66.7 | 71.0 | 64.9 |

¹ Based on those firms that supplied both capacity and production data.

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

***, which represented *** percent of 1996 U.S. open-end spun rayon singles yarn production, accounted for the largest portion of the increase in capacity from 1994 to 1995. The firm explained that it installed additional production equipment in 1995.¹⁵ A much smaller portion of the increase in capacity in 1995 was accounted for by *** and ***. Both firms explained that additional open-end spun rayon singles yarn equipment was acquired since January 1, 1994. Uniblend explains that it acquired the spinning operations of United in March 1994; therefore, the data reported for 1994 are understated by the amount of United's first quarter 1994 data.

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments of open-end spun rayon singles yarn are shown in table III-2. The quantity and value of U.S. producers' total shipments of open-end spun rayon singles yarn increased substantially from 1994 to 1995, but fell in 1996 to a level higher than that reported in 1994. The unit values of both total shipments and commercial shipments remained virtually constant during the period for which information was requested in the final phase of the investigation, but were substantially lower than the 1993 unit values obtained in the preliminary phase of the investigation.

Integrated producers of open-end spun rayon singles yarn consume their production internally for use in the weaving of fabric, and nonintegrated producers manufacture the product for direct sales to the end-use customer, or fabric weaver. During the period for which information was requested in this investigation, five U.S. producers of open-end spun rayon singles yarn produced the product solely for sale to the commercial

¹⁴ Production of open-end spun rayon singles yarn measured in pounds can be affected by the product mix, since the number of pounds produced per machine is lower for finer (higher count) yarns than for lower count yarns. At least one U.S. producer reportedly experienced a shift in product mix towards lower count yarns during 1994-96. Testimony of Kim Eyer, BMYC, hearing transcript, pp. 67-69.

¹⁵ Despite its reported increase in capacity from 1994 to 1995, ***.

Table III-2

Open-end spun rayon singles yarn: U.S. producers' shipments, by types, 1994-96

| Item | 1994 | 1995 | 1996 |
|----------------------------|--------------------------------|--------|--------|
| | <i>Quantity (1,000 pounds)</i> | | |
| Commercial shipments | *** | *** | *** |
| Internal shipments | *** | *** | *** |
| Subtotal | *** | *** | *** |
| Export shipments | *** | *** | *** |
| Total | 35,197 | 49,729 | 43,876 |
| | <i>Value (1,000 dollars)</i> | | |
| Commercial shipments | *** | *** | *** |
| Internal shipments | *** | *** | *** |
| Subtotal | *** | *** | *** |
| Export shipments | *** | *** | *** |
| Total | 60,154 | 84,904 | 76,123 |
| | <i>Unit value (per pound)</i> | | |
| Commercial shipments | \$1.69 | \$1.73 | \$1.71 |
| Internal shipments | 1.73 | 1.70 | 1.76 |
| Subtotal | 1.71 | 1.71 | 1.74 |
| Export shipments | 1.65 | 1.56 | 1.51 |
| Total | 1.71 | 1.71 | 1.73 |

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

market,¹⁶ three firms produced the same only for internal use,¹⁷ and two firms produced the product both for sale to the commercial market and for internal use.¹⁸ Exports of open-end spun rayon singles yarn were made by three U.S. producers during the period for which information was requested.¹⁹ The largest portion of such exports was accounted for by one firm, ***, which exported the subject merchandise principally to ***. Other U.S. producers' exports were made to Australia, Canada, Guatemala, Israel, Mexico, and Venezuela.

For the most part, the quantities and values of each type of shipment (i.e., commercial U.S. shipments, export shipments, and internal consumption) increased substantially from 1994 to 1995, but fell

¹⁶ The five firms are ***.

¹⁷ The three firms are ***.

¹⁸ The majority of production of open-end spun rayon singles yarn by *** was used internally in the production of fabric; however, *** was shipped to end-use customers in the commercial market in ***. *** percent of open-end spun rayon singles yarn produced by *** was sold on the commercial market; the remainder was transferred for use in other divisions of ***.

¹⁹ The three firms are ***.

in 1996 to a level higher than that reported in 1994.²⁰ Captive shipments of open-end spun rayon singles yarn accounted for about half of total U.S. producers' shipments of the product during the period for which information was requested. Export shipments accounted for a relatively minor portion of total U.S. producers' shipments of the product.

U.S. PRODUCERS' PURCHASES AND RELATED-PARTY IMPORTS²¹

As reported in Commission questionnaires, six U.S. producers (BMYC, ***) reported having purchased open-end spun rayon singles yarn from various sources (including direct imports from Austria and other countries) during the period for which information was requested. Data on U.S. producers' purchases, by sources, are presented in table III-3.

Three U.S. producers of open-end spun rayon singles yarn (BMYC, ***) imported the Austrian product during the period for which information was requested in this investigation. All three firms are integrated producers of open-end spun rayon singles yarn and produced the product throughout the entire period of investigation. BMYC was the only U.S. producer that mentioned price as the primary reason for importing the Austrian product.²² *** reported that they imported the Austrian product because of customer specifications. *** added that it imported the Austrian yarn because of a lack of availability of the product from other domestic yarn producers. The ratios of imports of the Austrian open-end spun rayon singles yarn to production of such product for each of these three U.S. producers are presented in the following tabulation (*in percent*):

| <u>Company</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> |
|----------------|-------------|-------------|-------------|
| | * | * | * |
| | * | * | * |
| | * | * | * |

In response to the question "Does your firm have any related firms, either domestic or foreign, which are engaged in importing open-end spun rayon singles yarn from Austria into the United States or which are engaged in exporting this product from Austria to the United States?" all U.S. producers responded "No."

U.S. PRODUCERS' INVENTORIES

Simultaneous with a substantial increase in total shipments in 1995, U.S. producers' end-of-period inventories of open-end spun rayon singles yarn fell from over 2.0 million pounds in 1994 to below 1.3 million pounds in 1995 (table III-4). With the reduction in 1996 shipments came an increase in U.S. producers' end-of-period inventories, as such inventories rose to almost 1.4 million pounds. The ratio of U.S. producers' end-of-period inventories to total shipments fell from 5.8 percent in 1994 to 2.5 percent in 1995, but increased in 1996 to 3.1 percent.

²⁰ The exception to the trend is the continued increase in the value of internal consumption during 1996.

²¹ Consists of purchases made domestically, as well as purchases made by direct import.

²² The questionnaire response stated "***." At the hearing, Dan Sullivan of BMYC testified that the reason for BMYC's importing the product was a market decision to "price average" to serve the marketplace and do what its customers were doing. Hearing transcript, pp. 48-49.

Table III-3

Open-end spun rayon singles yarn: U.S. producers' purchases,¹ by sources, 1994-96

| Item | 1994 | 1995 | 1996 |
|--------------------------------|------------------|--------|--------|
| <i>Quantity (1,000 pounds)</i> | | | |
| United States | *** | *** | *** |
| Austria | 0 | 694 | 1,827 |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| <i>Value (1,000 dollars)</i> | | | |
| United States | *** | *** | *** |
| Austria | 0 | 1,170 | 2,843 |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| <i>Unit value (per pound)</i> | | | |
| United States | *** | *** | *** |
| Austria | (²) | \$1.69 | \$1.56 |
| All others | *** | *** | *** |
| Average | *** | *** | *** |

¹ Consists of purchases of domestically produced product, direct imports, and domestic purchases of imported product. Data do not include the domestic purchases of U.S. product on the commercial market by ***, because the firm did not provide the data as requested.

² Not applicable.

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

Table III-4

Open-end spun rayon singles yarn: U.S. producers' end-of-period inventories, 1994-96

| Item | 1994 | 1995 | 1996 |
|--|-------|-------|-------|
| End-of-period inventories (1,000 pounds) | 2,047 | 1,257 | 1,369 |
| Ratio to production (percent) | *** | *** | *** |
| Ratio to U.S. shipments (percent) | *** | *** | *** |
| Ratio to total shipments (percent) | 5.8 | 2.5 | 3.1 |

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

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The open-end spun rayon singles yarn industry has been characterized by the petitioner and respondents in this investigation as one which is very capital intensive, utilizing highly automated machinery and equipment, and requiring the use of relatively few PRWs. PRWs employed in the production of open-end spun rayon singles yarn are also used to produce other products within the firms' establishments except for ***, which reported that its PRWs producing the subject product are dedicated to the production of that product only.

Three firms (***) reported cutbacks or curtailments in production of open-end spun rayon singles yarn during the period for which information was requested in this investigation. *** reported in its questionnaire response that "due to market disruption caused by below cost yarn sales our monetary losses were significant and our employee displacement more than painful."²³

Employment data for the U.S. industry producing open-end spun rayon singles yarn are presented in table III-5. The employment data presented consist of information provided by nine U.S. producers of open-end spun rayon singles yarn. One firm (***) did not provide the Commission with data concerning employment for 1994-96. Also, United did not provide employment data for the first quarter of 1994.

The aggregate number of PRWs producing open-end spun rayon singles yarn increased from 1994 to 1995, but fell in 1996. Likewise, the number of hours worked, the total wages, and the hourly wages paid to such PRWs rose from 1994 to 1995, but fell in 1996. Productivity by the PRWs rose steadily from 1994 to 1996, increasing from *** pounds per worker hour in 1994 to *** pounds per worker hour in 1996. Unit labor costs fell from *** per pound in 1994 to *** per pound in 1995 and 1996.

Table III-5

Average number of PRWs producing open-end spun rayon singles yarn, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1994-96¹

| Item | 1994 | 1995 | 1996 |
|---|--------|--------|--------|
| PRWs (<i>number</i>) | 334 | 418 | 374 |
| Hours worked (<i>1,000</i>) | 656 | 807 | 714 |
| Wages paid (<i>\$1,000</i>) | 6,319 | 7,797 | 6,864 |
| Hourly wages | \$9.64 | \$9.66 | \$9.62 |
| Productivity (<i>pounds per hour</i>) | *** | *** | *** |
| Unit labor costs (<i>per pound</i>) | *** | *** | *** |

¹ One firm (***) did not provide the Commission with data concerning employment for 1994-96. Also, United did not provide employment data for the first quarter of 1994.

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

²³ ***

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

U.S. IMPORTERS

The Commission sent importers' questionnaires to 61 firms believed to be importing open-end spun rayon singles yarn as identified by Customs and by the Austrian producers of open-end spun rayon singles yarn. Responses were received from 58 firms. Of the 58 firms that responded to the Commission's questionnaire, 14 provided usable responses¹ and the remaining 44 indicated that they did not import open-end spun rayon singles yarn during the period for which information was requested in this investigation. Of the three firms that did not respond to the Commission's request for data, two were not listed in information provided by Customs, and the third accounted for much less than one percent of U.S. imports of open-end spun rayon singles yarn according to information provided by Customs. Therefore, staff believes that the import data presented in this report are from virtually all importers of open-end spun rayon singles yarn during the period for which information was requested in the final phase of this investigation.² Commerce's official statistics are not presented because they include imports of yarn outside of the scope of this investigation.

Based on information supplied in responses to Commission questionnaires, nine firms imported open-end spun rayon singles yarn from Austria during the period for which information was requested in this investigation, of which NRB³ accounted for *** percent. The following tabulation presents the volume of U.S. imports from Austria accounted for by each importer (*in 1,000 pounds*):

* * * * *

The quantity of U.S. imports of open-end spun rayon singles yarn from Austria increased steadily from 1994 to 1996; ***. The unit value of total imports from Austria rose from \$*** per pound in 1994 to \$*** per pound in 1995. ***. The unit value of total imports from Austria fell to \$*** per pound in 1996 (table IV-1). All importers reported a decline in the unit values of imports from Austria in 1996. As a share of the quantity of total imports, U.S. imports from Austria increased from *** percent in 1994 to *** percent in 1995, but fell to *** percent in 1996.

¹ *** provided limited but usable information in the final phase of this investigation.

² Import data provided by importers were slightly lower in each period than the U.S. export data provided by Austrian producers/exporters. Import data presented in this section of the report accounted for *** percent of the U.S. exports reported by Austrian producers for 1994, 1995, and 1996, respectively. This discrepancy appears in the data provided by Austrian producer Borckenstein and its sole importer Beavertown. Counsel for Borckenstein explained that Borckenstein's U.S. export data is overstated by the amount of Borckenstein product ***. Staff telephone interview, Aug. 19, 1997.

³ NRB is the surviving firm resulting from the merger of Beavertown and New River on Aug. 2, 1996. ***. It also reported in its questionnaire response that it "****." The company to which NRB refers is Loris. NRB, which also imports open-end spun rayon singles yarn from Belgium and Germany, is the sole U.S. importer of open-end spun rayon singles yarn from Borckenstein in Austria. NRB internally consumes all of the Austrian-produced open-end spun rayon singles yarn it imports for use in the production of *** type fabrics that are used in women's apparel.

Table IV-1
 Open-end spun rayon singles yarn: U.S. imports, by sources, 1994-96

| Item | 1994 | 1995 | 1996 |
|------------------|--|--------|--------|
| | <i>Quantity (1,000 pounds)</i> | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | 17,209 | 17,739 | 21,054 |
| | <i>Value (1,000 dollars)</i> | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | 29,688 | 31,354 | 34,790 |
| | <i>Unit value (per pound)</i> | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Average | \$1.73 | \$1.77 | \$1.65 |
| | <i>Share of total quantity (percent)</i> | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Average | 100.0 | 100.0 | 100.0 |
| | <i>Share of total value (percent)</i> | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Average | 100.0 | 100.0 | 100.0 |

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

Imports of open-end spun rayon singles yarn from nonsubject countries, consisting of Belgium, Canada, Finland, Germany, and Japan, were made by eight U.S. firms.⁴ The quantity and value of aggregate U.S. imports from all other sources fell from 1994 to 1995, but rose in 1996. As a share of the quantity of total U.S. imports, aggregate imports from all other sources fell from *** percent in 1994 to *** percent in 1995, but then rose to *** percent in 1996.⁵

U.S. IMPORTERS' CURRENT ORDERS

In the Commission's questionnaire, U.S. importers were requested to report the quantity of any Austrian open-end spun rayon singles yarn orders scheduled for delivery after December 31, 1996. Four firms reported such orders. *** indicated that it had scheduled delivery of *** pounds of the subject merchandise from Austria during the first half of 1997. *** reported orders totaling *** pounds scheduled for delivery during the first quarter of 1997. *** reported orders totaling *** pounds scheduled for delivery during the first four months of 1997. It also indicated that *** additional pounds were "on option for future delivery pending clarification of anti-dumping action impact." *** reported that it has arranged for the importation of the subject product from Austria, but did not indicate when such orders are to be delivered or the quantities involved.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of open-end spun rayon singles yarn are presented in tables IV-2 and IV-3. Apparent U.S. consumption for the total market (including captive consumption) for open-end spun rayon singles yarn increased from *** in 1994 to *** in 1995. Apparent U.S. consumption then fell to *** in 1996 (table IV-2). Apparent U.S. commercial consumption of open-end spun rayon singles yarn exhibited a similar trend, rising from *** in 1994 to *** in 1995, then falling to *** in 1996 (table IV-3).

U.S. MARKET SHARES

Data on U.S. market shares are also shown in tables IV-2 and IV-3. With respect to the total market volume, the market share held by U.S. producers increased from 66.8 percent in 1994 to 72.9 percent in 1995, and then fell to 67.1 percent in 1996. On the other hand, U.S. imports from Austria fell from 23.8 percent of the market volume of total apparent U.S. consumption in 1994 to 22.3 percent in 1995, and then increased in 1996 to 26.4 percent.⁶ The market-share trends based on value are identical to those based on volume.

In terms of apparent U.S. commercial consumption, U.S. producers' domestic shipments increased from 50.5 percent of the volume of such apparent consumption in 1994 to 57.5 percent in 1995, and then declined to 48.9 percent in 1996. U.S. imports from Austria as a share of the volume of U.S.

⁴ The largest importer of open-end spun rayon singles yarn from nonsubject countries was ***. *** internally consumes its imports of open-end spun rayon singles yarn in the production of woven fabrics.

⁵ Respondent Borckenstein argued that rather than displacing domestic production, imports from Austria have largely replaced imports from nonsubject countries. It explained that during 1994 and 1995, NRB's imports from Belgium and Germany decreased significantly because of its decision to single-source open-end spun rayon singles yarn from Borckenstein in Austria. Borckenstein prehearing brief, pp. 6-7.

⁶ The market shares (by volume) of Austrian product excluding shipments of Austrian product imported by U.S. producers were *** percent in 1994, *** percent in 1995, and *** percent in 1996.

Table IV-2

Open-end spun rayon singles yarn: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption for the total market, 1994-96

| Item | 1994 | 1995 | 1996 |
|--|------|------|------|
| <i>Quantity (1,000 pounds)</i> | | | |
| U.S. producers' shipments | *** | *** | *** |
| U.S. importers' shipments from: | | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| Total market apparent U.S. consumption | *** | *** | *** |
| <i>Value (1,000 dollars)</i> | | | |
| U.S. producers' shipments | *** | *** | *** |
| U.S. importers' shipments from: | | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| Total market apparent U.S. consumption | *** | *** | *** |
| <i>Share of quantity (percent)</i> | | | |
| U.S. producers' shipments | 66.8 | 72.9 | 67.1 |
| U.S. importers' shipments from: | | | |
| Austria | 23.8 | 22.3 | 26.4 |
| All others | 9.5 | 4.8 | 6.5 |
| Total | 33.2 | 27.1 | 32.9 |
| <i>Share of value (percent)</i> | | | |
| U.S. producers' shipments | 66.1 | 72.1 | 68.0 |
| U.S. importers' shipments from: | | | |
| Austria | 23.9 | 23.0 | 25.6 |
| All others | 10.0 | 4.9 | 6.4 |
| Total | 33.9 | 27.9 | 32.0 |

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

Table IV-3

Open-end spun rayon singles yarn: U.S. commercial shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. commercial consumption, 1994-96

| Item | 1994 | 1995 | 1996 |
|--|------------------------------------|------|------|
| | <i>Quantity (1,000 pounds)</i> | | |
| U.S. producers' commercial shipments | *** | *** | *** |
| U.S. importers' shipments from: | | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| Apparent U.S. commercial consumption | *** | *** | *** |
| | <i>Value (1,000 dollars)</i> | | |
| U.S. producers' commercial shipments | *** | *** | *** |
| U.S. importers' shipments from: | | | |
| Austria | *** | *** | *** |
| All others | *** | *** | *** |
| Total | *** | *** | *** |
| Apparent U.S. commercial consumption | *** | *** | *** |
| | <i>Share of quantity (percent)</i> | | |
| U.S. producers' commercial shipments | 50.5 | 57.5 | 48.9 |
| U.S. importers' shipments from: | | | |
| Austria | 35.4 | 35.0 | 41.0 |
| All others | 14.1 | 7.5 | 10.1 |
| Total | 49.5 | 42.5 | 51.1 |
| | <i>Share of value (percent)</i> | | |
| U.S. producers' commercial shipments | 49.5 | 56.7 | 49.4 |
| U.S. importers' shipments from: | | | |
| Austria | 35.6 | 35.8 | 40.5 |
| All others | 14.9 | 7.6 | 10.1 |
| Total | 50.5 | 43.3 | 50.6 |

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

commercial-market consumption rose from about 35 percent in 1994 and 1995 to 41 percent in 1996.⁷ Commercial-market trends based on value are similar to those based on volume. U.S. imports of open-end spun rayon singles yarn from countries other than Austria represented a relatively small and irregularly declining share of the U.S. commercial market.

U.S. CUSTOMERS OF THE AUSTRIAN PRODUCT

*** percent of reported U.S. purchases of the Austrian-produced open-end spun rayon singles yarn in 1996 were made by *** U.S. customers (***).⁸ Presented in the following tabulation are the major U.S. customers of the Austrian product and the quantities of their purchases of open-end spun rayon singles yarn, by sources, during 1994-96 (*in thousand pounds*):

* * * * *

⁷ The commercial shares (by volume) of Austrian product excluding shipments of Austrian product imported by U.S. producers were *** percent in 1994, *** percent in 1995, and *** percent in 1996.

⁸ ***.

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

Raw Material Costs

The primary input into the production of open-end spun rayon singles yarn is rayon staple fiber. Producers were asked to report the average quarterly price per pound of the rayon fiber used in their production of open-end spun rayon singles yarn. Quarterly averages compiled from their responses along with pricing data for rayon staple fiber reported by the U.S. Department of Agriculture (USDA) are shown in figure V-1.¹

Domestic producers report that the cost of rayon staple fiber accounts for approximately 41 to 80 percent of the cost of producing the yarn, depending on the thickness of the yarn.^{2,3} The average prices reported by U.S. producers (figure V-1) increased by 7.8 percent between the first quarter of 1994 and the fourth quarter of 1996. Rayon staple fiber prices reported by USDA show a similar trend, increasing 10.9 percent during the period. As figure V-1 illustrates, the rayon staple prices reported by the Austrian producers ***. However, ***.

Figure V-1
Average quarterly rayon staple fiber prices, 1994-96

* * * * *

Transportation Costs to the U.S. Market

Transportation costs to the U.S. market were estimated to account for approximately 5.5 percent of the cost of the yarn (excluding U.S. inland freight) in 1996.⁴

Tariff Rates

Open-end spun rayon singles yarn is provided for in subheading 5510.11.00 of the HTS with a 1997 most-favored-nation tariff rate of 10.4 percent ad valorem, which is applicable to imports from Austria. This subheading also includes ring spun rayon singles yarn and high-twist ring spun yarn.

¹ Figure V-1 of the Commission's prehearing report showed cotton prices reported by USDA. These were included since cotton fiber was identified by purchasers that produce fabric for home furnishings as a potential substitute for rayon fiber. As the figure illustrated, cotton prices declined during 1995 (a year in which U.S. rayon staple fiber prices were increasing). Over the 3-year period, cotton prices exhibited seasonal fluctuations, but increased slightly (1.9 percent) between the first quarter of 1994 and the fourth quarter of 1996.

² Thinner yarn requires more equipment time and labor to turn a pound of fiber into a pound of yarn; therefore its cost per pound is higher. Converting rayon fiber into open-end spun singles rayon yarn generally results in little waste. ***.

³ The Austrian producer Linz reported in the preliminary investigation that rayon staple fiber costs ***.

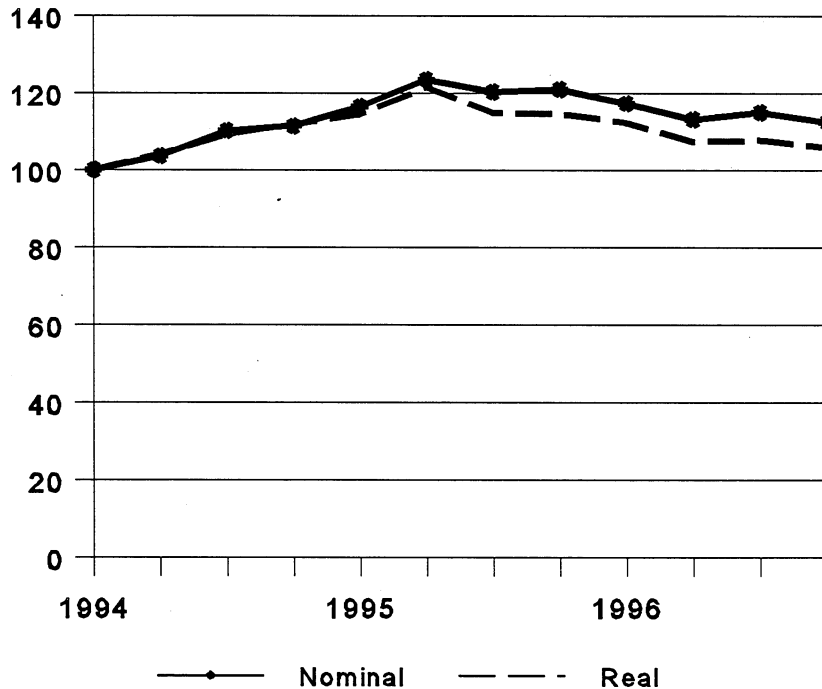
⁴ This estimate was calculated as the percentage difference between the customs value and the c.i.f. value reported for 1996 U.S. imports classified under subheading 5510.11.00 of the HTS. This average is similar to the 5-percent estimate that was reported in the preliminary investigation (***).

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Austrian schilling appreciated 12.6 percent relative to the U.S. dollar from January 1994 to December 1996 (figure V-2). The real value of the Austrian currency appreciated 6.0 percent vis-a-vis the U.S. dollar in that time period.

Figure V-2

Exchange rates: Indices of the nominal and real exchange rates of the Austrian schilling relative to the U.S. dollar, Jan. 1994-Dec. 1996



Source: International Monetary Fund, *International Financial Statistics*, June 1997.

PRICING PRACTICES

As noted earlier, thinner yarns (i.e., yarns with higher cotton counts) require more processing time and labor to convert a pound of rayon fiber into a pound of yarn. Thus, the cost of the yarn, valued on a weight basis, tends to increase the higher the cotton count.

The majority of U.S. producers and importers reported selling the subject product under short-term contracts (e.g., three months).⁵ Most of these firms also reported that some sales were made on a spot basis. U.S. producers, importers, and purchasers reported that price lists were not commonly used. Instead, purchasers learn of price changes from sales representatives. Although some purchasers indicated that prices

⁵ Only two importers provided usable information regarding sales practices.

were set by their suppliers, the majority reported that prices were negotiable. The majority of U.S. producers and importers also reported that prices were determined through negotiation with their customers.

PRICES

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and total value (net of all discounts, allowances, and promotions) of certain sizes of open-end spun rayon singles yarn that were shipped to unrelated U.S. customers during the period January 1994 - December 1996. Importers were requested to report sales of these products as well as purchases for their own use. The Commission also asked purchasers to report total quarterly purchases of the same types of open-end spun rayon singles yarn on a quantity and value basis during the same period.⁶ Products for which pricing data were requested are listed below:

Product 1: Open-end spun rayon singles yarn with a cotton count of 12/1 Ne.⁷

Product 2: Open-end spun rayon singles yarn with a cotton count of 20/1 Ne.

Product 3: Open-end spun rayon singles yarn with a cotton count of 24/1 Ne.

Product 4: Open-end spun rayon singles yarn with a cotton count of 8/1 Ne.

Seven U.S. producers and 8 importers provided usable pricing data for sales of the four products. However, not all firms reported prices for all quarters. In terms of volume, these data account for approximately 76 percent of open-market shipments of the U.S. product and 82 percent of U.S. imports. The pricing data reported for products 1 and 2 account for 84.6 percent of the total sales/purchases of these four products. The data reported for products 3 and 4 account for the remaining 15.4 percent.

Eleven purchasers provided usable pricing data for purchases of U.S.-produced open-end spun rayon singles yarn. These firms' total purchases of open-end spun rayon singles yarn accounted for approximately 65 percent of 1996 commercial shipments of the domestic product. Of these firms, four also provided pricing data for purchases of the Austrian product.⁸

U.S. Producer and Importer Price Trends

Weighted-average prices for U.S. sales of U.S.-produced and imported Austrian yarn and for Austrian yarn imported directly by end users are shown in figures V-3 and V-4 and in tables V-1 through V-4. In general, the prices for all four products declined during 1994, increased during 1995, and then declined during 1996. This pattern is evident for both U.S. producers' sales and purchases of the Austrian products

⁶ Importers were requested to report their prices f.o.b. their U.S. point of shipment (landed, duty-paid, ex-dock, U.S. point of entry or U.S. warehouse), excluding the cost of U.S. inland freight to their customers' warehouse. Firms that imported for their own use were requested to report the c.i.f., landed, duty-paid price, excluding the cost of U.S. inland freight to their warehouse/manufacturing locations.

⁷ The first number refers to the yarn thickness. The second number refers to the number of plies. Singles yarn has one ply. In the United States, cotton counts are measured in terms of Numbers English (Ne), which measures the number of 840-yard hanks required to make up a pound of yarn.

⁸ These firms are ***. Most of ***'s reported purchases were not included because ***. In addition, *** reported pricing data for purchases of the Austrian products. These data were not included in the purchaser pricing data shown in tables V-6 and V-7 since the reported data are identical to the pricing data reported by these firms on their respective importer questionnaires.

Figure V-3

Open-end spun rayon singles yarn: Weighted-average prices for products 1 and 2, by sources and by quarters, Jan. 1994-Dec. 1996

* * * * *

Figure V-4

Open-end spun rayon singles yarn: Weighted-average prices for products 3 and 4, by sources and by quarters, Jan. 1994-Dec. 1996

* * * * *

Table V-1

Open-end spun rayon singles yarn--product 1: Average f.o.b. prices reported by U.S. producers and importer-sellers, landed c.i.f. prices reported by importer-end users, and quantities, by quarters, Jan. 1994-Dec. 1996

* * * * *

Table V-2

Open-end spun rayon singles yarn--product 2: Average f.o.b. prices reported by U.S. producers and importer-sellers, landed c.i.f. prices reported by importer-end users, and quantities, by quarters, Jan. 1994-Dec. 1996

* * * * *

Table V-3

Open-end spun rayon singles yarn--product 3: Average f.o.b. prices reported by U.S. producers and importer-sellers, landed c.i.f. prices reported by importer-end users, and quantities, by quarters, Jan. 1994-Dec. 1996

* * * * *

Table V-4

Open-end spun rayon singles yarn--product 4: Average f.o.b. prices reported by U.S. producers and importer-sellers, landed c.i.f. prices reported by importer-end users, and quantities, by quarters, Jan. 1994-Dec. 1996

* * * * *

by end users. Data provided by firms that resell the imported product are too spotty to exhibit any type of trend. Quantities reported by end users of the Austrian product were greater in every quarter for which data were reported than quantities reported by importer/resellers of the Austrian products.

U.S. Producer and Importer Price Comparisons

Margins of under/overselling are shown in table V-5. Price comparisons between the U.S. products and importers' resales of the Austrian products were possible in 18 instances. In nine of these, the Austrian product was priced below the U.S. product, with margins ranging from 0.3 to 16.2 percent.⁹ In the remaining nine instances, the Austrian product was priced above the U.S. product, with margins ranging from 2.7 to 11.4 percent. For the most part, instances of underselling occurred during 1995 (products 1 and 2). With the exception of the sales of product 2 that occurred in 1994, the volumes reported for sales of the Austrian products are significantly lower than those reported for sales of the corresponding U.S. products. However, given the fluctuations in the calculated margins, it is not clear that these differences make a significant difference in terms of the direction of the margin.

Price comparisons between sales of the U.S. product and purchases of the Austrian product by importers for their own use were possible in 42 instances. In 25 of these, the Austrian product was priced below the U.S. product, with margins ranging from 0.2 to 7.7 percent. In 16 of the instances, the Austrian product was priced above the U.S. product, with margins ranging from 0.1 to 15.3 percent. In the remaining instance, there was no difference between the U.S. and Austrian products. The product most consistently affected by underselling was product 1. Underselling occurred in all but one quarter during the 1994-96 period. Comparisons of products 2, 3, and 4 show no clear pattern with respect to the direction of the margin, although underselling occurred in seven of the eight quarters in 1996 for which price comparisons were available.

Table V-5

Open-end spun rayon singles yarn: Percentage margins of under/(over)selling by importers who are end users and by importers who resell yarn

* * * * *

Price Trends Reported by Purchasers

Purchasers were asked about the relative price levels of open-end spun rayon singles yarn from different sources. Ten of the 19 firms indicated that U.S.-produced yarn was priced higher than the Austrian product. Two firms reported that the U.S. product was lower relative to the Austrian product; one firm indicated that the product prices were the same; and six firms did not provide responses.

As noted earlier, 11 firms reported usable pricing data, of which 4 firms reported purchases of the Austrian product (tables V-6 and V-7). Pricing data reported for U.S.-produced 12/1, 20/1, and 24/1 yarn (products 1-3) show slight increases over the period, ranging from 1.1 percent to 1.7 percent. The quantities of these purchases generally increased during 1994-95 and then declined slightly during 1996. Reported prices for U.S. product 4 declined between the first quarter of 1994 and the fourth quarter of 1996 (5.9 percent). Reported quantities of the U.S. product 4 also declined over the period.

In contrast, the prices reported for purchases of the Austrian product 1 declined somewhat over the quarters for which pricing data are available and were lower than the reported average U.S. price in each quarter. Reported prices for Austrian product 2 declined fairly steadily over the 3-year period, with underselling occurring in 9 of the 12 quarters. Reported prices for Austrian product 3 declined between 1994 and 1995, but then increased slightly in 1996. The prices reported for purchases of the Austrian product were

⁹ ***.

Table V-6

Open-end spun rayon singles yarn: Quarterly average prices and quantities for products 1 and 2 reported by purchasers, by country source, Jan. 1994-Dec. 1996

* * * * *

Table V-7

Open-end spun rayon singles yarn: Quarterly average prices and quantities for products 3 and 4 reported by purchasers, by country source, Jan. 1994-Dec. 1996

* * * * *

lower than those for the U.S. product in 2 of the 6 quarters. Data were not reported for purchases of Austrian-produced product 4. The quantities reported for purchases of Austrian-produced products 1 and 3 are small and show no particular trend. In terms of annual volumes, the quantities shown in table V-6 for purchases of Austrian product 2 declined 12 percent between 1994 and 1995, and then increased 80 percent between 1995 and 1996.

LOST REVENUES AND LOST SALES

In the final phase of this investigation, the Commission requested U.S. producers of open-end spun rayon singles yarn to report any instances of lost sales or revenues they experienced as a result of competition from imports from Austria. Of the 10 responding U.S. producers, 2 firms reported that they had not lost revenues or sales and 2 firms did not respond to these questions. The remaining firms' allegations are discussed below.

Lost Revenues

*** reported lost revenues during the 1994-96 period.¹⁰ These allegations totaled \$1,215,980. Commission staff were able to contact purchasers concerning 99 percent of these sales (by value). If information from purchasers is accepted regarding these allegations, total lost revenues amount to \$354,710 or 29 percent of the total allegations.¹¹ Specific allegations made by the *** are discussed below.

*** Lost Revenue Allegations

As shown in table V-8, *** alleged that it lost revenue due to competition from Austrian imports on sales to *** that resulted from a bid made in ***. *** stated that it was forced to lower its quotation for open-end spun rayon singles yarn with a cotton count of *** from *** per pound to *** per pound in order to retain the sale. *** reported that annual sales of this product to *** amounted to *** pounds. Commission staff spoke to *** of ***. *** stated that *** total purchases from *** amounted to *** million pounds in 1995, but that its purchases of *** yarn totaled only *** pounds. The average price paid to *** for this product was *** during the year. ***, as a result of its own offer, paid *** per pound from January to June,

¹⁰ *** reported having lost revenues, but did not provide supporting information. ***.

¹¹ Commission staff attempted to verify allegations involving sales to ***. ***. *** did not respond to staff inquiries.

Table V-8

Open-end spun rayon singles yarn: *** lost revenue allegations

* * * * *

at which point *** informed them that the price had increased to *** per pound. *** paid this price for purchases of *** pounds in *** while searching for other yarn suppliers. The firm found *** and an alternative U.S. producer that both quoted significantly lower prices than *** for the product. The firm informed *** that a price of *** would not retain its business. *** subsequently lowered its price to *** per pound and sold *** pounds to *** at this price between August and October. During November and December, *** raised its price on this product to *** per pound and sold *** pounds at this price to ***.¹²

*** alleged that it lost revenue due to competition from Austrian imports on sales to *** in ***. *** reported quoting *** per pound on a sale of *** pounds of *** open-end spun rayon singles yarn and having to lower its price to *** per pound in order to make the sale. Commission staff spoke to ***.¹³ *** stated that *** may have reduced its price, but that competition from Austria was not the reason. He said that the quality of *** yarn was low and that the firm faced competition from other U.S. producers.

*** also reported that it had lost revenues on sales to *** in *** due to competition from suppliers of the Austrian product. *** reported making quotations of *** and *** per pound for sales of *** pounds of *** open-end spun rayon singles yarn and *** pounds of *** yarn, respectively. In order to obtain the sale, *** alleged that it had to reduce its price on *** to *** per pound and on *** to *** per pound. Commission staff spoke to *** of ***, who confirmed the lost revenue allegation. He reported that there had been pressure to reduce the price on these yarns because the family of fabrics that the subject yarns were used to produce had been on the decline. In addition, there had been price competition between foreign and domestic yarn producers.

*** Lost Revenue Allegations

*** alleged that it lost revenues due to competition from Austrian suppliers of open-end spun rayon singles yarn in *** on sales to ***. *** stated that it had to lower its price by *** per pound on *** pounds of open-end spun rayon singles yarn with a cotton count of *** to make the sale. *** of *** stated that his firm had purchased *** pounds of this product from *** during this period at *** per pound. He could not verify that this price was *** per pound less than *** original bid, but added that *** had purchased this product from another U.S. producer and a Canadian producer in 1994 at prices of *** and *** per pound, respectively.

*** made a number of allegations of lost revenue in its sales to *** due to competition from Austrian imports. The allegations concerned sales of *** pounds of yarn and approximately *** in lost revenues. The allegations are summarized in the following table.

¹² Using *** data reduces *** lost revenues allegation concerning *** from *** to ***.

¹³ ***.

Table V-9

Open-end spun rayon singles yarn: Lost revenue allegations by *** concerning sales to ***

* * * * *

*** stated that these allegations were an inaccurate portrayal of events. He reported that *** had imported during this period primarily *** open-end spun rayon singles yarn, much of which was from ***.¹⁴ *** could not thus have reduced its price for the other products due to competition from Austrian imports. *** added that it had been difficult to acquire yarn during that period and bidding down the price had not been emphasized. For example, he had offered *** the opportunity to be a sole supplier in the summer of 1995, and *** had responded by saying it was unable to support his firm's needs. *** could not qualify an overseas supplier of *** until ***. *** concluded by stating that the Austrian price was often greater than the U.S. price for similar products.

*** made a number of lost revenue allegations involving its sales to ***.¹⁵ The allegations concerned sales of *** pounds of yarn and approximately *** in lost revenues. The firm's allegations are summarized in table V-10.

Table V-10

Open-end spun rayon singles yarn: Lost revenue allegations by *** concerning sales to ***

* * * * *

*** stated that ***'s prices had been too high and that the market for the types of fabrics that those yarns went into had been declining. He did not have the detailed information to affirm the allegations in table V-10 but stated that it was possible that they were valid. He added that ***'s strategy was generally, but not always, to accept the lowest bid; sometimes they paid a higher price to keep more suppliers available.

Lost Sales

Specific allegations of lost sales were reported by ***.¹⁶ In addition, ***.¹⁷ Although *** did not provide the Commission with sufficiently detailed information to calculate the total value of its respective lost sales, ***'s alleged lost sales amounted to approximately *** million.

*** reported that it lost a sale to *** as a result of competition from imports of the Austrian product.¹⁸ *** had offered to supply *** pounds of *** open-end spun rayon singles yarn at a total price of *** million and had not obtained the sale. *** of *** did not recall the specific sale but stated that *** did not lose any business to Austrian suppliers for any reason. He stated that *** had made some decisions to

¹⁴ In the preliminary investigation, *** reported that it had not purchased *** and *** yarns from Austria during the period of investigation. In the final investigation, ***'s reported purchases of *** and *** yarns accorded with ***'s reported purchases of these items in the preliminary investigation.

¹⁵ ***

¹⁶ ***

¹⁷ ***

¹⁸ The date of the lost sale was not reported.

reduce suppliers in order to increase efficiency. In a subsequent conversation with staff, *** of *** reported that ***'s purchases from *** amounted to the following: ***.¹⁹

*** reported that it lost sales to *** due to competition from imports of open-end spun rayon singles yarn from Austria. *** had offered to supply *** pounds of *** yarns at a total price of *** million and had not obtained the sale. *** of *** acknowledged that the allegation was true and stated that if his firm had not made the purchase from Austria, it would have purchased these products from one of three U.S. producers.

*** reported that it had lost sales to *** due to competition from imports of the Austrian product. These included a reduction in orders of open-end spun rayon singles yarn with a cotton count of *** from *** pounds in 1993 to *** pounds in 1995, an order of *** yarn in *** in which *** quoted *** per pound compared to ***'s quotation of *** per pound, and an order of *** in *** in which *** quoted *** per pound compared to ***'s quotation of *** per pound.²⁰ *** of *** stated that it was true that *** had lost business due to competition from imports from Austria, and that these allegations were not surprising. However, *** did not have precise information available to confirm the specific allegations.

*** reported that it had lost sales to *** due to competition from imports from Austria. In *** , *** had quoted *** per pound for *** open-end rayon yarn compared to ***'s quotation of *** per pound.²¹ *** of *** did not recall the specific transaction but added that *** was unable to supply all of the *** yarn that it needed. *** of *** reported that ***'s purchases from *** actually increased early in the period to make up for product that had been supplied by ***. He noted that ***'s purchases from *** amounted to the following: ***. He noted that volumes did decline during the latter half of 1996 and that ***. He also stated that it is likely that ***.

*** reported that it lost sales amounting to approximately *** pounds to five firms during the 1994-96 period. *** accounted for *** percent of the allegations.

*** stated that his firm used to purchase from ***.²² His firm discontinued purchasing ***'s products because of quality problems. Although the firm reported purchases through 1995 of U.S.-produced yarn from *** , it reported no purchases of the U.S. product in 1996. He also noted that while sales representatives from *** continue to contact his firm, *** has made no effort to solicit business from him in the past year or so. In 1996, approximately *** percent of ***'s purchases of open-end spun rayon singles yarn was accounted for by imports from Canada and Belgium. *** noted that the firm currently relies exclusively on *** yarn. He stated that Canadian, Belgium, and Austrian yarns are all superior to U.S.-produced yarn in terms of quality.

*** of *** indicated that *** purchased approximately *** pounds of open-end spun rayon singles yarn from *** in 1993 and approximately *** pounds of the yarn in 1994. *** experienced quality problems with ***'s products and stopped purchasing yarn from the company in ***. It increased its purchases from *** during the same period as noted above. *** also supplied the quantities of ***'s total purchases of open-end spun rayon singles yarn from *** , which were as follows: ***.

¹⁹ Staff interview with *** , Aug. 22 and Aug. 25, 1997.

²⁰ In each case ***'s allegation lacked a price or a quantity, which precluded calculation of total value of lost sales.

²¹ A quantity was not reported.

²² Staff interview with *** , Aug. 25, 1997 and *** , Aug. 28, 1997.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Nine U.S. producers¹ provided financial data on their operations on open-end spun rayon singles yarn. These data represent *** percent of reported U.S. production of open-end spun rayon singles yarn in 1996. Of the nine producers, *** did not report any trade sales because they consumed all of their production of open-end spun rayon singles yarn in the production of downstream products. *** valued their company transfers at the average price they paid for purchased yarn during each reporting period. As *** had difficulty valuing its company transfers, for purposes of this report the Commission staff valued ***'s company transfers at an average selling price per pound derived from aggregate data of the remaining eight producers. Therefore, commercial market data may better reflect the actual financial experience of the firms providing data. The results of operations on producers' commercial market operations are presented separately.

OPERATIONS ON OPEN-END SPUN RAYON SINGLES YARN

The results of operations of the U.S. producers of open-end spun rayon singles yarn are presented in table VI-1 and figure VI-1; data on a per-pound basis are shown in table VI-2. Selected financial data, by firms, are presented in table VI-3. The aggregate operating income margins declined from 7.0 percent in 1994 to 6.7 percent in 1995 and further dropped to 3.9 percent in 1996. Average selling price per pound remained virtually steady during 1994-95, while average selling price per pound rose by less than the increase in the average cost of goods sold per pound in 1996, resulting in declining gross profits and operating income in that year. Average raw materials costs increased by 9 percent from 1994 to 1996. In 1995, the increased raw materials cost per pound was offset by declining "other factory costs" due to a rise in the volume of sales.

The variance analysis for nine U.S. producers of open-end spun rayon singles yarn is presented in table VI-4. The information for this variance analysis is derived from table VI-1. Export sales were minor. Company transfers ranged from about *** percent of total quantity sold in 1995 to about *** percent in 1996. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. Most of the producers mentioned that their product mix did not change significantly during the period of investigation. The analysis shows that the decline of \$960,000 in operating income from 1994 to 1996 is attributable to the higher unfavorable net cost/expense variance compared to favorable price and net volume variances.

As mentioned previously, *** did not sell open-end spun rayon singles yarn on the commercial market, but used all of their production for manufacturing downstream products. In table VI-5 and figure VI-2, their income-and loss data are excluded from the aggregate data of the remaining U.S. producers selling only on the commercial market. U.S. commercial market producers' data on a per-pound basis are shown in table VI-6.

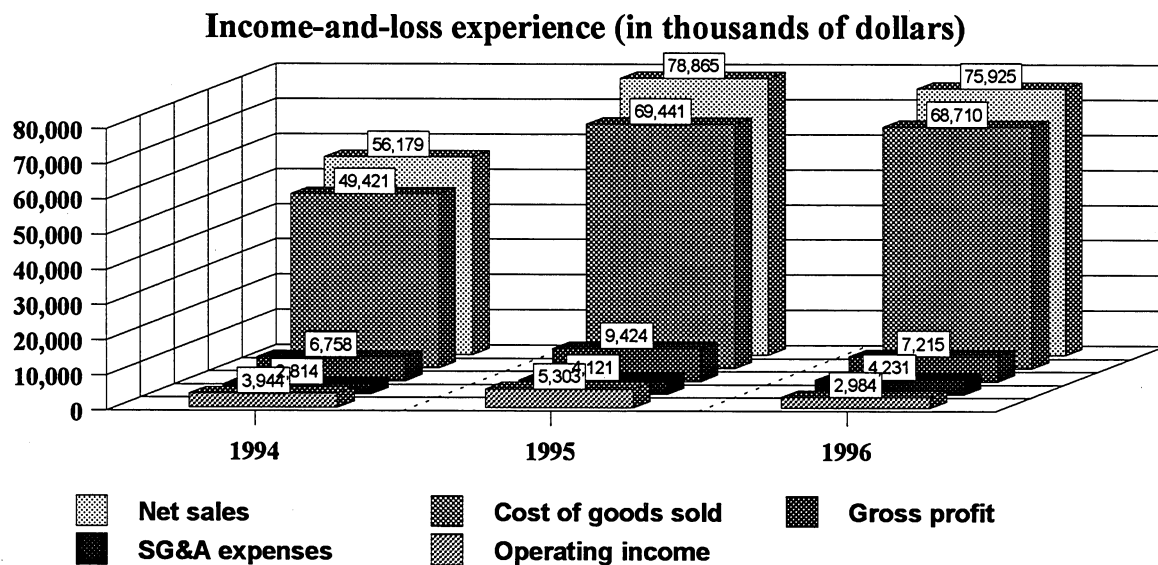
¹ U.S. producers and their fiscal year ends are BMYC (Sept. 30), Carolina (Sept. 30), Grover (Sept. 30), JPS (Oct. 31), Milliken (Dec. 1), Mt. Vernon (Dec. 31), National (Dec. 31), Stonecutter (June 30), and Uniblend (Mar. 31). ***. BMYC's producer and importer questionnaire data were verified by the Commission staff. This final report reflects revisions made by the company as a result of verification. The revisions were minor.

Table VI-1
Results of operations of U.S. producers in the production of open-end spun rayon singles
yarn, fiscal years 1994-96

| Item | 1994 | 1995 | 1996 |
|--|--------|--------|--------|
| <i>Quantity (units)</i> | | | |
| Net sales: | | | |
| Trade | *** | *** | *** |
| Company transfers | *** | *** | *** |
| Total sales | 32,812 | 46,498 | 43,840 |
| <i>Value (\$1,000)</i> | | | |
| Net sales: | | | |
| Trade | *** | *** | *** |
| Company transfers | *** | *** | *** |
| Total sales | 56,179 | 78,865 | 75,925 |
| Cost of goods sold | 49,421 | 69,441 | 68,710 |
| Gross profit | 6,758 | 9,424 | 7,215 |
| SG&A expenses | 2,814 | 4,121 | 4,231 |
| Operating income | 3,944 | 5,303 | 2,984 |
| Interest expense | 277 | 597 | 404 |
| Other expense | 157 | 247 | 70 |
| Other income items | 10 | 0 | 2 |
| Net income | 3,520 | 4,459 | 2,512 |
| Depreciation/amortization | 1,999 | 2,483 | 2,325 |
| Cash flow | 5,519 | 6,942 | 4,837 |
| <i>Ratio to net sales (percent)</i> | | | |
| Cost of goods sold | 88.0 | 88.1 | 90.5 |
| Gross profit | 12.0 | 11.9 | 9.5 |
| SG&A expenses | 5.0 | 5.2 | 5.6 |
| Operating income | 7.0 | 6.7 | 3.9 |
| Net income | 6.3 | 5.7 | 3.3 |
| <i>Number of firms reporting</i> | | | |
| Operating losses | 1 | 0 | 1 |
| Net losses | 1 | 1 | 3 |
| Data | 9 | 9 | 9 |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | |

Figure VI-1

Open-end spun rayon singles yarn: U.S. producers' net sales, cost of goods sold, gross profit, SG&A expenses, and operating income, fiscal years 1994-96



Source: Table VI-1.

Table VI-2
Results of operations (per pound) of U.S. producers in the production of open-end spun rayon singles yarn, fiscal years 1994-96

| Item | 1994 | 1995 | 1996 |
|--------------------------|--------|--------|--------|
| Net sales | \$1.71 | \$1.70 | \$1.73 |
| Cost of goods sold: | | | |
| Rayon fiber | 0.95 | 1.00 | 1.04 |
| Direct labor | 0.13 | 0.14 | 0.14 |
| Other factory costs | 0.42 | 0.36 | 0.38 |
| Total cost of goods sold | 1.51 | 1.49 | 1.57 |
| Gross profit | 0.21 | 0.20 | 0.16 |
| SG&A expenses | 0.09 | 0.09 | 0.10 |
| Operating income | 0.12 | 0.11 | 0.07 |

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

Table VI-3

Results of operations of U.S. producers (by firm) in the production of open-end spun rayon singles yarn, fiscal years 1994-96

* * * * *

Table VI-4
Variance analysis for open-end spun rayon singles yarn operations, fiscal years 1994-96

| Item | 1994-96 | 1994-95 | 1995-96 |
|--|-----------------|----------|---------|
| | Value (\$1,000) | | |
| Net sales: | | | |
| Trade: | | | |
| Price variance | *** | *** | *** |
| Volume variance | *** | *** | *** |
| Total trade variance | *** | *** | *** |
| Company transfers: | | | |
| Price variance | *** | *** | *** |
| Volume variance | *** | *** | *** |
| Total transfer variance | *** | *** | *** |
| Total net sales: | | | |
| Price variance | 864 | (746) | 1,568 |
| Volume variance | 18,882 | 23,432 | (4,508) |
| Total net sales variance | 19,746 | 22,686 | (2,940) |
| Cost of sales: | | | |
| Cost variance | (2,679) | 594 | (3,239) |
| Volume variance | (16,610) | (20,614) | 3,970 |
| Total cost variance | (19,289) | (20,020) | 731 |
| Gross profit variance | 457 | 2,666 | (2,209) |
| SG&A expenses: | | | |
| Expense variance | (471) | (133) | (346) |
| Volume variance | (946) | (1,174) | 236 |
| Total SG&A variance | (1,417) | (1,307) | (110) |
| Operating income variance | (960) | 1,359 | (2,319) |
| Summarized as: | | | |
| Price variance | 864 | (746) | 1,568 |
| Net cost/expense variance | (3,150) | 460 | (3,584) |
| Net volume variance | 1,326 | 1,645 | (303) |
| Note: Unfavorable variances are shown in parentheses; all others are favorable. | | | |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | |

Table VI-5

Results of operations of U.S. commercial market producers in the production of open-end spun rayon singles yarn, fiscal years 1994-96

* * * * *

Figure VI-2

Open-end spun rayon singles yarn: U.S. commercial market producers' net sales, cost of goods sold, gross profit, SG&A expenses, and operating income, fiscal years 1994-96

* * * * *

Table VI-6

Results of operations (per pound) of U.S. commercial market producers in the production of open-end spun rayon singles yarn, fiscal years 1994-96

* * * * *

The trend of aggregate operating income margins of commercial market producers is the same as that of all U.S. producers, but the aggregate margins for commercial market producers were lower in each period. In 1996, the decline in the aggregate operating income margin was much steeper for commercial market producers.

The variance analysis for commercial market producers of open-end spun rayon singles yarn is presented in table VI-7. This variance analysis shows that the higher decline in operating income from 1994 to 1996 is attributable to the unfavorable net cost/expense variance, as it was for all U.S. producers in table VI-4.

Table VI-7

Variance analysis for open-end spun rayon singles yarn operations of U.S. commercial market producers, fiscal years 1994-96

* * * * *

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

The responding firms' data on the value of their property, plant, and equipment; capital expenditures; and research and development (R&D) expenses are shown in table VI-8. All reporting firms except Uniblend reported their fixed assets, capital expenditures, and R&D expenses for open-end spun rayon singles yarn. Only *** reported R&D expenses; the other firms had no such expenses. ***. Carolina and Milliken reported capital expenditures and fixed assets for their establishment operations. ***.

Table VI-8

Value of assets, capital expenditures, and research and development expenses of U.S. producers of open-end spun rayon singles yarn, fiscal years 1994-96

| Item | 1994 | 1995 | 1996 |
|--|-----------------|--------|--------|
| | Value (\$1,000) | | |
| Capital expenditures | 9,414 | *** | 3,806 |
| R&D expenses | *** | *** | *** |
| Fixed assets: | | | |
| Original cost | 50,276 | 75,934 | 64,238 |
| Book value | 26,159 | 29,634 | 33,322 |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | |

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of open-end spun rayon singles yarn from Austria on their firms' return on investment or their growth, investment, ability to raise capital, development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. Their responses are shown in appendix E.

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 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 AUSTRIA

This section of the report is based on information supplied by three firms in Austria that are believed to account for virtually all of the production of open-end spun rayon singles yarn in that country:¹ Borckenstein, Freistadt GmbH & Co. (Freistadt), and Linz.

Linz, ***, accounted for almost *** percent of the total production of the subject product in Austria during 1994-96 and accounted for *** percent of the quantity of exports from Austria to the United States. The company indicated that *** percent of its total sales in 1996 were of products other than open-end spun rayon singles yarn, but that ***. During the period for which data were collected in this investigation, Linz reported ***.²

Borckenstein, ***, accounted for almost *** percent of the total production of the subject product in Austria during 1994-96, and accounted for *** percent of the quantity of exports from Austria to the United States. The company indicated that *** percent of its total sales in 1996 were of open-end spun rayon singles yarn and all of its exports to the United States of the subject product were to NRB, a U.S. fabric weaving operation. ***. During the period for which data were collected in this investigation, Borckenstein's reported capacity ***. Borckenstein explained that it has dismantled and shipped much of its open-end spinning equipment to Loris, a U.S. affiliate of NRB. In its questionnaire response, Borckenstein stated "On ***, Borckenstein signed a final, binding equipment sale agreement with Loris Industries, L.L.C., a U.S. company located in South Carolina, to sell to Loris open-end spinning production equipment amounting to *** of Borckenstein's 1996 production capacity.³ Borckenstein does not intend to replace this equipment and expects that it will not export more than a de minimis amount of open-end spun rayon yarn to the U.S. market after this transfer of equipment is complete ***."

Freistadt, ***, accounted for almost *** percent of the total production of the subject product in Austria during 1994-96, and accounted for approximately *** percent of the quantity of exports from Austria to the United States. The company indicated that *** percent of its total sales in 1996 were of open-end spun rayon singles yarn and ***. During the period for which data were collected in this investigation, Freistadt's reported capacity ***.

¹ According to estimates provided by Borckenstein and Linz, the three Austrian producers that provided data in the final phase of the investigation accounted for all of the Austrian production of open-end spun rayon singles yarn in 1996. In the preliminary phase of the investigation, counsel for respondent Linz identified one other possible firm in Austria that may be producing rayon yarn of some sort (i.e., Spinnerei Feldkirch); however, information provided by *** did not identify this firm as an Austrian producer of the subject product.

² Counsel for Linz indicated that the Austrian firm would open facilities in the United States in the event of an affirmative determination by the Commission. Linz's prehearing brief, p. 22.

³ Counsel for respondent Borckenstein added that Loris has purchased virtually all of Borckenstein's open-end spun rayon singles yarn spinning equipment used to service the U.S. market. Borckenstein's prehearing brief, p. 6.

Combined data for Borckenstein, Freistadt, and Linz on their open-end spun rayon singles yarn operations in Austria, as reported in Commission questionnaires, are presented in table VII-1. The combined capacity utilization rate for all firms climbed gradually throughout the period for which information was requested.⁴ While capacity increased from 1994 to 1995, it fell slightly in 1996. Production increased throughout the entire period, rising from *** pounds in 1994 to *** pounds in 1996. Aggregate production of the subject product in Austria was higher than U.S. production in each of the years 1994-96. Aggregate Austrian capacity and production are projected to drop somewhat in 1997 and 1998, in part because of the dismantling of Borckenstein's open-end spun rayon singles yarn equipment and transfer of that equipment to the United States.

Table VII-1

Open-end spun rayon singles yarn: Production capacity, production, shipments, and inventories for Austrian producers, 1994-96, and projections for 1997-98

* * * * *

Total shipments of Austrian open-end spun rayon singles yarn increased throughout the period for which data were collected in this final phase of the investigation, as did home market shipments and exports to the United States. Exports of Austrian product to countries other than the United States accounted for the largest portion of the Austrian producers' total shipments of open-end spun rayon singles yarn. The Austrian producers reported that their other export markets consist of numerous countries in Europe. Exports to these other markets increased from 1994 to 1995, but fell in 1996 to a level above that reported for 1994.

As a share of total shipments, home market shipments by the Austrian producers fell from *** percent in 1994 to *** percent in 1995, but increased to *** percent in 1996. Exports to the United States as a share of total shipments increased steadily from *** percent in 1994 to *** percent in 1996. Exports to markets other than the United States fell from *** percent in 1994 to *** percent in 1996. Projections for 1997 and 1998 indicate that the Austrian producers plan to concentrate on marketing their open-end spun rayon singles yarn to export markets other than the United States.

There is no indication that open-end spun rayon singles yarn from Austria has been the subject of any other import relief investigations, including antidumping findings or remedies, in the United States or in any other countries.

U.S. INVENTORIES OF PRODUCT FROM AUSTRIA

Six U.S. importers of the subject product from Austria reported keeping inventories of the product in the United States. Data on the U.S. importers' end-of-period inventories of open-end spun rayon singles yarn are shown in table VII-2. End-of-period inventories held by U.S. importers declined from almost 1.4 million pounds in 1994 to 845,000 pounds in 1996. The ratios of inventories to imports and to U.S. shipments fell from about *** percent in 1994 to about *** percent in 1996.

⁴ ***.

Table VII-2

Open-end spun rayon singles yarn: U.S. importers' end-of-period inventories of imports from Austria, 1994-96

| Item | 1994 | 1995 | 1996 |
|---|-------|-------|------|
| End-of-period inventories (<i>1,000 pounds</i>) | 1,369 | 1,162 | 845 |
| Ratio to imports (<i>percent</i>) | *** | *** | *** |
| Ratio to U.S. shipments (<i>percent</i>) | *** | *** | *** |

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

APPENDIX A
***FEDERAL REGISTER* NOTICES**

singles yarn, provided for in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, 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 C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), 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> or <ftp://ftp.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of open-end spun rayon singles yarn from Austria are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on August 20, 1996, by the Ad Hoc Committee of Open-End Spun Rayon Yarn Producers, Gastonia, NC.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-751 (Final)]

**Open-End Spun Rayon Singles Yarn
From Austria**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-751 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from Austria of open-end spun rayon

¹ For purposes of this investigation, Commerce has defined the subject merchandise as "open-end spun singles yarn containing 85% or more rayon staple fiber."

public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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 the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on July 28, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on August 12, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 5, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 7, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is August 5, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as

provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is August 20, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 20, 1997. On September 5, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 9, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's 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 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 31, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-8723 Filed 4-4-97; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-807]

**Notice of Final Determination of Sales
at Less Than Fair Value: Open-End
Spun Rayon Singles Yarn From Austria**

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

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT:
Russell Morris or Robert Copyak, Office
of CVD/AD Enforcement VI, Import
Administration, International Trade
Administration, U.S. Department of
Commerce, Room 4012, 14th Street and
Constitution Avenue, N.W.,
Washington, D.C. 20230; telephone
(202) 482-2786.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the "Act"). In addition, unless otherwise indicated, all citations to the

Department's regulations are to 19 CFR Part 353 (1997).

Final Determination

We determine that open-end spun rayon singles yarn from Austria is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn from Austria, (62 FR 14399 (March 26, 1997))), the following events have occurred:

In May, we verified the questionnaire responses of respondents, Linz Textil GmbH (Linz) and G. Borckenstein und Sohn A.G. (Borckenstein), Petitioner, The Ad-Hoc Committee of Open-End Rayon Yarn Producers, and respondents submitted case briefs on June 30, 1997, and rebuttal briefs on July 7, 1997.

Scope of Investigation

The investigation covers all items of open-end spun singles yarn containing 85% or more rayon staple fiber. The merchandise is classifiable under subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and for Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1995 through June 30, 1996.

Fair Value Comparisons

To determine whether sales to the United States of the subject merchandise by respondents were made at less than fair value, we compared the Export Price ("EP") to the Normal Value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice. As set forth in section 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with section 777A(d)(1)(A)(i), we compared the weighted average EPs to weighted-average NVs during the POI. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics.

1. Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the

"Scope of Investigation" section, above, produced in Austria by the respondents and sold in the home market during the POI, to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): weight, percentage of rayon fiber, color, denier, finish, and luster. All comparisons were based on the same grade of yarn.

2. Level of Trade

In the preliminary determination, the Department determined that no difference in level of trade existed between home market and U.S. sales for either Borckenstein or Linz (Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn from Austria, (62 FR 14399 (March 26, 1997))). Our findings at verification confirmed that Borckenstein and Linz performed essentially the same selling activities for all reported home market and U.S. sales. Accordingly, we determine that all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

We calculated EP, in accordance with subsections 772 (a) and (c) of the Act, for each of the respondents, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price (CEP) was not otherwise warranted based on the facts of record.

We made company-specific adjustments as follows:

1. Linz

We calculated EP based on packed, delivered/duty paid and f.o.b. prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: Austrian inland freight (which included brokerage), insurance (which included inland and marine insurance), ocean freight, U.S. duty, clearing charges, bond expenses, U.S. freight and post-sale warehousing, in accordance with section 772(c)(2).

Linz reported that it did not borrow in U.S. dollars during the POI. In accordance with the Department's policy (see, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden, (61 FR 15780, April 9, 1996)), we recalculated the U.S. imputed credit expense using the average short-term lending rates published by the Federal Reserve as surrogate U.S. interest rates, for purposes of making the circumstance of sale adjustment for this expense. In addition, in the preliminary determination, we treated post-sale warehousing as a circumstance of sale adjustment. For the final determination, we have deducted post-sale warehousing from the export price because it is a movement expense (see, e.g., Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review, (62 FR 7206, February 18, 1997)).

Based on our verification findings, we deducted an additional small movement expense, called the "vorlage," which Linz had omitted in reporting movement charges to the United States (see Comment 2).

2. Borckenstein

For Borckenstein, we calculated EP based on packed, CIF, U.S. port prices to an unaffiliated customer in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for international freight (which included freight from the plant to port of export and ocean freight) and marine insurance, in accordance with section 772(c)(2)(A).

We have considered petitioner's request to use CEP. Based on our analysis and verification findings, however, we do not find that sufficient evidence exists to indicate that the sole U.S. importer and Borckenstein are affiliated parties. Pursuant to section 771(33) of the Act, we reviewed Borckenstein's relationship with the U.S. importer during verification and determined that petitioner's claim is unwarranted (see Comment 10).

We made the following correction, based on our verification findings. In our preliminary determination, we treated the U.S. commissions paid by Borckenstein to its U.S. selling agent as rebates. Upon a thorough review of documentation during verification, and our analysis of arguments from interested parties, we have determined that the fee paid by Borckenstein to its selling agent on U.S. sales is a commission (see Comment 14).

Normal Value

Cost of Production Analysis

As discussed in the preliminary determination, the Department found reasonable grounds to believe or suspect that Linz's and Borckenstein's sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Linz and Borckenstein had made home market sales during the POI at prices below their respective cost of production ("COP") within the meaning of section 773(b) of the Act. Although the Department was unable to include a COP analysis of Borckenstein's home market sales in the preliminary determination, the final determination does include a COP analysis of Borckenstein's home market sales.

Before making any fair value comparisons, we conducted the COP analysis described below for each company:

1. Linz

A. Calculation of COP

We calculated the COP based on the sum of Linz's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses ("SG&A") and packing costs in accordance with section 773(b)(3) of the Act.

In calculating Linz's SG&A, we adjusted the submitted net interest expense amount to include only short-term interest income as an offset (see Comment 8).

B. Test of Home Market Prices

We compared the respondent's submitted POI weighted-average COP figures, as adjusted, to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. As in our preliminary determination, we did not deduct indirect selling expenses from the home market price because these expenses were included in the SG&A rate for COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregard the below-cost sales. Under the Department's practice, when all sales of a specific product are at prices below the COP, we disregard all sales of that product, and calculate NV based on constructed value ("CV").

Based on our COP test, we found that less than 20 percent (by quantity) of Linz's sales of a given product were at less than COP. Thus, we did not disregard any below-cost sales. For matching purposes, export prices were compared to home market prices for all comparisons, and CV was not required.

D. Price to Price Comparison

We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses and commissions (including appropriate offsets), in accordance with section 773(a)(6)(C)(iii). We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing.

For purposes of the difference in merchandise adjustment, Linz reported a different cost of manufacturing for identical yarns due to the fact that different machines produce the yarn.

Since the difference in merchandise adjustment is intended to account for physical differences in similar merchandise being compared and not differences in the production process, we have calculated a single weighted-average cost of manufacturing for identical yarns.

Linz also reported an amount upon which to base an adjustment for differences in quantities sold in the United States and Austrian markets. However, Linz was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Accordingly, we have not made the requested adjustment (see Comment 6).

Linz was instructed to provide sales made to affiliated weaving mills in Austria (see Comment 5). We tested these sales to ensure that the affiliated party sales were at arm's-length. To conduct this test, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. We utilized the 99.5 percent benchmark ratio used in the 1993 carbon steel investigations. See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077 (July 9, 1993)). Where no affiliated customer price ratio could be constructed because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length and, therefore, we excluded them from our LTFV analysis.

We made the following corrections, based on our verification findings. For the preliminary determination, Linz did not report home market indirect selling expenses; therefore, we were unable to offset commissions paid in the United States with home market indirect selling expenses. Subsequent to the preliminary determination, Linz submitted its indirect selling expenses. However, we were unable to verify the full amount of Linz's claimed home market indirect selling expenses, and have recalculated the allowable portion of indirect selling expenses to be used as an offset to the U.S. commission (see Comment 3).

During verification, we discovered the interest rate used to calculate home market credit expenses was based on long-term lending. However, we did find that the company maintained two lines of credit for export sales during the POI. Although these lines of credit are based on a percentage of the company's annual export turnover, the company can borrow against these lines of credit to finance more than just exports. The credit lines are available for financing

current assets and liabilities and the interest rates charged are set on a quarterly basis. Therefore, we have recalculated Linz's home market credit expenses based upon the average interest rate charged on these lines of credit in order to reflect the company's actual short-term borrowing experience.

2. Borckenstein

A. Calculation of COP

We calculated the COP based on the sum of Borckenstein's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act.

We adjusted Borckenstein's depreciation expense to include depreciation expense for all categories of fixed assets used in the production of the subject merchandise and for assets used to perform the administrative functions of the company (see Comment 15).

B. Test of Home Market Prices

We compared the respondent's submitted POI weighted-average COP figures, as adjusted, to home market sales of the foreign like product as required under section 773(b) of the Act in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and were not at prices which permit recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We deducted indirect selling expenses from the home market price because these expenses were not included in the G&A rate for COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and that such sales are not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D)

of the Act. In such cases, we disregard the below-cost sales. Under the Department's practice, when all sales of a specific product are at prices below the COP, we disregard all sales of that product, and calculate NV based on CV.

Based on our COP test, we found that less than 20 percent (by quantity) of Borckenstein's sales of a given product were at less than COP. Thus, we did not disregard any below-cost sales. For matching purposes, export prices were compared to home market prices for all comparisons, and CV was not required.

D. Price to Price Comparisons

We calculated NV based on packed, delivered prices to unaffiliated customers. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses, export credit insurance, and commissions (including appropriate offsets), in accordance with section 773(a)(6)(C)(iii). We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing.

Borckenstein also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets, pursuant to 19 CFR 353.55(b). Although Borckenstein claimed that it incurred differing manufacturing costs based on quantities produced, it was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Our review of the submitted prices indicated that prices did not vary based upon the quantity sold.

Accordingly, we have not made the requested adjustment (see Comment 11).

We made the following modification to the calculations for the final determination. In our preliminary determination, we treated the U.S. commissions paid by Borckenstein to its U.S. selling agent as rebates. As a result, there was no offset for indirect selling expenses in the home market. Upon a thorough review of documentation during verification, we have determined that the fee paid by Borckenstein to its selling agent on U.S. sales is a commission. Therefore, we have offset the U.S. commission with

Borckenstein's home market indirect selling expenses (see Comment 14).

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, see *Change in Policy Regarding Currency Conversions* 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Austrian Schilling did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments*Linz**Comment 1: Comparison of Sales of Second-Quality Merchandise*

Petitioner asserts that the comparison of sales of second-quality merchandise in the home market to first quality export sales to the U.S. is inconsistent with the Department's standard practice. Accordingly, petitioner claims that the Department should revise its preliminary results to ensure that first quality and second quality merchandise are treated as distinct products in the Department's margin program for purposes of the final determination. Linz argues that the Department should include Linz's sales to the home market of second-quality merchandise in the margin calculation.

DOC Position: The petitioner is correct that it is the Department's policy to compare U.S. and home market merchandise of comparable quality. See, e.g., Notice of Final Results of Antidumping Administrative Review: Porcelain on Steel Cookware from Mexico, 62 FR 25908 (May 12, 1997). Only first quality merchandise was sold in the U.S. market. Therefore, for purposes of this final determination, first quality products sold in the United States were compared only to first quality merchandise sold in the home market.

Comment 2: Movement Expenses

The petitioner contends that Linz failed to fully report all of its movement expenses to the United States. Petitioner states that the Department discovered that Linz failed to report the "vorlage" freight expenses incurred in transporting merchandise to the United States during verification. As a result, the Department should account for this unreported expense by applying, as facts available, an adjustment for this expense to be deducted from the price of each U.S. sale. Linz asserts that the Department should not adjust all U.S. sales for a movement expense that may not have actually been incurred. Linz states that this expense is not found on the invoices of all freight forwarders.

DOC Position: During verification, the Department discovered that Linz had inadvertently failed to report a minor freight expense incurred in transporting merchandise to the United States. This expense, called "vorlage," was part of the company's freight bill. This expense was reported on all of the freight bills reviewed by the Department for U.S. sales. Therefore, during verification, we collected several U.S. freight bills and calculated the average "vorlage"

charged on U.S. sales. We have deducted the average "vorlage" expense from the sales price of all U.S. sales as "facts available" in accordance with section 776(a) of the Act.

Comment 3: Commission Offset

Petitioner argues that Linz's estimated indirect selling expenses were not verified, and, thus, cannot be used as a commission offset. Petitioner contends that there are two problems with Linz's estimated indirect selling expense, and, therefore, only the general indirect selling expense was properly calculated and should be included in the Department's margin calculation. First, petitioner states that all of Linz's estimated indirect selling expenses were fully captured in the general expense amount and that creation of an additional expense estimate is not warranted. Second, the Department was unable to verify the allocation method of the estimated selling expenses to domestic sales at verification.

Linz argues that it arrived at a general per unit indirect selling amount applicable to all sales and then adjusted this amount to reflect the proportion allocated to home market sales for which no separate selling agents are involved. Linz states that this allocation is reasonable and properly accepted based upon the stated experience of the sales manager.

DOC Position: We agree with the petitioner. Commissions are paid on U.S. sales but none are paid on home market sales. In our preliminary determination, the Department did not perform a commission offset, pursuant to 19 CFR section 353.56(b), as Linz had not provided information on its indirect selling expenses in the home market. After the preliminary determination, Linz provided an amount for home market indirect selling expenses. Linz reported two indirect selling expense amounts: a general indirect selling expense amount and an additional estimated home market indirect selling expense amount.

At verification, Linz explained how it calculated its estimated indirect selling expenses incurred on home market sales. Linz stated that beginning with a total indirect selling amount that captures the expenses for all production (open-end and ring-spun yarn), Linz arrived at a general per unit amount applicable to all sales on a global scale. It then adjusted this amount to reflect the proportion attributable solely to home market sales. Linz estimated that only 20 percent of indirect selling must be allocated to home market sales because there are no selling agents in their domestic market. We requested to

review worksheets to determine how they calculated this percentage. Linz stated that no worksheets were used in this calculation. Because no worksheets were used to calculate this portion of indirect selling expenses that Linz claimed to be attributed to home market sales, and because they were unable to tie the estimate to any source documentation, the Department cannot consider this additional estimated home market selling expense as verified. Therefore, we are not allowing this portion of the indirect selling expense adjustment. However, because we were able to verify the general indirect selling expense claim, we have used that amount as the basis of the commission offset.

Comment 4: Granting of Early Payment Discount

Petitioner contends that Linz's early payment discounts on home market sales should not be granted to customers that did not meet the terms of the discount program. Petitioner states that Linz applied an early payment discount to a number of sales where payment was not made within the requisite time period, as agreed upon in the terms of payment. Linz states that the Department should subtract all early payment discounts from the normal value, regardless of whether payment was made within the time period specified in the payment terms.

DOC Position: At verification, the Department carefully reviewed the customer accounts involving early payment discounts, both those taken within and outside the requisite time period, and found that the discounts were in fact granted. Because we verified that the discounts were given on the sales, we have taken them into account in this final determination.

Comment 5: Deficiencies With Affiliated Sales

Petitioner argues that there are significant errors in Linz's revised data file for sales to affiliates in the home market. Petitioner states that in submitting its revised data, Linz did not report gross price, sales date, pay date, rebates, discounts, rebates or credit expenses. Petitioner states that the Department was forced to verify Linz's revised affiliated sales during verification and that none of the reported sales to affiliates were traced for accuracy during verification. Thus, petitioner argues that the Department should employ the use of facts available in analyzing Linz's sales to affiliated parties in the home market. At a minimum, the Department should deny

the unverified adjustments claimed by Linz.

Linz states that nowhere in the Department's verification report does the Department state that it could not verify any adjustment. Linz states that the verification team reviewed the affiliated party sales extensively because of a "data sort" problem encountered and corrected at verification. Linz asserts that the verification team checked the records of these sales through numerous sales traces.

DOC Position: During verification, we discovered that there was a problem with the data base for Linz's home market affiliated sales. This problem was caused during a "data sort" for the affiliated data base used in our preliminary determination. The company only resorted the first few fields in the data base, while the other data fields remained in the original order. This caused the observation numbers to be out of sequential order and, thus, the information on pricing and expenses were unrelated to the specified sale in the data base. After discovering this error at verification, Linz correctly sorted the data fields and provided a corrected affiliated party sales listing.

We collected this revised affiliated party sales listing as a verification exhibit. The price reported in this sales listing was less the early payment discount. The sales listing also reported the freight expenses. The Department then verified this corrected data base and traced the information reported on these affiliated party sales to source documents. Thus, we verified the accuracy of the revised home market affiliated party sales data base and have used it where appropriate in this final determination. However, because the company did not report any other adjustment for these sales, the only deductions made from the starting price were for early payment discounts and freight expense.

Comment 6: Quantity Adjustment Under Section 353.55(b)

Linz has requested recognition of quantity price adjustments under § 353.55(b)(1) of the Department's regulations. Linz states that it has supplied the Department with information to show that its small quantity price adjustment policy was motivated by a commercial need to equalize the per-unit administrative expenses of processing large and small quantity orders. Linz further states that it has demonstrated that the amount of any price differential is wholly or partially due to the differences in quantities sold in the two markets, and

that it has demonstrated that the small quantity price adjustment was consistently applied on a majority of its home market sales in the POI.

Petitioner argues that there is no basis to grant Linz's claim of a small quantity surcharge. Petitioner states that Linz was unable to verify the accuracy or relevance of their internal memorandum on low volume sales, which serves as the basis for Linz's claim. They state that prices and quantities in the home market were inconsistent with the guidelines established by Linz for the low quantity price add-ons. Thus, there has been no demonstration that price increases for small quantity sales were applied in a consistent manner as required by Department policy.

DOC Position: Pursuant to 19 CFR 353.55(b), "The Secretary will calculate foreign market value based on sales with quantity discounts if:

- (1) During the period examined or during a more representative period, the producer or reseller granted quantity discounts of at least the same magnitude on 20 percent or more of sales of such or similar merchandise for the relevant country [Six-Month Rule]; or
- (2) the producer demonstrates to the Secretary's satisfaction that the discounts reflect savings specifically attributable to the production of different quantities [Cost Justification Method]."

The Department expounded upon its requirements for including quantity discounts in its analysis in Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from the Netherlands, (Brass Sheet and Strip) 53 FR 23431 (June 22, 1988). The Department asserted that:

to be eligible for a quantity-based adjustment [six-month rule], a respondent must demonstrate a clear and direct *correlation between price differences and quantities sold or costs incurred*. This requirement applies equally to an allowance for quantity differences under the six-month rule or the cost justification requirement. Under the six-month rule, it is not sufficient that, during the POI, the respondent merely granted discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise sold in the *ordinary course of trade* in the market used to establish foreign market value[;] the exporter must also demonstrate, using evidence such as a *price list or quantity discount schedule*, that it gave discounts on a *uniform basis* and that such discounts were *available to substantially all home market customers*. With regard to a cost-based adjustment, the exporter must demonstrate that the discounts are warranted on the basis of savings which are specifically attributable to the production of the different quantities involved. (Emphasis added)

Linz has specified that it is seeking to include a small quantity surcharge under the Department's so-called "six-

month" rule, contained in Section 353.55(b)(1) of the Department's regulations. The Department requires consistency under this rule in two respects: The first is whether or not price increases were applied when appropriate. The second is whether or not price increases, when applied, were applied consistently in accordance with the pricing policy.

Linz stated that, for small quantity purchasers in the home market, it adds a small quantity price add-on to account for the additional administrative expenses incurred in servicing small quantity purchasers. Linz based its claimed small quantity surcharge on a September 1992 internal memorandum on low volume sales. This memorandum specifies four small quantity categories with a specified price increase for each of the quantity brackets.

In the preliminary determination, the Department denied Linz's claim for a small quantity surcharge. Linz stated in its January 6, 1997 supplemental response that the application of its small quantity price adjustment is "flexible, made on a case-by-case basis, and is meant only as a guideline." Therefore, Linz was unable to demonstrate, based on the information on the record, the required consistency.

Prior to verification, Linz provided additional information on its small quantity surcharge. The company stated that while its small quantity adjustment policy was meant to be a guideline and to be flexible, it was to be followed in all possible cases and was to be applied to virtually all small quantity sales. Linz stated that, during the POI, it followed the small quantity price increases in all cases but eleven. The company stated that there were specific reasons why there were eleven exceptions to this policy during the POI.

For purposes of this final determination, we again examined Linz's home market sales to determine whether or not price increases were applied when appropriate, and to determine whether or not price increases were applied consistently in accordance with Linz's 1992 internal memorandum on low volume sales. An examination of Linz's home market prices during the POI demonstrated that Linz did not consistently adhere to its small quantity add-on pricing policy with respect to the four quantity brackets listed in its 1992 sales memorandum, even disregarding the eleven sales which Linz stated were exceptions to this pricing policy. Therefore, we do not find that there was a clear and direct correlation between price and quantity. Thus, the company

did not meet the requirements of section 353.55(b) of the regulations and we have not granted their claimed differences due to small quantity surcharges.

Comment 7: Sales of Comparable Quantities

Linz argues that absent an adjustment to normal value for quantity discounts under section 353.55(b) of the regulations, the Department should resort to comparisons of only sales in comparable quantities in the two markets. Linz states that under 19 C.F.R. 353.55(a), "in comparing the United States price with foreign market value, the Secretary normally will use sales of comparable quantities of merchandise." Linz states that all sales in both the U.S. and home market over a certain amount are treated equally in terms of quantity pricing adjustments. Thus, the Department should only use home market sales over that amount in calculating normal value.

Petitioner states that the Department should reject Linz's arguments for comparable quantities. Petitioner states that in defining its notion of comparable quantities, Linz has classified all sales into one of two quantity ranges, and that these comparable quantity ranges are flawed for two reasons. First, they contradict the five quantity ranges that Linz has claimed in the context of the quantity discount. Thus, Linz is arguing for one set of quantity ranges with respect to quantity discounts, and a different set of quantity ranges with respect to comparable quantities. Second, Linz has created an overly-broad upper range.

DOC Position: The issue of comparison of comparable quantities arose in Notice of Final Determination of Sales at Less Than Fair Value: Extruded PVC and Polystyrene Framing Stock from the United Kingdom (*Framing Stock*), 61 FR 51412 (October 2, 1996). In *Framing Stock*, we stated that information on the record demonstrated that the prices between different quantity bands were sufficiently distinct to warrant comparisons at comparable quantity bands. In the instant investigation, we reviewed the pricing information on home market sales between sales over a certain quantity and those below that quantity to determine whether the prices between these two quantity bands were sufficiently distinct to also warrant comparisons at comparable quantities. Based upon our pricing analysis, we found that the pricing between the two quantity bands was not sufficiently distinct to warrant comparisons at comparable quantity bands. Therefore, we based normal value on the weighted-

average of all comparable sales, regardless of quantity.

Comment 8: Calculation of Financial Expenses

Petitioner states that the Department should continue to include only short-term interest income as an offset to interest expense. Petitioner notes that, in the preliminary determination, the Department adjusted Linz's reported interest income to approximate the portion of interest income attributable to short-term assets. However, as a result of verification, petitioner concludes that the Department now has the data to accurately determine which items of interest income are short-term and which are long-term. Linz states that petitioner, in its brief, did not specifically state which amount of Linz's interest income is short-term and long-term. As a result, Linz argues that the Department should disregard petitioner's request for an adjustment to the calculation of Linz's interest expense.

DOC Position: We agree with petitioner. During verification, the Department verified the portion of interest income related to short-term investments of its working capital. For the final determination, the Department adjusted Linz's reported net interest expense rate to include only short-term interest income as an offset to interest expense.

Comment 9: Parent Company G&A

The petitioner claims that Linz understated its general and administrative expenses by failing to account for expenses incurred by its non-operating corporate parent. Petitioner argues that because the section D questionnaire instructed Linz to include in its reported G&A an amount for administrative services performed by its parent, the Department should increase Linz's reported G&A expenses to include a G&A expense amount incurred by its parent company. Linz asserts that the Department has already included the expenses of Linz's parent company in its calculation of the G&A expense.

DOC Position: The Department's practice is to include a portion of parent company G&A expenses where appropriate. In this case, Linz's reported G&A expense already reflects expenses incurred on its behalf by its parent. Therefore, to include additional G&A amounts as argued by petitioner would overstate G&A.

Borckenstein

Comment 10: Affiliation Due To Close Supplier Relationship

Petitioner claims that information on the record indicates a close supplier relationship between Borckenstein and its sole U.S. customer of the subject merchandise, Beavertown, and thus Borckenstein and the U.S. customer would fall within the definition of affiliated parties set forth in section 771(33) of the Act. Petitioner contends that a determination of affiliation may be based on a close supplier relationship for the following reasons. By purchasing a large percentage of a supplier's subject sales, the buyer could extract price and other concessions from the supplier by threatening to purchase the products from another vendor. Because such an action would severely impact the business of the supplier, the purchasing company is in a position to control the related supplier by exerting restraint or direction over the supplier. Therefore, petitioner argues that Borckenstein and Beavertown are affiliated and that Borckenstein's U.S. sales should be classified as CEP sales.

Borckenstein states that it is not affiliated with Beavertown and that there is no close supplier relationship based upon the percentage of Beavertown's purchases compared to Borckenstein's total sales revenue. Borckenstein argues that petitioner's assertion that this percentage should only be based on subject sales and not on subject and non-subject sales is flatly contrary to current Department practice. Borckenstein states that the Department's standard practice of determining close supplier relationship is based on the percentage of "total annual sales," not solely the percentage of subject sales. See Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan, (hereinafter *Printing Presses*) 61 FR 38139, (July 23, 1996).

DOC Position: We disagree with the petitioner's claim that information on the record indicates that a close supplier relationship exists between Borckenstein and its sole U.S. customer of subject merchandise. We examined this issue at verification and did not find evidence of a close supplier relationship. In addition, the Department has dealt with a similar issue in other recent cases and likewise did not find affiliation. See, e.g., *Printing Presses*.

In *Printing Presses*, the Department indicated, among other factors, that close supplier relationships may occur

when a majority of a supplier's sales are made to one customer. However, in the instant case, Borckenstein's financial records indicate that Beavertown's purchases account for only a small portion of Borckenstein's total sales revenue, which is based on sales of the subject merchandise and closely related products. Therefore, Borckenstein is not reliant on Beavertown, and we find no close supplier relationship in this case. Thus, the two parties are not affiliated under 771(33) of the Act.

Comment 11: Quantity Discount Under Section 353.55(b)

Borckenstein states that the information on the record supports an adjustment for differences in quantities sold in the U.S. and Austrian markets pursuant to section 773(a)(6) of the Act and section 353.55(b) of the Department's regulations. The claim for the quantity adjustment is based on raw material rebates received from Borckenstein's raw material supplier, and the additional cost of machine recalibrations in the home market. Petitioner states that Borckenstein has failed to demonstrate a clear and direct correlation between price differences and quantities sold, or price differences and costs incurred. Therefore, Borckenstein's claimed quantity adjustment pursuant to section 353.55(b) must be denied.

DOC Position: We agree with the petitioner. The criteria for recognizing quantity discounts pursuant to 19 CFR 353.55(b) have been fully explained in the Department's Position to *Comment 6*. Borckenstein has not demonstrated a clear and direct correlation between price differences and quantities sold or costs incurred. See the discussion of Brass Sheet and Strip referenced in *Comment 6*. Furthermore, although Borckenstein contends that the additional cost of machine recalibrations are appropriate costs on which to base a difference in quantities adjustment, however, it is the Department's practice not to allow a quantity based adjustment under 19 CFR 353.55(b) based upon the additional setup time that is required for shorter runs. The Department will grant cost adjustment claims based on direct manufacturing costs; recalibration of machinery does not constitute a direct cost. In addition, the claim for the rebate of raw material does not meet the standard set forth in Brass Sheet and Strip for an adjustment under 353.55(b). It is our practice to use one average cost for a raw material; different costs cannot be attributed to the same raw material. Therefore, Borckenstein is unable to demonstrate that price differences are

attributable to the production of different quantities. Accordingly, the Department has not granted Borckenstein's claim for a quantity discount.

Comment 12: Raw Material Rebate

Petitioner argues that the Department should not grant an adjustment for a raw material rebate that Borckenstein receives from its supplier and that Borckenstein claims it used to produce subject merchandise destined for the U.S. market. Petitioner states that the granting of an export-based rebate on raw material purchases is commonly referred to as "input dumping," and the Department has condemned input dumping in past cases, and must continue to do so in the present case. Borckenstein contends that the Department should adjust for its claimed raw material rebate. Borckenstein argues that the rebate is not directed at the U.S. market but to the customer who purchases large quantities of product which allows Borckenstein to achieve economies of scale in production. Borckenstein also asserts that petitioner is incorrect when it stated that there is input dumping in this case.

DOC Position: Section 773(a)(4)(B) of the Act authorizes the Department to adjust for "differences in circumstances of sales," which include such things as differences in commissions, credit terms, guarantees, warranties, technical assistance, and servicing. We note that while the regulations do provide for adjustments to production cost differences in two instances (where quantity discounts reflect savings in production of different quantities (19 CFR 353.55(b)(2)), and where differences in production cost are due to differences in physical characteristics (19 CFR 353.57(b)), neither of these provisions is applicable here. Since the type of adjustment at issue here does not relate to physical differences in merchandise, it is not an allowable adjustment under the difference-in-merchandise provision. In addition, in view of the fact that the proposed adjustment cannot be deemed a sales-related expense, it is not appropriate to adjust for the rebate as a circumstance of sale.

Comment 13: Raw Material Costs

The petitioner asserts that Borckenstein's costs of production for home market sales is underreported. Petitioner states that Borckenstein received a rebate on raw material only for finished yarn exported to the United States. Since this rebate did not apply to home market sales, this rebate should

not be attributable to raw material costs for COP applied to home market sales. Thus, the actual fiber costs incurred by Borckenstein for home market sales are higher than have been reported. Borckenstein states that the raw material costs reported by Borckenstein are weighted-average costs between the home market and the U.S. market, consistent with standard Department methodology. In addition, Borckenstein states that the Department verified the accuracy of Borckenstein's reported material cost at verification and found no discrepancies.

DOC Position: We agree with Borckenstein that the Department's normal practice is to compute a single weighted-average COP for each unique model subject to the investigation. Accordingly, we did not adjust Borckenstein's reported raw material cost for the final determination.

Comment 14: Treatment of Commission as a Rebate

The petitioner asserts that Beavertown Mills, Borckenstein's sole U.S. customer of subject merchandise, is wholly-owned by Titan Textile Co., and that Borckenstein's commission agent is also wholly-owned by Titan Textile Co. Thus, petitioner asserts that the reported commission payments are in effect payments to the customer itself. According to petitioner, the amount paid to the customer cannot be considered a commission, but is instead a rebate. Therefore, the Department should continue to treat the claimed commission as a rebate. Borckenstein contends that the payment is made to its selling agent, therefore, the payment should be considered a commission, not a rebate. Borckenstein contends that the selling agent never takes possession of the merchandise, nor does it pay the selling agent directly for the merchandise. In addition, Borckenstein states that these payments of commissions are accounted for in its books as commissions, and are invoiced to its selling agent as commissions.

DOC Position: In the preliminary determination, the Department treated Borckenstein's U.S. commissions as rebates based on its understanding that the commission agent was wholly-owned by Beavertown's parent company. Because the commission was treated as a rebate there was no offset for indirect selling expenses in the preliminary determination. At verification, we learned that Borckenstein uses selling agents for all of its U.S. sales. The Department established that the selling agent used for sales of the subject merchandise performed the functions of a

commission agent. We verified that the U.S. customer, not the selling agent, pays Borckenstein for the merchandise. In addition, Borckenstein makes payments directly to the selling agent for services rendered in the sales transaction.

During verification, we also reviewed documentation regarding the shareholder listings for Borckenstein's selling agent, Beavertown, and Beavertown's parent company which demonstrated that the selling agent is not affiliated with Beavertown. The controlling shareholder of the selling agent owns no shares in either Beavertown or Beavertown's parent company. Therefore, we do not find Borckenstein's selling agent to be affiliated with Beavertown under section 771(33) of the Act for the purposes of the treatment of this commission. Therefore, in this final determination, we have treated this expense as a commission and offset it with home market indirect selling expenses.

Comment 15: Depreciation Expense in Reported Cost of Production

The petitioner contends that Borckenstein underreported its depreciation expense. Among the excluded costs were depreciation expenses for the plant in which the product is produced, all depreciation related to the general and administrative functions of the company, and depreciation related to assets that directly or indirectly support the manufacturing operation. Borckenstein states that it does not object to an appropriate and reasonable increase of submitted depreciation expenses in calculating the cost of production.

DOC Position: We agree with petitioner. For the final determination, we recalculated depreciation expense to include depreciation from the other categories of fixed assets used in the production of the subject merchandise. Additionally, we included a portion of the depreciation expense related to Borckenstein's assets used to perform the administrative functions of the company.

Comment 16: Failure to Include Indirect Material Expenses

The petitioner contends that Borckenstein failed to include indirect material expenses in its reported cost of production. The indirect materials excluded were: (1) Materials purchased for the refurbishment of the open-end equipment specifically used to produce the merchandise under investigation; and (2) repair materials. Further, the petitioner asserts that these costs were

incurred during the fiscal period on which Borckenstein's cost response was based, and related directly to the equipment used to produce the merchandise under investigation. Borckenstein states that it properly reported indirect material expenses in its reported cost of production, and that, at verification, the Department determined that the expenses in question were not incurred for the production of the subject merchandise during the POI.

DOC Position: The Department agrees, in part, with petitioner. The Department verified that the majority of the parts purchased by respondent in the last month of the cost calculation period were used to refurbish and extend the useful life of the machinery sold subsequent to the POI. Given the fact that Borckenstein intended to sell the machinery, the company expensed the cost of these parts rather than capitalize them. In the normal course of business, Borckenstein depreciates its machinery over four years. Since the refurbishment was so extensive, we agree that the costs incurred should have been capitalized. Accordingly, we consider it appropriate for Borckenstein to depreciate the refurbishment costs over four years beginning with the month of purchases (the last month of the POI). Thus, Borckenstein should recognize one month of depreciation related to the purchased parts in its submitted POI costs of manufacturing. We verified that the remaining parts Borckenstein purchased at the end of the year related to repairs and maintenance for the subsequent year. In the ordinary course of business, Borckenstein expenses small parts and maintenance supplies when purchased rather than when consumed. As such, the Department maintains that the cost of these parts are representative of Borckenstein's yearly repairs and maintenance expense and should be included in its COP and CV. However, consistent with 19 C.F.R. § 353.59(a), which permits the Department to disregard insignificant adjustments, we have elected not to adjust Borckenstein's COM for either the depreciation expense or cost of the parts, since the addition of these costs would not affect our overall margin calculation.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of open-end spun rayon singles yarn that are entered, or withdrawn from warehouse, for consumption on or after March 26,

1997, the date of publication of our preliminary determination in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

| Exporter/manufacturer | Weighted average margin percentage |
|-----------------------|------------------------------------|
| Linz | 12.36 |
| Borckenstein | 2.36 |
| All Others | 7.42 |

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero or *de minimis* weighted-average dumping margins, or margins determined entirely under section 776 of the Act, in the calculation of the "all others" rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: August 8, 1997.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 97-21710 Filed 8-14-97; 8:45 am]
BILLING CODE 3510-DS-P

APPENDIX B
CALENDAR OF THE HEARING

CALENDAR OF PUBLIC HEARING

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

Subject : OPEN-END SPUN RAYON SINGLES
YARN FROM AUSTRIA

Inv. No. : 731-TA-751 (F)

Date and Time : August 12, 1997 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101, 500 E Street, S.W., Washington, DC.

OPENING REMARKS

Petitioner (**Mark W. Love**, Economic Consulting Services Incorporated)
Respondents (**Craig T. Redinger**, Fulbright & Jaworski LLP and
Gunter von Conrad, Barnes, Richardson & Colburn)

In Support of the Imposition of Antidumping Duties:

Economic Consulting Services Incorporated
Washington, DC
on behalf of

Ad-Hoc Committee of Open-End Spun Rayon Yarn Producers

Dan Sullivan, President, Burlington Madison Yarn Company

Kim Eyer, Manager, Ranlo Plant, Burlington Madison Yarn Company

George Moretz, Vice President, Carolina Mills, Incorporated

Bob Miller, Vice President, National Spinning Company

**In Support of the Imposition
of Antidumping Duties--Continued:**

Lewis Johnson, Director of Public Affairs, American Yarn Spinners
Association and Secretariat of the Ad-Hoc Committee of Open-End
Spun Rayon Yarn Producers

Mark W. Love, Senior Vice President, Economic Consulting
Services Incorporated

Daniel J. Cannistra, Vice President, Economic Consulting
Services Incorporated

**In Opposition to the Imposition of
Antidumping Duties:**

Fulbright & Jaworski LLP
Washington, DC
on behalf of

G. Borckenstein und Sohn AG

Craig T. Redinger)
)--OF COUNSEL
Arthur A. Impastato)

Barnes, Richardson & Colburn
Washington, DC
on behalf of

Linz Textil GmbH

Franz Lemmerhofer, Director, CFO, Linz Textil GmbH

Astrid Furlinger, Magister, translator, Linz Textil GmbH

Gunter von Conrad)
)--OF COUNSEL
Alyssa Chumnanvech)

APPENDIX C
SUMMARY DATA

Table C-1

Open-end spun rayon singles yarn: Summary data concerning the total U.S. market, 1994-96

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

| Item | Reported data | | | Period changes | | |
|---|---------------|-------|------|----------------|---------|---------|
| | 1994 | 1995 | 1996 | 1994-96 | 1994-95 | 1995-96 |
| U.S. consumption quantity: | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** |
| Producers' share ¹ | 66.8 | 72.9 | 67.1 | 0.4 | 6.2 | -5.8 |
| Importers' share: ¹ | | | | | | |
| Austria | 23.8 | 22.3 | 26.4 | 2.6 | -1.5 | 4.1 |
| Other sources | 9.5 | 4.8 | 6.5 | -3.0 | -4.7 | 1.7 |
| Total | 33.2 | 27.1 | 32.9 | -0.4 | -6.2 | 5.8 |
| U.S. consumption value: | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** |
| Producers' share ¹ | 66.1 | 72.1 | 68.0 | 1.9 | 6.1 | -4.2 |
| Importers' share: ¹ | | | | | | |
| Austria | 23.9 | 23.0 | 25.6 | 1.7 | -0.9 | 2.6 |
| Other sources | 10.0 | 4.9 | 6.4 | -3.6 | -5.2 | 1.6 |
| Total | 33.9 | 27.9 | 32.0 | -1.9 | -6.1 | 4.2 |
| U.S. shipments of imports: | | | | | | |
| Austria: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | 1,369 | 1,162 | 845 | -38.3 | -15.1 | -27.3 |
| Other sources: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | *** | *** | *** | *** | *** | *** |
| All sources: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | *** | *** | *** | *** | *** | *** |
| U.S. producers ² : | | | | | | |
| Average capacity quantity | *** | *** | *** | *** | *** | *** |
| Production quantity | *** | *** | *** | *** | *** | *** |
| Capacity utilization ¹ | 66.7 | 71.0 | 64.9 | -1.9 | 4.3 | -6.2 |

Table continued on next page.

Table C-1--Continued

Open-end spun rayon singles yarn: Summary data concerning the total U.S. market, 1994-96

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

| Item | Reported data | | | Period changes | | |
|---|---------------|--------|--------|----------------|---------|---------|
| | 1994 | 1995 | 1996 | 1994-96 | 1994-95 | 1995-96 |
| U.S. producers ^{1,2} | | | | | | |
| U.S. shipments: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | \$1.71 | \$1.71 | \$1.74 | 1.6 | 0.1 | 1.4 |
| Export shipments: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | \$1.65 | \$1.56 | \$1.51 | -8.5 | -5.0 | -3.7 |
| Ending inventory quantity . . . | 2,047 | 1,257 | 1,369 | -33.1 | -38.6 | 8.9 |
| Inventories/total shipments ¹ . . | 5.8 | 2.5 | 3.1 | -2.7 | -3.3 | 0.6 |
| Production workers | 334 | 418 | 374 | 12.1 | 25.3 | -10.5 |
| Hours worked (1,000s) | 656 | 807 | 714 | 8.9 | 23.1 | -11.5 |
| Wages paid (\$1,000s) | 6,319 | 7,797 | 6,864 | 8.6 | 23.4 | -12.0 |
| Hourly wages | \$9.64 | \$9.66 | \$9.62 | -0.2 | 0.2 | -0.5 |
| Productivity (pounds/per hour) | *** | *** | *** | *** | *** | *** |
| Unit labor costs | *** | *** | *** | *** | *** | *** |
| Net sales: | | | | | | |
| Quantity | 32,812 | 46,498 | 43,840 | 33.6 | 41.7 | -5.7 |
| Value | 56,179 | 78,865 | 75,925 | 35.1 | 40.4 | -3.7 |
| Unit value | \$1.71 | \$1.70 | \$1.73 | 1.2 | -0.9 | 2.1 |
| Cost of goods sold (COGS) . . | 49,421 | 69,441 | 68,710 | 39.0 | 40.5 | -1.1 |
| Gross profit or (loss) | 6,758 | 9,424 | 7,215 | 6.8 | 39.4 | -23.4 |
| SG&A expenses | 2,814 | 4,121 | 4,231 | 50.4 | 46.4 | 2.7 |
| Operating income or (loss) . . . | 3,944 | 5,303 | 2,984 | -24.3 | 34.5 | -43.7 |
| Capital expenditures | 9,414 | *** | 3,806 | -59.6 | 62.9 | -75.2 |
| Unit COGS | \$1.51 | \$1.49 | \$1.57 | 4.1 | -0.8 | 4.9 |
| Unit SG&A expenses | \$0.09 | \$0.09 | \$0.10 | 12.5 | 3.3 | 8.9 |
| Unit operating income or (loss) | \$0.12 | \$0.11 | \$0.07 | -43.4 | -5.1 | -40.3 |
| COGS/sales ¹ | 88.0 | 88.1 | 90.5 | 2.5 | 0.1 | 2.4 |
| Operating income or (loss)/ sales ¹ | 7.0 | 6.7 | 3.9 | -3.1 | -0.3 | -2.8 |

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

² U.S. producers' data for 1994 are slightly understated because United did not provide first-quarter data for that year.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

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

Table C-2

Open-end spun rayon singles yarn: Summary data concerning the U.S. commercial market, 1994-96

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

| Item | Reported data | | | Period changes | | |
|-------------------------------------|---------------|-------|------|----------------|---------|---------|
| | 1994 | 1995 | 1996 | 1994-96 | 1994-95 | 1995-96 |
| U.S. consumption quantity: | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** |
| Producers' share ¹ | 50.5 | 57.5 | 48.9 | -1.6 | 7.0 | -8.6 |
| Importers' share: ¹ | | | | | | |
| Austria | 35.4 | 35.0 | 41.0 | 5.6 | -0.4 | 6.0 |
| Other sources | 14.1 | 7.5 | 10.1 | -4.0 | -6.6 | 2.6 |
| Total | 49.5 | 42.5 | 51.1 | 1.6 | -7.0 | 8.6 |
| U.S. consumption value: | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** |
| Producers' share ¹ | 49.5 | 56.7 | 49.4 | -0.1 | 7.2 | -7.3 |
| Importers' share: ¹ | | | | | | |
| Austria | 35.6 | 35.8 | 40.5 | 4.9 | 0.2 | 4.7 |
| Other sources | 14.9 | 7.6 | 10.1 | -4.8 | -7.4 | 2.6 |
| Total | 50.5 | 43.3 | 50.6 | 0.1 | -7.2 | 7.3 |
| U.S. shipments of imports: | | | | | | |
| Austria: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | 1,369 | 1,162 | 845 | -38.3 | -15.1 | -27.3 |
| Other sources: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | *** | *** | *** | *** | *** | *** |
| All sources: | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity .. | *** | *** | *** | *** | *** | *** |

Table continued on next page.

Table C-2--Continued

Open-end spun rayon singles yarn: Summary data concerning the U.S. commercial market, 1994-96

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

| Item | Reported data | | | Period changes | | |
|--|---------------|------|------|----------------|---------|---------|
| | 1994 | 1995 | 1996 | 1994-96 | 1994-95 | 1995-96 |
| U.S. producers ^{1,2} | | | | | | |
| Average capacity quantity | *** | *** | *** | *** | *** | *** |
| Production quantity | *** | *** | *** | *** | *** | *** |
| Capacity utilization ¹ | 58.4 | 66.7 | 57.7 | -0.7 | 8.3 | -9.0 |
| 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 (pounds/per hour) | *** | *** | *** | *** | *** | *** |
| 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 | *** | *** | *** | *** | *** | *** |

Table continued on next page.

Table C-2--Continued

Open-end spun rayon singles yarn: Summary data concerning the U.S. commercial market, 1994-96

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

| Item | Reported data | | | Period changes | | |
|---|---------------|------|------|----------------|---------|---------|
| | 1994 | 1995 | 1996 | 1994-96 | 1994-95 | 1995-96 |
| U.S. producers ^{1,2} | | | | | | |
| 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.

² U.S. producers' data presented in this table consist solely of data for those U.S. producers that sell open-end spun rayon singles yarn in the commercial market. Data for producers that produce only for internal use are not included in this table. Data concerning transfers to affiliates of ***, which produced primarily for the commercial market, are included in this table except in shipment data. Data for ***, which produced for internal use but also had some commercial shipments, are not included in this table except in shipment data. Also, U.S. producers' data for 1994 are slightly understated because United did not provide first-quarter data for that year.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

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

Figure C-1

Open-end spun rayon singles yarn: Summary data, total U.S. market, 1994-96

* * * * *

Figure C-2

Open-end spun rayon singles yarn: Summary data, commercial market, 1994-96

* * * * *

APPENDIX D
COMPAS ANALYSIS

Methodology

The COMPAS model is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis, and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion in part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product substitution relationships (i.e., elasticities of supply, demand, and substitution) in the U.S. market for open-end spun rayon singles yarn. The model uses these estimates with data on market shares, Commerce's margin of dumping¹, transportation costs, and current tariffs to analyze the likely effect of unfair pricing on the U.S. like product industry.

Findings

The model examines different scenarios of economic effects that correspond to various combinations of the ranges of elasticities discussed in part II of this report. In addition to the elasticities, inputs into the model include the 1996 total domestic market value share of 67.1 percent and the 1996 subject imports share of 26.4 percent for Austria (table IV-2). U.S. imports from other sources accounted for 6.5 percent in 1996. The results in table D-1 show that in the absence of dumping the U.S. producer's share of the market in 1996 would have been between 67.9 percent and 69.4 percent instead of 67.1 percent, the domestic price would have been 0.2 percent to 0.9 percent higher, domestic output would have been 0.7 percent to 3.2 percent higher, and domestic revenue would have been 0.9 percent to 3.8 percent higher.

¹ Commerce's import-weighted margin for "all others" was used in the simulations discussed below.

Table D-1

Open-end spun rayon singles yarn: Estimated effects of LTFV imports from Austria
(overall market)

COMPAS ver. 1.4 (DUMPING) -- THE EFFECTS OF LTFV PRICING OF IMPORTS (6/1/93)
by Joseph Francois and Keith Hall, Office of Economics, USITC

| INPUTS (in percentages) | 09/12 | Austria | From: | To: |
|-------------------------|-------|-------------------------|-------|------|
| Margin: | 6.18 | Substitution Elast. | | |
| Domestic Share: | 67.1 | Domestic/Unfair: | 2 | 4 |
| Unfair Import Share: | 26.4 | Domestic/Fair: | 2 | 4 |
| Ave. U.S. Tariff Rate: | 10.4 | Unfair/Fair: | 2 | 4 |
| Transportation Ratio: | 5.5 | Aggregate Demand Elast: | 0.75 | 1.25 |
| Domestic Content: | 0 | Domestic Supply Elast: | 3 | 5 |
| Dom. Capacity Util: | 64.9 | Fair Supply Elast: | 10 | inf |

| SCENARIOS | #1 | #2 | #3 | #4 | #5 | #6 | #7 | #8 | But-for Imports: |
|------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|------------------|
| Domestic Price: | -0.4% | -0.3% | -0.2% | -0.2% | -0.9% | -0.7% | -0.7% | -0.5% | -7.4% |
| Domestic Output: | -1.2% | -1.4% | -0.7% | -0.8% | -2.8% | -3.2% | -2.2% | -2.6% | -20.5% |
| Domestic Revenue: | -1.6% | -1.7% | -0.9% | -0.9% | -3.7% | -3.8% | -2.9% | -3.1% | -26.4% |
| "BUT-FOR" ESTIMATIONS | | | | | | | | | |
| Domestic Share: | 67.9% | 67.9% | 68.0% | 68.0% | 69.2% | 69.3% | 69.3% | 69.4% | 91.2% |
| Unfair Import Share: | 25.5% | 25.5% | 25.4% | 25.4% | 24.0% | 23.8% | 23.9% | 23.7% | -- |
| Fair Share: | 6.6% | 6.6% | 6.6% | 6.6% | 6.8% | 6.9% | 6.8% | 6.8% | 8.8% |
| Capacity Utilization: | 65.7% | 65.8% | 65.3% | 65.4% | 66.8% | 67.1% | 66.4% | 66.6% | 81.7% |

Estimated Impact of Dumping on Imports (as a percentage of "fair" values)

| | | | | | | | | | |
|------------------------|-------|-------|-------|-------|-------|-------|-------|-------|--------|
| Unfair Import Price: | -5.1% | -5.1% | -5.1% | -5.1% | -5.1% | -5.1% | -5.1% | -5.1% | -- |
| Unfair Import Output: | 8.7% | 8.8% | 9.7% | 9.7% | 15.2% | 16.1% | 16.8% | 17.4% | -- |
| Unfair Import Revenue: | 3.2% | 3.3% | 4.1% | 4.2% | 9.4% | 10.2% | 10.9% | 11.4% | -- |
| Fair Import Price: | -0.2% | 0.0% | -0.1% | 0.0% | -0.5% | 0.0% | -0.4% | 0.0% | -2.7% |
| Fair Import Output: | -1.7% | -1.9% | -1.0% | -1.1% | -4.6% | -5.7% | -3.7% | -4.6% | -24.3% |
| Fair Import Revenue: | -1.9% | -1.9% | -1.0% | -1.1% | -5.1% | -5.7% | -4.0% | -4.6% | -26.4% |

| INPUTS | #1 | #2 | #3 | #4 | #5 | #6 | #7 | #8 | But-for Imports: |
|-------------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|------------------|
| ELASTICITIES OF SUBSTITUTION | | | | | | | | | |
| Dom/Unfair Imports: | 2 | 2 | 2 | 2 | 4 | 4 | 4 | 4 | -- |
| Dom/Fair Imports: | 2 | 2 | 2 | 2 | 4 | 4 | 4 | 4 | -- |
| Unfair/Fair Imports: | 2 | 2 | 2 | 2 | 4 | 4 | 4 | 4 | -- |
| Domestic Supply Elast: | 3 | 5 | 3 | 5 | 3 | 5 | 3 | 5 | 3 |
| Fair Import Supply Elast: | 10 | inf | 10 | inf | 10 | inf | 10 | inf | 10 |
| Aggregate Demand Elast: | -0.75 | -0.75 | -1.25 | -1.25 | -0.75 | -0.75 | -1.25 | -1.25 | -- |

APPENDIX E

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

The Commission requested U.S. producers to describe any actual negative effects of imports of open-end spun rayon singles yarn from Austria on their return on investment or their growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or their scale of capital investments, and any anticipated negative effects of the subject imports. The responses are as follows:

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

