

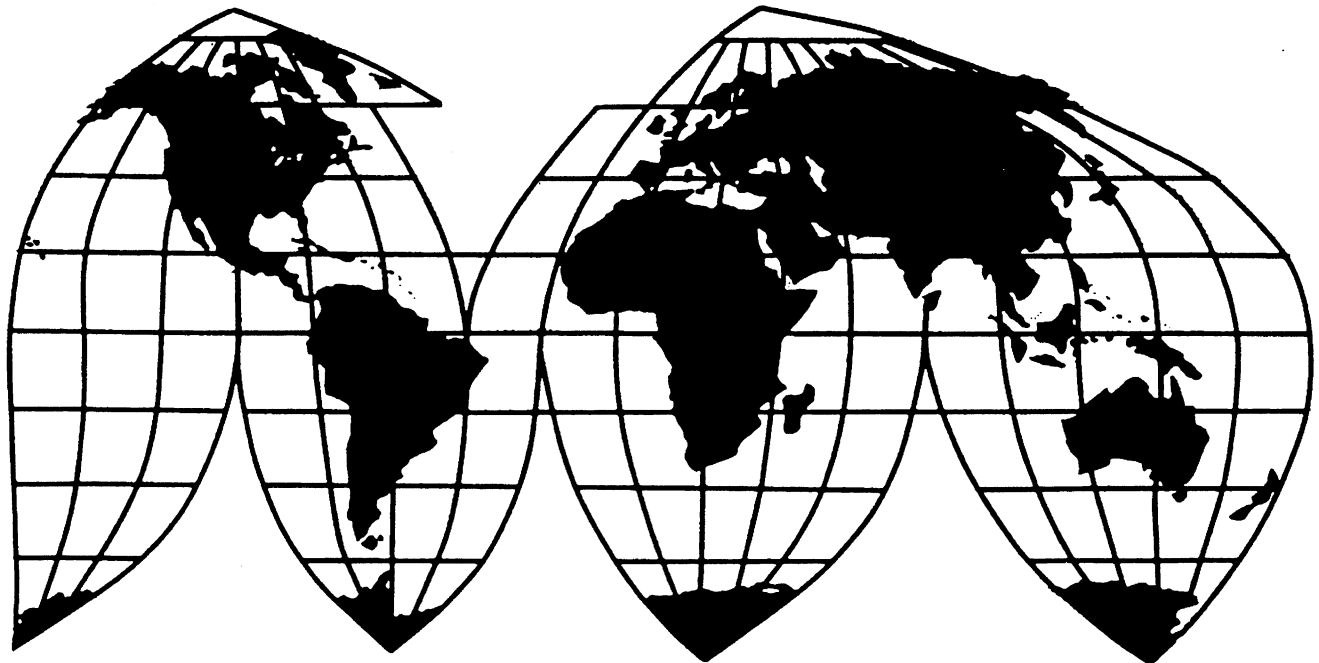
# Certain Aperture Masks From Japan and Korea

Investigations Nos. 731-TA-823-824

Publication 3185

April 1999

**U.S. International Trade Commission**



Washington, DC 20436

# **U.S. International Trade Commission**

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# **U.S. International Trade Commission**

Washington, DC 20436

## **Certain Aperture Masks From Japan and Korea**



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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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.



UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-823-824 (Preliminary)

CERTAIN APERTURE MASKS FROM JAPAN AND KOREA

**DETERMINATIONS**

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain aperture masks, provided for in subheading 8540.91.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).<sup>2</sup>

Also, pursuant to 19 U.S.C. § 1677(24)(A), the Commission determines that the subject imports from Korea that are alleged to be sold at LTFV are negligible. The Commission's investigation with respect to Korea is thereby terminated pursuant to 19 U.S.C. § 1673b(a)(1).

**BACKGROUND**

On February 24, 1999, petitions were filed with the Commission and the Department of Commerce by BMC Industries, Inc., Minneapolis, MN, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of certain aperture masks from Japan and Korea. Accordingly, effective February 24, 1999, the Commission instituted antidumping investigations Nos. 731-TA-823-824 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 3, 1999 (64 FR 10316). The conference was held in Washington, DC, on March 17, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

<sup>2</sup> Commissioners Carol T. Crawford and Stephen Koplun dissenting.



## VIEWS OF THE COMMISSION

Based on the record in these investigations, we find no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain aperture masks (“APMs”) from Japan that are allegedly sold in the United States at less than fair value (“LTFV”).<sup>1 2</sup>

We also find that imports of certain aperture masks from Korea that are allegedly sold in the United States at LTFV are negligible.

### **I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS**

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

### **II. DOMESTIC LIKE PRODUCT AND INDUSTRY**

#### **A. In General**

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>5</sup> 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.”<sup>6</sup> In turn, the Act defines

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<sup>1</sup> Commissioner Carol T. Crawford finds that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain aperture masks from Japan. See Views of Commissioner Carol T. Crawford. She joins in Parts I, II, III, and IV.A. of this opinion.

<sup>2</sup> Commissioner Stephen Koplan finds that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain aperture masks from Japan. See Dissenting Views of Commissioner Stephen Koplan Regarding Imports from Japan. He joins in Parts I, II, III, and IV of this opinion.

<sup>3</sup> 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT \_\_, Slip Op. 96-51 at 4-6 (March 11, 1996).

<sup>4</sup> American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994). We note that information was obtained in these investigations from all of the domestic industry, from all subject foreign producers, and all U.S. purchasers, and virtually all U.S. importers. Confidential Report (“CR”) at I-2, II-1, VII-1, and VII-4, Public Report (“PR”) at I-2, II-1, and VII-1.

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

“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 . . . .”<sup>7</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>8</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>9</sup> The Commission looks for clear dividing lines among possible like products, and disregards minor variations.<sup>10</sup> Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>11</sup>

## **B. Product Description**

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as:

all aperture masks (also known as “shadow masks”) made from aluminum-killed, open-coil annealed steel (decarburized) (known generally as “AK steel”) for color picture tubes (“CPTs”) used in television sets. AK steel includes the following types of steel: low carbon, AF (annealing-free) steel, AK type A steel (commonly known as AKM steel), AK type B steel, and general AK steel. The aperture masks covered by the scope generally have a vertical pitch (distance between the centers of two apertures) of greater than .28 mm.<sup>12</sup>

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<sup>7</sup> 19 U.S.C. § 1677(10).

<sup>8</sup> See, e.g., NEC Corp. v. Department of Commerce, Slip Op. 98-164 at 8 (Ct. Int’l Trade, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>9</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>10</sup> Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

<sup>11</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

<sup>12</sup> See 64 Fed. Reg. 13768, 13768-69 (March 22, 1999); CR at I-1 n.1, PR at I-1 n.1. The following products are explicitly excluded from Commerce’s scope: “1) aperture masks made from FeNi 36 alloy (whether sold under the brands names Invar, Inovar or LLTE); 2) aperture masks that have a vertical pitch of less than .28 mm that are

(continued...)

AK steel aperture masks for color picture tubes (“TV picture tubes” or “TV tubes”) are used in television sets. The aperture mask is a thin sheet of metal containing “thousands of precise holes designed to focus the beam emitted from an electron gun in a {TV picture tube} onto the proper phosphor color dot on the inside of the faceplate, in order to produce a crisp image.”<sup>13</sup> AK steel aperture masks for TV picture tubes are hereinafter simply referred to as “APMs.” AK steel aperture masks are also used for color display tubes (“computer display tubes” or “computer tubes”) in computer monitors. In addition, aperture masks made from an alloy of iron and nickel, FeNi 36 alloy (sold under the brand names Invar, Inovar or LLTE and collectively referred to herein as “Invar aperture masks”) are used for both TV picture tubes and computer display tubes. A grille mask, in contrast to an aperture mask, consists of vertical wires held in a tensioned frame, and is also used in both TV tubes and computer tubes.<sup>14</sup> These latter products — aperture masks for computer tubes, Invar aperture masks, and grille masks — are excluded from Commerce’s scope.

### C. Domestic Like Product Issues

The petitioner argues that the domestic like product consists of all APMs and that the definition of the like product should not be expanded to include the other types of aperture and grille masks that are specifically excluded from Commerce’s scope.<sup>15</sup> Although for purposes of these preliminary investigations the respondents are willing to accept petitioner’s like product definition, the Japanese respondents argue that the like product should be defined more broadly to include all types of aperture masks and grille masks, whether made from AK steel or Invar, and whether used in TV tubes or computer tubes, which are excluded from Commerce’s scope.<sup>16</sup> As discussed below, we determine that the domestic like product consists of all APMs, but excluding the other types of masks.

#### 1. Physical Characteristics and Uses

The record shows significant differences in physical characteristics between APMs and the other types of masks. First, AK steel and Invar aperture masks for computer tubes typically use an array of circular holes (or dots), rather than the elliptical holes (or slots) of masks for TV tubes.<sup>17</sup> Second, the pitch (i.e, the distance between the centers of two apertures) of computer tube masks (whether made from AK steel or Invar) is significantly smaller than for masks for TV tubes, resulting in a far greater number of apertures and far greater resolution than comparably-sized TV tube masks.<sup>18</sup> Moreover, Invar aperture masks for TV tubes or computer tubes are made from Invar steel, a different type of metal that

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<sup>12</sup>(...continued)

generally used for color display tubes (“CDTs”) used in computer monitors; and 3) grille masks (a grille mask replaces the slots in an aperture mask with an array of finely tensioned vertical wires).” 64 Fed. Reg. at 13769; CR at I-1 n.1, PR at I-1 n.1.

<sup>13</sup> CR at I-3, PR at I-2; see also Transcript of Conference Held March 17, 1999 (“Tr.”) at 16 (Mr. Nelson).

<sup>14</sup> See CR at I-6-9, PR at I-5-7; Tr. at 16-20 (Mr. Nelson); 64 Fed. Reg. at 13679.

<sup>15</sup> Petition at 13-17; Tr. at 16-20 (Mr. Nelson); Petitioner’s Postconference Brief at 20-23; Petitioner’s Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>16</sup> Japanese Respondents’ Postconference Brief at 3-4, Exhibit 1 at 3-5, and Exhibit 7; Tr. at 60-61 (Mr. Walders), 73-74 (Mr. Wechsler).

<sup>17</sup> Petitioner’s Postconference Brief at 21-22; Petitioner’s March 11, 1999 Supplemental Filing at Exhibit 8.

<sup>18</sup> See Petitioner’s Postconference Brief at Exhibit 8; Petition at 15.

imparts significantly better thermal properties and produces a brighter picture that is less subject to distortion than the AK steel used in APMs.<sup>19</sup>

Physically, grille masks for TV tubes or computer tubes are significantly different than APMs, replacing the aperture array with a series of vertical wires (or stripes) held in a tensioned frame. Such masks are also much heavier than APMs, because of the weight of material needed to hold the wires under tension, and have better thermal properties and produce a brighter picture that is less subject to distortion than APMs.<sup>20</sup>

The record shows clear distinctions in uses among the different types of masks. APMs tend to be used on low-end, smaller-screen televisions, whereas Invar aperture masks for TV picture tubes, because of their superior physical characteristics, tend to be used on the larger-size, high-end televisions.<sup>21</sup> In contrast to APMs, which are used in TV picture tubes and are designed to produce a crisp moving image to a viewer six feet from the front of the television, all masks for computer display tubes (including AK steel aperture masks, Invar aperture masks, and grille masks for computer tubes) are designed to produce a crisp, static image at approximately 18-24 inches from the front of the computer monitor.<sup>22</sup> Grille masks (whether for TV tubes or computer tubes) are only used in Sony's Trinitron tubes and Trinitron tube "clones" and cannot be used in other manufacturers' TV or computer tubes.<sup>23</sup>

## **2. Interchangeability**

The record shows little to no interchangeability between APMs and the other types of masks.<sup>24</sup> For masks used in TV picture tubes, in theory APMs and Invar aperture masks for TV tubes are interchangeable, although practically the significantly higher price of Invar material substantially limits interchangeability.<sup>25</sup> APMs are not interchangeable with AK steel or Invar aperture masks for computer tube use.<sup>26</sup> Likewise, APMs are not interchangeable with grille masks (whether for TV or computer tubes), in that the latter are only used in Trinitron tubes and their clones and have significant design differences (e.g., a different support system for the grille mask).<sup>27</sup>

## **3. Channels of Distribution**

Aperture masks for use in televisions are sold directly to TV tube manufacturers. APMs are sold in the same channel of distribution as Invar aperture masks for TV picture tubes, i.e., to TV tube manufacturers.<sup>28</sup> APMs are sold in a different channel of distribution than the other types of masks, however. AK steel and Invar aperture masks for computer tubes are sold only to computer tube manufacturers. Grille masks for TV tubes and for computer tubes are only internally transferred and

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<sup>19</sup> See CR at I-6-7, PR at I-5-6; Petition at 14.

<sup>20</sup> See CR at I-8-9, PR at I-6-7; Petition at 16-18.

<sup>21</sup> Petitioner's Postconference Brief at 22; Petitioner's Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>22</sup> See Petition at Exhibit 19.

<sup>23</sup> Petition at 16.

<sup>24</sup> CR at II-6, PR at II-1-2.

<sup>25</sup> CR at I-7-8, II-6, PR at I-5-6, II-2; Tr. at 18 (Mr. Nelson).

<sup>26</sup> CR at I-8, PR at I-6; Petitioner's Postconference Brief at 22; Tr. at 19 (Mr. Nelson).

<sup>27</sup> Petitioner's Postconference Brief at 22; Tr. at 20 (Mr. Nelson).

<sup>28</sup> CR at I-8, PR at I-6.

consumed by Sony Corporation to produce Trinitron tubes (whether for TV or computer tubes), or sold to firms licensed to make Trinitron tube clones, and are not sold in the merchant market to either TV or computer tube manufacturers.<sup>29</sup>

#### 4. Customer and Producer Perceptions of the Products

Customers and producers apparently perceive clear and significant differences between APMs and the other types of masks. APMs are apparently perceived as different from Invar aperture masks for TV tubes, from AK steel and Invar aperture masks for computer tubes, and from grille masks (whether for TV tubes or for computer tubes), based upon significant differences in physical characteristics, uses, and price.<sup>30</sup>

#### 5. Common Manufacturing Facilities, Production Processes and Production Employees

Petitioner produces all types of aperture masks (including APMs, AK steel aperture masks for computer tubes, and Invar aperture masks for TV tubes and computer tubes) except grille masks at its Cortland, New York plant.<sup>31</sup> If an APM production line is “Invar capable,” Invar aperture masks for TV picture tubes can be produced on the same production lines as APMs.<sup>32</sup> AK steel and Invar aperture masks for computer tubes are produced \*\*\*.<sup>33</sup> There is at least some overlap in employees between all of the Cortland facility’s production lines for APMs, AK steel aperture masks for computer tubes, and Invar aperture masks for TV tubes and computer tubes, although there appears to be more of an overlap in employees producing APMs and Invar aperture masks for TV tubes than employees producing AK steel and Invar aperture masks for computer tubes.<sup>34</sup> The production processes for APMs and Invar aperture masks for TV picture tubes are similar, except that producing Invar masks requires more careful product handling, softening of the Invar, and the addition of a \*\*\* to the production line.<sup>35</sup>

Grille masks (for TV and computer tubes) — which in the United States are only produced by Sony Corporation at its U.S. facility — are produced at a different manufacturing facility using different production employees. The production process for grille masks (which are generally made from AK steel but also may be made from Invar) is apparently similar to the production process for the other type of aperture masks, except that a tension mechanism is required to keep the metal stiff and rigid during the etching process.<sup>36</sup>

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<sup>29</sup> Petition at 16; Petitioner’s Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>30</sup> Petition at 17; Petitioner’s Postconference Brief at 22; Petitioner’s Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>31</sup> See, e.g., Petitioner’s Postconference Brief at Exhibit 8; CR at III-1, PR at III-1.

<sup>32</sup> Petition at 14. In fact, petitioner has \*\*\* production lines producing APMs, \*\*\* of which are Invar capable. Petitioner’s Postconference Brief at Exhibit 8.

<sup>33</sup> CR at III-1, PR at III-1. Both AK steel and Invar aperture masks for computer tubes require \*\*\*, as opposed to \*\*\* required for APMs and Invar aperture masks for TV picture tubes. CR at I-7, PR at I-5; Petitioner’s Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>34</sup> Tr. at 31 (Mr. Gugger, Mr. Nelson), 33-34 (Ms. Levinson, Mr. Nelson, Mr. Gugger).

<sup>35</sup> See Petitioner’s Postconference Brief at 31; CR at I-7, PR at I-5.

<sup>36</sup> See Petition at 17; CR at I-9, PR at I-6; Tr. at 35-36 (Mr. Nelson).

## 6. Price

The record shows significant price differences between APMs and the other types of masks. Invar aperture masks, whether for TV tubes or computer tubes, appear to be priced significantly higher than comparably-sized APMs, although the parties disagree as to exactly how much higher.<sup>37</sup> Moreover, AK steel aperture masks for computer tubes are apparently priced approximately \*\*\* times higher than comparably-sized APMs.<sup>38</sup> Finally, grille masks, whether for TV tubes or computer tubes, also appear to be significantly more expensive than APMs.<sup>39</sup>

## 7. Conclusion

For the reasons described above, we find a clear dividing line between APMs and the other types of aperture and grille masks. Accordingly, we define the domestic like product to include all APMs.<sup>40</sup>

### D. Domestic Industry

The domestic industry is defined as “the producers as a {w}hole of a domestic like product . . . .”<sup>41</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.<sup>42</sup> Based on our finding that the domestic like product consists of all APMs, we find that the domestic industry consists of the only domestic producer of APMs, BMC Industries, Inc. (“BMC”).

## III. NEGLIGIBLE IMPORTS

Imports from a subject country corresponding to a domestic like product that account for less than three percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.<sup>43</sup> The statute also provides that, even if imports are found to be negligible for purposes of present material injury, they shall not be treated as negligible for purposes of a threat analysis should the Commission determine that there is a potential that imports from the country concerned will imminently account for more than three percent of all such merchandise imported into the United States.<sup>44</sup> By operation of law, a

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<sup>37</sup> Compare Petition at 14 with Japanese Respondents Postconference Brief at Exhibit 15 p. 12.

<sup>38</sup> Petitioner's Postconference Brief at 23.

<sup>39</sup> Petitioner's Producer Questionnaire Response at Part II, Response to Question II-9.

<sup>40</sup> Commissioner Crawford notes that for purposes of these preliminary investigations she finds a single domestic like product consisting of all APMs. However, had there been any final phase investigations, she would have further explored the like product issues raised by these investigations.

<sup>41</sup> 19 U.S.C. § 1677(4)(A).

<sup>42</sup> See United States Steel Group v. United States, 873 F. Supp. 673, 681-684 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

<sup>43</sup> 19 U.S.C. § 1677(24)(I).

<sup>44</sup> 19 U.S.C. § 1677(24)(A)(iv).



finding of negligibility terminates the Commission's investigations with respect to such imports.<sup>45</sup> The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.<sup>46</sup>

Negligibility is an issue in these investigations with respect to imports from Korea. To evaluate negligibility, we have used APM imports for consumption based on importer questionnaire responses for calendar year 1998, the most recent 12-month period preceding the filing of the petition for which such data are available.<sup>47</sup> Based on importer questionnaire responses, subject imports from Korea were less than the three percent negligibility threshold and accounted for only \*\*\* percent of the volume of all APMs imported into the United States during calendar year 1998.<sup>48</sup>

We also do not find, pursuant to 19 U.S.C. § 1677(24)(A)(iv), that subject imports from Korea will imminently account for more than three percent of the total volume of APM imports. Korea's share of total imports was \*\*\* and \*\*\* percent in 1996 and 1997, respectively, and then declined to \*\*\*

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<sup>45</sup> 19 U.S.C. § 1673b(a)(1).

<sup>46</sup> 19 U.S.C. § 1677(24)(C). See also The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. 103-316, Vol. 1, at 856 (1994) ("SAA").

<sup>47</sup> The importers that responded to the Commission's questionnaire are believed to account for 100 percent of U.S. imports during calendar year 1998. CR at I-2, IV-1, PR at I-2, IV-1. No public database is available that can be reliably used to calculate negligibility in these investigations. APMs are imported under HTSUS tariff subheading 8540.91.50, a "basket" category, "Parts of Cathode Ray Tubes, Other," which contains numerous types of non-subject merchandise, including not only other, nonsubject aperture and grille masks (whether for TV tubes or computer tubes and whether made from AK steel or Invar), but also other parts of cathode ray tubes (e.g., liners, ferrite cores, cross arms and correctors of television deflection yokes). See Petition at 5 and n.3, and Exhibit 9; Petitioner's March 11, 1999 Supplemental Filing at 11.

<sup>48</sup> CR at IV-2 and Table IV-1, PR at IV-2. We note that the petitioner has alleged that Korean APMs are being transhipped through Brazil and Mexico, based on publicly available import statistics (which indicate increases in imports from Brazil and Mexico in the HTSUS tariff subheading under which APMs are imported) and two bills of lading indicating shipments by the Korean producer to TV picture tube manufacturers in Brazil and Mexico. See Petition at 8; Petitioner's March 11, 1999 Supplemental Filing at 7 and Exhibit 5; Tr. at 40 (Ms. Levinson). We have found no evidence of transshipments, nor has the petitioner substantiated these allegations. The Commission's questionnaires requested information from importers and purchasers regarding transshipments. Importer/Purchaser Questionnaire at pp. 6, 12, 19, 21, 23. Significantly, "{t}here were no reported transshipments of Japanese or Korean APMs through other countries." CR at IV-2, PR at IV-1. Moreover, neither the Korean nor Japanese foreign producer respondents were aware of any transshipments through Brazil or Mexico, and the Korean producer submitted letters from its Brazilian and Mexican customers in which the customers deny that they have transhipped any APMs to the United States. Tr. at 91-92 (Mr. House), 119 (Mr. Loeb); Korean Respondent's Postconference Brief at 9 and Exhibit 4. In addition, simply because the HTSUS basket category under which APMs are imported shows increasing imports from Brazil and Mexico does not establish that transshipments of subject merchandise are occurring, because numerous products other than APMs are imported under this category. Moreover, this HTSUS data is being reported as product of Mexico and Brazil, not product of Korea. See Petition at Exhibit 7. Finally, we also note that the two bills of lading the petitioner provided in a supplemental filing do not show any transshipments of Korean APMs through Brazil or Mexico to the United States, but instead simply show shipments of APMs from Korea to Brazil and Mexico. See Petitioner's March 11, 1999 Supplemental Filing at 7 and Exhibit 5. As noted by the Korean respondent, the bill of lading with respect to Mexico shows that APMs are \*\*\*. Korean Respondents' Postconference Brief at 9 and Exhibit 4. None of this evidence shows any indication of transshipments through Brazil and Mexico to the United States.

percent in 1998.<sup>49</sup> Similarly, imports of the subject merchandise from Korea increased from \*\*\* masks in 1996 to \*\*\* masks in 1997, and then declined by nearly \*\*\* percent in 1998 (compared to the 1996 level) to \*\*\* masks.<sup>50</sup> The fact that Zenith ceased production in 1998 appears to be the reason for the nearly \*\*\* percent decline in subject imports from Korea.<sup>51</sup> In fact, Zenith, which is affiliated with the sole Korean producer, LG Micron, was LG Micron's only customer for virtually all of the investigation period.<sup>52</sup> There have not been any U.S. sales, or even contracts for U.S. sales, of APMs from Korea since February 1998.<sup>53</sup> Nor have there been any subject Korean imports thus far in 1999, and the Korean respondent projects \*\*\* sales to the United States for 1999 and 2000.<sup>54</sup>

Excess capacity in Korea is limited and it does not appear that LG Micron will imminently increase shipments to the United States. LG Micron reports high capacity utilization rates of \*\*\* percent in 1996, \*\*\* percent in 1997, \*\*\* percent in 1998, and projects its capacity utilization rate to be \*\*\* percent for both 1999 and 2000.<sup>55</sup> Throughout the period of investigation, LG Micron's home market and other markets have been \*\*\* more significant than its U.S. exports.<sup>56</sup>

Moreover, although LG Micron reports that it produces \*\*\* on the same production equipment it uses to produce APMs, there is no indication that it intends to shift from the production of \*\*\* to the production of APMs.<sup>57</sup> LG Micron's end-of-period inventories have also declined from \*\*\* masks in 1996 to \*\*\* in 1997, and declined again to \*\*\* in 1998.<sup>58</sup> In addition, U.S. importers reported \*\*\* end-of-period inventories of subject Korean merchandise in 1997 and 1998.<sup>59</sup>

Finally, there is no confirmed evidence that the Korean producer has bid for 1999 sales. Although petitioner argued that LG Micron bid in 1998 for a sale to Thomson Consumer Electronics in 1999,<sup>60</sup> both Thomson and LG Micron denied that this occurred. Instead, they asserted that \*\*\*.<sup>61</sup>

Accordingly, we find no potential that subject imports from Korea will imminently exceed the three percent negligibility threshold, and the investigation with respect to Korea is therefore terminated.

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<sup>49</sup> CR at Table IV-1.

<sup>50</sup> CR at Table IV-1.

<sup>51</sup> See Korean Respondents' Postconference Brief at 11-12; Tr. at 123 (Mr. House).

<sup>52</sup> CR at VII-4 n.5, PR at VII-2; Korean Respondent's Postconference Brief at 11 and n.22.

<sup>53</sup> LG Micron's last shipment to the United States consisted of \*\*\* masks in February 1998. Korean Respondent's Postconference Brief at 2, 13.

<sup>54</sup> Korean Respondent's Postconference Brief at 11; Tr. at 123-24 (Mr. House); CR at Table VII-2.

<sup>55</sup> CR at Table VII-2.

<sup>56</sup> As a share of its total APM shipments, LG Micron's U.S. exports were \*\*\* percent in 1996, \*\*\* percent in 1997, \*\*\* percent in 1998, and are projected to be \*\*\* percent in 1999 and 2000. See CR at Table VII-2.

<sup>57</sup> CR at VII-4, PR at VII-2.

<sup>58</sup> CR at Table VII-2. LG Micron projects end-of-period inventories of \*\*\* APMs in 1999 and \*\*\* in 2000. CR at Table VII-2.

<sup>59</sup> CR at Table VII-3.

<sup>60</sup> Petitioner's Postconference Brief at 17; Tr. at 127 (Mr. Nelson); CR at V-29, PR at V-5.

<sup>61</sup> Korean Respondents' Postconference Brief at 12 n.23; Thomson's Postconference Brief at 2; CR at V-29, PR at V-5; Tr. at 123-24 (Mr. Deyman, Mr. House).

#### IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS<sup>62</sup>

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.<sup>63</sup> <sup>64</sup> 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.<sup>65</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial or unimportant.”<sup>66</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on

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<sup>62</sup> Because the investigation with respect to Korea is terminated, the exception to cumulation based on terminated investigations applies. See 19 U.S.C. § 1677(7)(G)(ii)(II). Accordingly, we do not cumulate subject Korean imports for purposes of our analysis of material injury and threat of material injury concerning subject imports from Japan.

<sup>63</sup> 19 U.S.C. § 1673b(a).

<sup>64</sup> Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is “materially injured by reason of” the allegedly 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 unfairly traded imports, not by reason of the unfairly traded 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. 96-249, at 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. 96-317, at 46-47 (1979). The Commission is not to determine if the unfairly traded 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 unfairly traded 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. 100-71, at 116 (1987) (emphasis added); Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997) (rehearing denied).

For a detailed description and application of Commissioner Crawford’s analytical framework, see Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 731-TA-763-766 (Final), USITC Pub. 3087 at 29 (March 1998) and Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 35 (April 1997). 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’d 873 F. Supp. 673, 694-95 (Ct. Int’l Trade 1994).

<sup>65</sup> 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). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

<sup>66</sup> 19 U.S.C. § 1677(7)(A).

the state of the industry in the United States.<sup>67</sup> 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.”<sup>68</sup>

For the reasons discussed below, we determine that there is no reasonable indication that the domestic industry producing APMs is materially injured by reason of subject imports from Japan.

#### A. Conditions of Competition

The following conditions of competition are pertinent to our analysis in these investigations. First, because APMs are component parts that are used in TV picture tubes, which in turn are used in television sets, the demand for APMs is a derived demand that is dependent on the consumption of TV picture tubes and televisions.

Second, in the U.S. market for APMs, the production and purchases of APMs are concentrated. The petitioner, BMC, is the only U.S. producer. There were six U.S. purchasers (i.e., TV picture tube manufacturers) of APMs during much of the period of investigation. During 1998, Zenith Electronics, which had been an important U.S. purchaser, ceased U.S. production operations.<sup>69</sup>

Third, downstream competition among TV picture tube manufacturers, and falling television prices, have led to efforts by tube producers to reduce all component costs, including the costs of APMs. This, coupled with the derived demand for APMs and the limited number of U.S. purchasers, has led to substantial downward price pressure for all suppliers of TV picture tube components, including APM manufacturers.<sup>70</sup>

Fourth, \*\*\* U.S. purchasers now employ a dual sourcing policy.<sup>71</sup> Under this policy, U.S. purchasers maintain at least two sources of supply for masks. During 1998, \*\*\* was \*\*\* purchaser to implement a dual sourcing policy in the bid negotiations for 1999 sales.<sup>72</sup>

Fifth, both petitioner and respondents agree that, in contrast to the beginning of the period of investigation, there is significant global overcapacity for production of APMs. The domestic producer nearly \*\*\* its production capacity in 1997, apparently in anticipation of increased demand for APMs. Domestic capacity increased from \*\*\* million masks in 1996 to \*\*\* million masks in 1997, and then declined somewhat in 1998 to \*\*\* million masks, nearly \*\*\* the 1996 level.<sup>73</sup> Over the same period, apparent U.S. consumption of APMs declined, from 21.3 million in 1996 to 20.1 million in 1998.<sup>74</sup> Thus, the increase in demand that BMC apparently anticipated has yet to materialize, leaving the

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<sup>67</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>68</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>69</sup> See CR at II-1 and V-17, PR at II-1 and V-4.

<sup>70</sup> See, e.g., Japanese Respondents' Postconference Brief at 13-16; Thomson's Postconference Brief at 4; American Matsushita's Postconference Brief at 2-3; Tr. at 81-83 (Mr. Wechsler), 117 (Mr. Doerschuk).

<sup>71</sup> See Tr. at 63-64 (Ms. Mizelle, Mr. Doerschuk), 83 (Mr. Wechsler); CR at II-7, V-9, V-17, PR at II-4, V-4. Two U.S. purchasers, Thomson Consumer Electronics and American Matsushita Electronics Corporation, explain that dual sourcing was established in order to avoid supply disruptions that would occur if there were unforeseen problems with a sole-source supplier. These purchasers observed that they had actually experienced problems with particular APM producers and that dual sourcing had enabled them to continue high-quality operations. Thomson's Postconference Brief at 3; American Matsushita's Postconference Brief at 1-2.

<sup>72</sup> CR at V-9, PR at V-4.

<sup>73</sup> CR at Table III-1.

<sup>74</sup> CR at Table C-1.

domestic industry with significant unused capacity since approximately 1997. Consequently, the domestic industry's capacity utilization rate fell \*\*\* from \*\*\* percent in 1996 to \*\*\* percent in 1997, before increasing somewhat in 1998, to \*\*\* percent.<sup>75</sup>

Finally, exports have accounted for a significant volume of the domestic industry's overall APM shipments throughout the investigation period.<sup>76</sup> The domestic industry's export shipments increased from \*\*\* million masks in 1996 to \*\*\* million masks in 1997, and increased again to \*\*\* million masks in 1998.<sup>77</sup> Export shipments accounted for \*\*\* percent of the industry's overall shipments in 1996, \*\*\* percent in 1997, then declined somewhat in 1998 to \*\*\* percent.<sup>78</sup>

## **B. Volume of the Subject Imports**<sup>79</sup>

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."<sup>80</sup>

The volume of subject imports from Japan has declined \*\*\* during the period examined. Subject imports declined by more than \*\*\* percent from 1996 to 1998, increasing from \*\*\* million masks in 1996 to \*\*\* million masks in 1997, and then declining by more than \*\*\* percent (compared to 1996) to \*\*\* million masks in 1998.<sup>81</sup> Likewise, U.S. shipments of subject imports from Japan also declined over the period of investigation, increasing from \*\*\* million masks in 1996 to \*\*\* million masks in 1997, and then declining by more than \*\*\* percent (compared to 1996) to \*\*\* million masks in 1998.<sup>82</sup> As subject import volumes fell, apparent U.S. consumption modestly declined, from 21.3 million APMs in 1996, to 21.2 million APMs in 1997, to 20.1 million APMs in 1998, for a net decrease in consumption from 1996 to 1998 of 5.5 percent.<sup>83</sup> As a result, the imports from Japan lost market share, while the domestic industry \*\*\* increased its market share over the same period. The share of apparent U.S. consumption by quantity held by subject imports from Japan, after increasing from \*\*\* percent in 1996 to \*\*\* percent

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<sup>75</sup> CR at Table III-1; see also CR at III-5 n.8 ("BMC reported in its 1997 annual report that during the start-up phase of its new {TV tube} and {computer tube} production lines in 1997, the performance of all production lines, including the existing lines, suffered.").

<sup>76</sup> Chairman Bragg did not consider the role of U.S. exports in her analysis, and does not join any discussion of U.S. exports contained in these views.

<sup>77</sup> CR at Table III-2.

<sup>78</sup> CR at Table III-2.

<sup>79</sup> Commissioner Crawford finds that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain aperture masks from Japan. Accordingly, she does not join the remainder of this opinion. See Dissenting Views of Commissioner Carol T. Crawford Regarding Imports from Japan.

<sup>80</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>81</sup> CR at Table IV-1. By value, subject imports also declined by more than \*\*\* percent from 1996 to 1998, increasing from \$\*\*\* million in 1996 to \$\*\*\* million in 1997, and then declining \*\*\* to \$\*\*\* million in 1998. CR at Table IV-1.

<sup>82</sup> CR at Table C-1. By value, U.S. shipments of Japanese imports also fell \*\*\* from 1996 to 1998, increasing from \$\*\*\* million in 1996 to \$\*\*\* million in 1997, and then declining to \$\*\*\* million in 1998. CR at Table C-1.

<sup>83</sup> CR at Table C-1. By value, U.S. consumption has also declined somewhat, from \$89.7 million in 1996, to \$88.5 million in 1997, to \$80.6 million in 1998, for an overall decline of 10.2 percent from 1996 to 1998. CR at Table C-1.

in 1997, then declined to \*\*\* percent in 1998.<sup>84</sup> U.S. shipments accounted for \*\*\* percent of apparent U.S. consumption in 1996, \*\*\* percent in 1997, and increased to \*\*\* percent in 1998.<sup>85</sup>

By any measure Japanese imports have declined \*\*\* in 1998, the most recent year examined. BMC has captured significant sales and market share from the subject imports from Japan in the same year. In light of the foregoing, we find that the volume of imports of the subject merchandise from Japan is not significant.

### C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether -- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>86</sup>

APMs are made to particular specifications, based on the customer's mask pattern, size, and thickness.<sup>87</sup> Domestic and Japanese APMs manufactured to similar specifications are generally interchangeable. Purchasers consider price to be an important factor in APM purchasing decisions, although a number of other factors, such as quality, delivery, reliability of supply, and dual sourcing, also play a significant role.<sup>88</sup> APMs are typically sold on the basis of yearly supply contracts, and purchasers (i.e., TV picture tube manufacturers) seek bids from mask suppliers "late in the calendar year for the following year's supply."<sup>89</sup> Purchasers use a negotiated bidding process to obtain favorable pricing terms from mask suppliers. The bidding process typically consists of two rounds of bidding (i.e., initial and final bids).<sup>90</sup> In addition, it is not uncommon for companies to know other companies' bid values.<sup>91</sup> \*\*\*<sup>92</sup>

APM prices have declined throughout the period of investigation.<sup>93</sup> However, we find that subject imports from Japan have not depressed prices to a significant degree, nor have they significantly

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<sup>84</sup> CR at Table C-1. By value, the share of U.S. consumption held by subject imports from Japan fell from 1996 to 1998, increasing from \*\*\* percent in 1996 to \*\*\* percent in 1997, and then declining to \*\*\* percent in 1998. CR at Table C-1.

<sup>85</sup> CR at Table C-1.

<sup>86</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>87</sup> See CR at I-3, PR at I-2.

<sup>88</sup> See CR at II-7-8, PR at II-4.

<sup>89</sup> CR at V-3, PR at V-1.

<sup>90</sup> CR at V-3, PR at V-1.

<sup>91</sup> CR at V-4, PR at V-1.

<sup>92</sup> CR at V-4-5, PR at V-3.

<sup>93</sup> For purposes of these investigations, BMC was requested to provide its ten largest bids and U.S. purchasers and importers were requested to provide information on their five largest bids for APMs for each year from 1996 to 1998. CR at V-5, PR at V-3. Based on the bidding data collected, virtually all APM prices have declined from 1996 to 1998. For instance, BMC's price for 27V masks sold to American Matsushita Electronics Corporation declined from \$\*\*\* per mask in 1996 to \$\*\*\* in 1997, and to \$\*\*\* in 1998. CR at Table V-1; see generally CR at Tables V-1, V-2, V-3, V-4, V-5, and V-6.

undersold the domestic product. As discussed above, the domestic industry gained \*\*\* market share and the volume of Japanese imports declined \*\*\* during the investigation period. This indicates that it was the domestic industry, not Japanese producers or importers, that priced its APMs sufficiently low to capture significant sales and increase its market share. Moreover, the declining prices also resulted from downstream competition in the TV picture tube and television industries that have, to a significant degree, pressed for lower prices from all suppliers, including mask suppliers.<sup>94</sup> TV picture tube manufacturers, who are the purchasers of APMs, cited pressure from television manufacturers to reduce prices for TV tubes.<sup>95</sup> Finally, the available bidding data does not establish a clear pattern of underselling or overselling by Japanese producers and importers.<sup>96</sup> In sum, in our view the price declines during the period examined result from the price-competitive environment in the downstream TV picture tube and television markets, as well as from pricing by BMC that was sufficiently low to maintain, or even \*\*\* gain, U.S. market share, after it had nearly \*\*\* its capacity, rather than from significant price depression caused by subject imports.<sup>97</sup>

For the reasons given above, we find that the subject imports are not having significant adverse price effects on domestically produced APMs.

#### **D. Impact of the Subject Imports on the Domestic Industry**

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.” 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

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<sup>94</sup> We note in that regard that Thomson Consumer Electronics provided charts to the Commission indicating that the prices of other component parts of TV picture tubes (even those for which there apparently was no significant import competition) have declined at the same time as APM prices have declined. See Thomson’s Post Conference Brief at 4 and Exhibit B. Moreover, the Japanese respondents provided evidence that prices for television sets have also declined in recent years. See Japanese Respondents’ Postconference Brief at Exhibit 8.

<sup>95</sup> See, e.g., Japanese Respondents’ Postconference Brief at 13-16; Thomson’s Postconference Brief at 4; American Matsushita’s Postconference Brief at 2-3; Tr. at 81-83 (Mr. Wechsler), 117 (Mr. Doerschuk).

<sup>96</sup> See CR at Table V-1, V-2, V-3, V-4, V-5, and V-6.

<sup>97</sup> As discussed above (see supra at p. 20), export sales were a significant part of the domestic industry’s overall sales during the period examined. Although there may be some differences in product mix between export and domestic sales, we note that the unit value of the domestic industry’s export shipments declined \*\*\* more rapidly than the unit value of its domestic shipments from 1996 to 1998. See CR at Tables III-2 and C-1 (indicating that the unit values of the domestic industry’s U.S. shipments declined from \$\*\*\* in 1996, to \$\*\*\* in 1997, to \$\*\*\* in 1998; whereas the domestic industry’s unit values of export shipments were \$\*\*\* in 1996, increased to \$\*\*\* in 1997, and then declined \*\*\* to \$\*\*\* in 1998). Accordingly, it appears that the domestic industry’s prices did not decline as \*\*\* in the U.S. market as its prices did in the export market. Any decline in the domestic industry’s export prices could not have been caused by subject imports. As previously noted, Chairman Bragg does not join any discussion of U.S. exports contained in these views. See supra at n. 76.

“within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>98 99 100</sup>

Consistent with our finding that the volume of the subject imports was not significant, and that the subject imports did not have significant effects on prices for domestically produced APMs, we find that the subject imports are not having a significant adverse impact on the domestic industry.

The domestic industry \*\*\* increased its market share over the period examined.<sup>101</sup> Likewise, the domestic industry’s production and shipments increased, and, as mentioned, capacity nearly \*\*\*.<sup>102</sup> Similarly, employment indicators all improved.<sup>103</sup>

The domestic industry’s operating income declined \*\*\* over the period of investigation. Operating income declined from \$\*\*\* million in 1996, to \$\*\*\* million in 1997, and then declined \*\*\* to \$\*\*\* million in 1998.<sup>104</sup> Similarly, the ratio of operating income to net sales declined from \*\*\* percent in 1996 to \*\*\* percent in 1997 and then declined \*\*\* to \*\*\* percent in 1998.<sup>105</sup>

In our view, however, the worsening income performance of the domestic industry resulted not from import competition, but rather from \*\*\* increasing costs. While overall net sales, both in terms of quantity and value, increased from 1996 to 1998, the domestic industry’s cost of goods sold, including raw materials, direct labor, and other factory costs, increased \*\*\*.<sup>106</sup> The domestic industry’s cost of

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<sup>98</sup> 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25, n.148 (Feb. 1999).

<sup>99</sup> As part of its consideration of the impact of imports, the statute specifies that the Commission is to consider “the magnitude of the margin of dumping” in an antidumping proceeding. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce identified estimated dumping margins for Japan ranging from 3.77 to 85.34 percent. 64 Fed. Reg. at 13770.

<sup>100</sup> Chairman Bragg notes that she does not ordinarily consider the magnitude of 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).

<sup>101</sup> CR at Table C-1.

<sup>102</sup> While the domestic industry’s capacity utilization rate declined from 1996 to 1998, we give less weight to this factor in light of the \*\*\* increases in domestic capacity during the period examined. See CR at Table III-1. The domestic industry’s production increased from \*\*\* million masks in 1996, to \*\*\* million masks in 1997, and to \*\*\* million masks in 1998. CR at Table III-1. Capacity increased from \*\*\* million masks in 1996, to \*\*\* million masks in 1997, then declined \*\*\* in 1998 to \*\*\* million masks in 1998, for a total increase of \*\*\* percent from 1996 to 1998. CR at Table III-1. The domestic industry’s U.S. commercial shipments were \*\*\* million APMs in 1996, declined to \*\*\* million APMs in 1997, then increased above the 1996 level to \*\*\* million APMs in 1998. CR at Table III-1.

<sup>103</sup> Employment increased by more than \*\*\* percent from 1996 to 1998, with the number of production and related workers increasing from \*\*\* workers in 1996, to \*\*\* workers in 1997, and to \*\*\* workers in 1998; hours worked, wages paid, and hourly wages all increased as well. CR at Table III-4.

<sup>104</sup> CR at Table VI-1.

<sup>105</sup> CR at Table VI-1.

<sup>106</sup> The quantity of net sales was \*\*\* million APMs in 1996, declined to \*\*\* million APMs in 1997, and then increased above the 1996 level to \*\*\* million APMs in 1998. The value of net sales increased from \$\*\*\* million in 1996 to \$\*\*\* million in 1997, and then increased again to \$\*\*\* million in 1998. At the same, total costs of goods sold increased from \$\*\*\* million in 1996 to \$\*\*\* million in 1997, and then increased \*\*\* to \$\*\*\* million in 1998. The components of costs of goods sold all rose as well: raw materials increased from \$\*\*\* million in 1996, to \$\*\*\* million in 1997, to \$\*\*\* million in 1998; direct labor was \$\*\*\* million in 1996 and \$\*\*\* million in 1997, and then

(continued...)



goods sold per mask also increased \*\*\*, from \$\*\*\* per mask in 1996, to \$\*\*\* in 1997, and to \$\*\*\* in 1998.<sup>107</sup> The domestic industry's increasing costs resulted in large part from increases in factory overhead costs caused by \*\*\* in 1998, which followed on the heels of the nearly \$\*\*\* million in capital expenditures that BMC incurred in 1996 and 1997 to increase its production capacity, and \*\*\* appear to result from that over-capacity.<sup>108</sup> Indeed, at the same time as the domestic industry's costs were increasing in 1998 compared to 1996 and 1997 levels, the volume of subject imports was declining by more than half its 1996 level. While falling APM prices may have also played a role in the industry's financial performance, we found above that there was no significant price effect by subject imports, but that other factors were responsible for falling prices.<sup>109</sup>

We thus find that the subject imports are not having an adverse impact on the domestic industry.

#### **E. Conclusion**

For the reasons stated above, we find that there is no reasonable indication that the domestic industry is materially injured by reason of subject imports from Japan.

#### **V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS**<sup>110</sup>

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."<sup>111</sup> The Commission may not make

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<sup>106</sup>(...continued)

increased \*\*\* to \$\*\*\* million in 1998; and other factory costs increased \*\*\* as well from \$\*\*\* million in 1996, to \$\*\*\* million in 1997, to \$\*\*\* million in 1998. See generally CR at Table VI-1.

<sup>107</sup> CR at Table VI-2. On a per-mask basis, two of the three components of cost of goods sold increased from 1996 to 1998. Raw material costs were \$\*\*\* per mask in 1996, \$\*\*\* in 1997, and \$\*\*\* in 1998. Direct labor costs increased from \$\*\*\* per mask in 1996, to \$\*\*\* in 1997, and to \$\*\*\* in 1998. Other factory costs increased \*\*\* from \$\*\*\* per mask in 1996, to \$\*\*\* in 1997, and to \$\*\*\* in 1998. CR at Table VI-2.

<sup>108</sup> See CR at VI-3-4, PR at VI-1-2; Japanese Respondent's Postconference Brief at 11-13; BMC's SEC Form 10-K for Fiscal Year 1998 (Mar. 31, 1999) (attributing the shutdown in mask production lines to the "imbalance of mask supply and demand").

<sup>109</sup> BMC's financial data include operations on export sales. As noted above, the decline in unit values on export sales — which cannot be attributed to the subject imports' effects — was \*\*\* more significant than the decline in unit values of BMC's domestic sales. As previously noted, Chairman Bragg does not join any discussion of U.S. exports contained in these views.

<sup>110</sup> Commissioner Koplan finds a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports from Japan. Accordingly, he does not join the remainder of this opinion. See Dissenting Views of Commissioner Stephen Koplan Regarding Imports from Japan.

<sup>111</sup> 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

such a determination “on the basis of mere conjecture or supposition,”<sup>112</sup> and considers the threat factors “as a whole.”<sup>113</sup> In making our determination, we have considered all factors<sup>114</sup> that are relevant to these investigations.<sup>115</sup>

Based on an evaluation of the relevant statutory factors, we find no reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports from Japan.

As discussed in our material injury analysis above, the volume of subject imports has declined by more than \*\*\* from 1996 to 1998, and the market penetration of subject imports has also declined \*\*\* during the same period. These decreases do not indicate “a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports.”<sup>116</sup> Indeed, a \*\*\* import volume and market share are the opposite of what one would expect to see in a situation of threat of material injury.

The Japanese producers project that their exports to the United States will increase from 1998 to 1999 and 2000, to \*\*\* million APMs and \*\*\* million APMs, respectively.<sup>117</sup> These projections, however, are essentially on a par with the U.S. volume levels that the Japanese producers obtained in 1996 and are lower than their volumes in 1997 (both years in which BMC acknowledges that it was not experiencing material injury).<sup>118</sup> Accordingly, the Japanese producers’ projected volumes in 1999 and 2000 do not show a significant rate of increase in the volume or market penetration of subject imports indicating the likelihood of substantially increased subject imports in the imminent future.

Moreover, the Japanese producers’ projected volumes in 1999 and 2000 may be overstated. U.S. purchasers predict increases over 1998 levels in their 1999 purchases of subject Japanese imports that are significantly less than those projected by the Japanese producers themselves. Specifically, U.S. purchasers predict purchasing \*\*\* million Japanese APMs in 1999, an increase from reported purchases of \*\*\* million APMs from Japan in 1998.<sup>119</sup> The purchasers’ projected increase is on a par with their

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<sup>112</sup> 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon “positive evidence tending to show an intention to increase the levels of importation.” Metallwerken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int’l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int’l Trade 1984). See also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int’l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

<sup>113</sup> 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 184.

<sup>114</sup> 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 185.

<sup>115</sup> 19 U.S.C. § 1677(7)(F)(i). Factor I regarding countervailable subsidies and Factor VII regarding raw and processed agriculture products are inapplicable to the product at issue. See 19 U.S.C. § 1677(7)(F)(i)(I) and (VII).

<sup>116</sup> 19 U.S.C. § 1677(7)(F)(i)(III).

<sup>117</sup> CR at Table VII-1.

<sup>118</sup> Tr. at 126 (Mr. Nelson). The Japanese producers’ exports to the United States increased from \*\*\* million APMs in 1996 to \*\*\* million APMs in 1997, and then declined dramatically to \*\*\* million APMs in 1998. CR at Table VII-1. Similarly, the volume of subject Japanese imports increased from \*\*\* million masks in 1996 to \*\*\* million masks in 1997, and then declined dramatically to \*\*\* million masks in 1998. CR at Table IV-1.

<sup>119</sup> See CR at V-27, PR at V-5.

reported mask purchases in 1996 and significantly less than their mask purchases in 1997.<sup>120</sup> Although purchasers' projections are based in part on the negotiated bidding process and consist of \*\*\*,<sup>121</sup> U.S. purchasers could well be in a better position to anticipate their own needs in 1999 than are the Japanese producers.<sup>122</sup> We also note that the vast majority of the gain projected for Japanese producers for 1999 sales is accounted for by one U.S. purchaser, \*\*\*, and appears to result from that company adopting a dual sourcing policy, rather than by reason of allegedly LTFV imports.<sup>123</sup> Just prior to the 1998 bidding cycle for 1999 sales, \*\*\* was alone among mask purchasers in using \*\*\*.<sup>124</sup> U.S. purchasers' projected increases in purchases of subject Japanese product in 1999 over 1998 levels therefore do not show a significant rate of increase in the volume or market penetration of subject imports indicating the likelihood of substantially increased subject imports in the imminent future, particularly in light of the level of purchases of subject Japanese product in 1996 and 1997.

Japanese producers also project declines in capacity and increases in capacity utilization in 1999 and 2000 over 1998 levels, and these projections will be on a par with the Japanese producers' capacity and capacity utilization levels in 1996 and 1997.<sup>125</sup> Moreover, although Japanese shipments to the United States, relative to total Japanese shipments, are projected to increase in 1999 and 2000 over 1998 levels, they will be on a par with levels in 1996 and 1997.<sup>126</sup> Third-country markets have also been very significant for the Japanese producers from 1996 to 1998 and are projected to remain so in 1999 and 2000.<sup>127</sup> We therefore do not find that producers in Japan have a substantial amount of excess capacity or underutilized capacity that may permit them to substantially increase exports to the United States in the imminent future, particularly in light of the significance of the Japanese producers' other export markets and the pattern of the Japanese producers' U.S. shipments from 1996 to 1998 and as projected for 1999 and 2000.

As discussed in our material injury analysis above, APM prices have steadily declined over the period examined, and exhibit no clear pattern of underselling and overselling by the Japanese producers.<sup>128</sup> The pattern holds true for 1998 bid information, which pertains to 1999 sales of APMs. However, we have found that subject imports did not have significant negative price effects in our present material injury analysis, and we have no reason to now attribute to subject imports the likely

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<sup>120</sup> See CR at V-27 (U.S. purchasers reported purchasing \*\*\* million Japanese APMs in 1996 and \*\*\* million in 1997), PR at V-5.

<sup>121</sup> See CR at V-4-5, PR at V-3.

<sup>122</sup> In any event, we have found just above that even the Japanese producers' projections do not support a determination of a reasonable indication of a threat of material injury.

<sup>123</sup> See CR at Table V-9.

<sup>124</sup> See CR at V-9, PR at V-4.

<sup>125</sup> The Japanese producers' production capacity increased from \*\*\* million APMs in 1996 to \*\*\* million APMs in 1997, and increased again to \*\*\* million APMs in 1998, but capacity is projected to decline to \*\*\* million APMs and \*\*\* million APMs in 1998 and 1999, respectively. CR at Table VII-1. The Japanese producers' capacity utilization rates \*\*\* declined from \*\*\* percent in 1996, to \*\*\* percent in 1997, to \*\*\* percent in 1998, but are projected to increase to \*\*\* percent in 1997 and to \*\*\* percent in 2000. CR at Table VII-1.

<sup>126</sup> Japanese producers' exports to the United States accounted for \*\*\* percent of their total shipments in 1996, \*\*\* percent in 1997, \*\*\* percent in 1998, and are projected to account for \*\*\* percent and \*\*\* percent of total shipments in 1999 and 2000, respectively. CR at Table VII-1.

<sup>127</sup> As a share of total shipments, Japanese producers' exports to third-country markets were \*\*\* percent in 1996, \*\*\* percent in 1997, \*\*\* percent in 1998, and are projected to be \*\*\* percent in 1999 and \*\*\* percent in 2000. CR at Table VII-1.

<sup>128</sup> CR at V-7-19 and Tables V-1, V-2, V-3, V-4, V-5, and V-6, PR at V-3-4.

1999 price declines for purposes of analyzing threat of material injury. As previously discussed, in our view the price declines that have occurred do not result from subject imports, but rather from price pressure from downstream users of APMs, and from the efforts of the domestic producer to win additional market share. Again, we have no reason to believe that the reasons for the current price conditions will change in the imminent future.

Although Japanese producers manufacture other types of aperture and grille masks on the same production equipment used to manufacture APMs, there is no evidence that they intend to shift production from those other types of masks to the production of APMs.<sup>129</sup> In addition, inventory levels do not appear to be a significant factor in these investigations, given that APMs are made to the specifications of particular customers and there are no “off the shelf” APMs.<sup>130</sup> The levels of inventories of the subject merchandise held by importers relative to total imports declined over the period examined, and the ratios of inventories held by foreign producers to their production has remained relatively stable.<sup>131</sup>

Nor do we find that subject imports are likely to have an actual or potential negative effect on the domestic industry’s existing development and production efforts. As previously discussed, the domestic industry \*\*\* increased its production capacity during the investigation period. Since the \*\*\* increase in capacity, capital expenditures have declined and there is no indication that the domestic industry intends to increase capacity further or engage in other major capital expenditures in the imminent future.<sup>132</sup> Furthermore, the domestic industry’s R&D expenses “\*\*\*.”<sup>133</sup>

In sum, we find no reasonable indication that the domestic industry producing APMs is threatened with material injury by reason of subject imports from Japan.

## CONCLUSION

For the foregoing reasons, we determine that there is no reasonable indication that the domestic industry producing certain aperture masks is materially injured or threatened with material injury by reason of imports of certain aperture masks from Japan that are allegedly sold in the United States at less than fair value.

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<sup>129</sup> CR at VII-3-4 (indicating that \*\*\* of the Japanese producers produce \*\*\* on the same production equipment used to produce APMs), PR at VII-2.

<sup>130</sup> CR at I-3, PR at I-2.

<sup>131</sup> See CR at Table VII-3 (importers’ inventories relative to imports increased from \*\*\* percent in 1996 to \*\*\* percent in 1997, but then declined to \*\*\* percent in 1998); CR at Table VII-1 (the Japanese producers’ inventories relative to production were \*\*\* percent in 1996 and \*\*\* percent in 1997, increased to \*\*\* percent in 1998, and are projected to be \*\*\* percent and \*\*\* percent in 1999 and 2000, respectively).

<sup>132</sup> The domestic industry’s capital expenditures were \$\*\*\* million in 1996, \$\*\*\* million in 1997, and declined to \$\*\*\* million in 1998 after completion of the increase in capacity. See CR at II-2, III-2, VI-4, and Table VI-4, PR at II-1, III-1-2, VI-2.

<sup>133</sup> CR at VI-5, PR at VI-2; see also CR at Table VI-4 (the domestic industry’s R&D expenses were \$\*\*\* million in 1996, \$\*\*\* million in 1997, and \$\*\*\* million in 1996). We note that the petitioner asserted that it was attempting to develop a derivative or more advanced version of the domestic like product. See Petitioner’s Postconference Br. at 31 (noting that petitioner is currently \*\*\*). To the extent any shortfall exists in available funds for future product development efforts, such a situation would not be surprising in view of the nearly \$\*\*\* million BMC spent in 1996 and 1997 on increasing its capacity. CR at VI-4, PR at VI-2. In any event, we find this factor outweighed by the other factors indicating an absence of a reasonable indication of threat of material injury.

## IEWS OF COMMISSIONER CAROL T. CRAWFORD

On the basis of information obtained in this preliminary investigation, I determine that there is a reasonable indication that the industry in the United States producing certain aperture masks (“APMs”) is materially injured by reason of imports of APMs from Japan that allegedly are sold in the United States at less-than-fair-value (“LTFV”). I concur in my colleagues’ conclusion that subject imports from Korea are negligible. I also join my colleagues in the findings with respect to like product and domestic industry and in the discussion of the conditions of competition that are distinctive to the domestic industry. However, I do not concur in the majority’s determination that there is no reasonable indication that the industry in the United States is materially injured or threatened with material injury by reason of the subject imports. Rather, I determine that there is a reasonable indication that the industry in the United States producing APMs is materially injured by reason of allegedly LTFV imports of APMs from Japan. Because my analysis and determination differ from the majority, my separate views follow.

### I. ANALYTICAL FRAMEWORK

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

- (I) the volume of imports of the merchandise which is the subject of the investigation,
- (II) the effect of imports of that merchandise on prices in the United States for like products, and
- (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . . .<sup>1</sup>

In making its determination, the Commission may consider “such other economic factors as are relevant to the determination.”<sup>2</sup> In addition, the Commission “shall evaluate all relevant economic factors which have a bearing on the state of the industry . . . within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>3</sup>

The statute directs that we determine whether a domestic industry is materially injured “by reason of” the unfairly traded imports. Thus we are called upon to evaluate the effect of dumped imports on the domestic industry and determine if they are causing material injury. There may be, and often are, other “factors” that are causing injury. These factors may even be causing greater injury than the dumping. However, the statute does not require us to weigh or prioritize the factors that independently are causing material injury. Rather, the Commission is to determine whether any injury “by reason of” the unfairly traded imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. “When determining the effects 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.”<sup>4</sup> It is important, therefore, to assess the

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<sup>1</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>2</sup> 19 U.S.C. § 1677(7)(B)(ii).

<sup>3</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>4</sup> S. Rep. No. 100-71 at 116 (1987) (emphasis added); Gerald Metals, Inc. v. United States, 132 F.3d 716 (Fed. Cir. 1997) (rehearing denied).

effects of the unfairly traded imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare the current condition of the industry to the industry conditions that would have existed without the dumping, that is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury.<sup>5</sup>

In my analysis of material injury, I evaluate the effects of the dumping<sup>6</sup> on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of the dumping on the quantity of domestic sales,<sup>7</sup> I compare the level of domestic sales that existed when imports were dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales, and overall revenues is critical to determining the state of the industry, because the effects on the statutory impact factors<sup>8</sup> (*e.g.*, employment, wages, *etc.*) are derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales, and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, the domestic industry is materially injured by reason of the dumped imports.

For the reasons discussed below, I determine that there is a reasonable indication that the domestic industry producing APMs is materially injured by reason of allegedly LTFV imports of APMs from Japan.

## II. CONDITIONS OF COMPETITION

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the alleged dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

### A. Demand Conditions

An analysis of demand conditions tells us what options are available to purchasers, and how they are likely to respond to changes in market conditions, for example an increase in the general level of

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<sup>5</sup> 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 my mode of analysis, expressly holding that my 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, at 1361 (Fed.Cir. 1996), *aff’g* 873 F.Supp. 673, 694-695 (Ct. Int’l Trade 1994).

<sup>6</sup> As part of its consideration of the impact of imports, the statute as amended by the URAA now specifies that the Commission is to consider in an antidumping proceeding, “the magnitude of the margin of dumping.” 19 U.S.C. § 1677(7)(C)(iii)(V).

<sup>7</sup> In examining the quantity sold, I take into account sales from both existing inventory and new production.

<sup>8</sup> 19 U.S.C. § 1677(7)(C)(iii).

prices in the market. Purchasers generally seek to avoid price increases, but their ability to do so varies with conditions in the market. The willingness of purchasers to pay a higher price will depend on the importance of the product to them (e.g., how large a cost factor), whether they have options that allow them to avoid the price increase, for example by switching to alternative products, or whether they can exercise buying power to negotiate a lower price. An analysis of these demand-side factors tells us whether demand for the product is elastic or inelastic, that is, whether purchasers will reduce the quantity of their purchases if the price of the product increases. For the reasons discussed below, I find that the overall elasticity of demand for APMs is relatively low. Therefore, purchasers are not likely to reduce their purchases significantly if prices for these products increase.

Importance of the Product and Cost Factor. Key factors that measure the willingness of purchasers to pay higher prices are the importance of the product to purchasers and the significance of its cost. In the case of an intermediate product (e.g., an input), the importance will depend on its cost relative to the total cost of the downstream product in which it is used. When the price of the input is a small portion of the total cost of the downstream product in which it is used, changes in the price of the input are less likely to alter demand for the input or for the downstream product.

Record evidence shows that the cost share of APMs accounts for a small percentage of the intermediate downstream products (i.e., TV picture tubes and computer display tubes) in which they are used,<sup>9</sup> suggesting a low elasticity of demand. Furthermore, the cost share of APMs in the final downstream products in which they are used (i.e., color televisions) is even smaller.

Alternative Products. Another important factor in determining whether purchasers would be willing to pay higher prices is the availability of viable alternative products. Often purchasers can avoid a price increase by switching to alternative products. If such an option exists, it can impose discipline on producer efforts to increase prices.

The record indicates that only very limited alternative products are available that can substitute for APMs given their proprietary nature, the necessity that they be made to exact specifications, and the fact that the cost of masks made from other materials limits the feasibility of substitutability.<sup>10</sup> Based on the very small cost share of the final downstream products in which they are used and the limited availability of substitutable alternative products, I find that the overall elasticity of demand for APMs products is relatively low. That is, purchasers will not reduce significantly the amount of APMs they buy in response to a general increase in prices for these products.

## B. Substitutability

Simply put, substitutability measures the similarity or dissimilarity of imported versus domestic products from the purchaser's perspective. Substitutability depends upon 1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, design, convenience or difficulty of usage, quality, etc.; 2) differences in other non-price considerations such as reliability of delivery, technical support, and lead times; and 3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other non-price considerations, and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are

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<sup>9</sup> Petitioner's post hearing brief at 30.

<sup>10</sup> The necessity that aperture masks be made to exact specifications requires that producers contract once a year for the majority of that year's mask production.

close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

Because demand elasticity for APMs is relatively low, overall purchases likely will not decline significantly if the overall prices of them increase. However, purchasers can avoid price increases from one source by seeking other sources of APMs. In addition to any changes in overall demand for APMs, the demand for APMs from different sources will decrease or increase depending on their relative prices and their substitutability. If APMs from different sources are substitutable, purchasers are more likely to shift their demand when the price from one source (*i.e.*, subject imports) increases. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

Purchasers have only two potential sources of APMs: the domestic product and the subject imports.<sup>11</sup> Purchasers are more or less likely to switch from one source to another depending on the similarity, or substitutability, between and among them. I have evaluated the substitutability among APMs from the different sources as follows.

For purposes of these preliminary investigations, I find that the domestic product is a fairly good substitute for the subject imports from Japan because both generally must meet proprietary specifications. In addition, the record indicates that substantial amounts of the domestic product and the subject imports are sold in the same channels of distribution, particularly to manufacturers of TV picture tubes and computer display tubes.<sup>12</sup> However, the overall substitutability is reduced somewhat by nonprice factors.

The record indicates that various TV picture tube manufacturers consider reliability, delivery, and the ability to respond to rush orders to be quite important in their purchasing decisions. Moreover, the record indicates that quality plays one of the most important roles in purchasers' decisions. The domestic like product has shown a higher number of factory rejects, which suggests that the subject imports likely are higher quality products. In addition, the producers of the subject imports have tended to better meet more difficult engineering requests.<sup>13</sup> Other factors reducing substitutability for several TV tube manufacturers are: the requirement that dual sourcing of all components be maintained, the fact that not all purchasers use an open bidding process, and the tying of bids on the product to the sales of other aperture masks not the subject of this investigation.<sup>14</sup>

As discussed above, the quality of subject imports from Japan is at least as good as, and perhaps better than, the quality of the domestic product. Therefore, based on this evidence and the nonprice factors, I find that subject imports from Japan are at least moderate substitutes for the domestic product.

### C. Supply Conditions

Supply conditions in the market are a third condition of competition. Supply conditions determine how producers would respond to an increase in demand for their product, and also affect whether producers are able to institute price increases and make them stick. Supply conditions include producers' capacity utilization, their ability to increase their capacity readily, the availability of

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<sup>11</sup> With Korean imports being negligible, and no other alternative product available, there is thus no viable alternative supply.

<sup>12</sup> CR at V-26.

<sup>13</sup> CR at II-8.

<sup>14</sup> CR at V-4.



inventories and products for export markets, production alternatives and the level of competition in the market. For the reasons discussed below, I find that the elasticity of supply of APMs appears to be quite low.

Capacity Utilization and Capacity. Unused capacity can discipline prices. If there is a competitive market, no individual producer can make a price increase stick. Any attempt at a price increase by one producer would be beaten back by competitors that could produce more product to sell at the prevailing price. Here, the single domestic producer operated at only moderately high levels of capacity utilization throughout the period of investigation, with a capacity utilization rate of \*\*\* percent in 1998.<sup>15</sup> Thus, \*\*\* percent of the domestic industry's capacity to produce APMs in 1998 was not used and therefore was available to increase production. Given that the available capacity was significantly more than the total quantity of subject imports in 1998,<sup>16</sup> the domestic industry had more than sufficient capacity available to supply the demand for the subject imports.

Inventories and Exports. The domestic industry had \*\*\* million aperture masks, representing \*\*\* percent of production, in inventories available in 1998 that it could have shipped into the U.S. market.<sup>17</sup> Moreover, the domestic industry's exports are quite large, representing over \*\*\* percent of production in 1998, and thus represent another significant source of supply that could be diverted to the U.S. market.<sup>18</sup> Therefore the domestic industry has substantial inventories and large quantities of exports available that could have filled the demand supplied by subject imports.

Level of Competition. The level of competition in the domestic market has a critical effect on producer responses to demand increases. A competitive market is one with a number of suppliers in which no one producer has the power to influence price significantly. In the U.S. market, however, there is only one domestic producer of APMs. Thus there is no competition, and petitioner is a monopoly within the domestic industry. As a monopolist, the domestic producer would have had the ability to increase prices by restricting the supply of APMs in the market. The extent to which prices would have increased depends on the manner and extent to which the domestic producer would have exercised its monopoly power. Because of the domestic producer's market power, it was in a position to choose whether to raise its prices or increase its production.

Based on available capacity, substantial inventories, large quantities of exports, and petitioner's monopoly power within the domestic industry, I find that the elasticity of supply is extremely high.

### III. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGED LTFV IMPORTS OF APMs FROM JAPAN

The statute requires us to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

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<sup>15</sup> CR at III-3.

<sup>16</sup> CR at IV-3

<sup>17</sup> CR at III-4

<sup>18</sup> CR at C-4.

A. Volume of Subject Imports

Subject imports increased from \*\*\* million APMs in 1996 to \*\*\* million APMs in 1997, but decreased to \*\*\* APMs in 1998. The value of subject imports was \$\*\*\* million in 1996, \$\*\*\* million in 1997, and \$\*\*\* million in 1998.<sup>19</sup> By quantity, subject imports held a market share of \*\*\* percent in 1996, \*\*\* percent in 1997, and \*\*\* percent in 1998. Their market share by value was \*\*\* percent in 1996, \*\*\* percent in 1997, and \*\*\* percent in 1998.<sup>20</sup> While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of its price effects and impact. Based on the market share of the subject imports and the conditions of competition in the domestic market, I find that the volume of subject imports is significant in light of its price effects and impact.

B. Effect of Subject Imports on Domestic Prices

To determine the effect of the subject imports on domestic prices, I examine whether the domestic industry could have increased its prices if the subject imports had not been dumped. As discussed, both demand and supply conditions in the domestic market are relevant. Examining demand conditions helps us understand whether purchasers would have been willing to pay higher prices for the domestic product, or buy less of it, if subject imports had been sold at fairly traded prices. Examining supply conditions helps us understand whether available capacity and competition among suppliers to the market would have imposed discipline and prevented price increases for the domestic product, even if subject imports had not been unfairly priced.

If the subject imports had not been allegedly dumped, their prices in the U.S. market would have increased considerably. Thus, if subject imports had been fairly priced, they would have become more expensive relative to domestic APMs. In such a case, if subject imports are good substitutes with other APMs, purchasers would have shifted towards the relatively less expensive products.

In this investigation the alleged dumping margin for the subject imports generally is quite large, ranging from 3.77 percent to 85.34 percent. Therefore, subject imports likely would have been priced significantly higher had they been fairly traded. At the higher, fairly-traded prices it is likely that most, if not all, of the demand for the subject imports would have shifted to the domestic product.

The domestic product and subject imports from Japan are at least moderate substitutes for each other. The market share of the subject imports is fairly large, \*\*\* percent in 1998,<sup>21</sup> and thus it is likely that the shift in demand away from subject imports would have been significant. As discussed, it is likely that most, if not all, of the demand for the subject imports would have shifted to the domestic product. Because petitioner is the only domestic producer, the shift in demand likely would have given it monopoly power in the domestic market.

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<sup>19</sup> CR at IV-3.

<sup>20</sup> CR at C-3.

<sup>21</sup> CR at Table IV-3.

The elasticity of demand indicates that, as a monopolist, petitioner likely would have been able to exercise its monopoly power by increasing prices in response to this shift in demand. Consequently, I find that subject imports are having significant effects on prices for the domestic product.

C. Impact of Subject Imports on the Domestic Industry

To assess the impact of subject imports on the domestic industry, I consider 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.<sup>22</sup> These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of the dumping through those effects.

As I have discussed above, the domestic industry would have increased its prices significantly if subject imports had not been sold at unfair prices. In addition, the domestic industry is operating at less than full capacity, and thus it would also have been able to increase its output and sales significantly had demand shifted away from the subject imports. The combination of circumstances in this case—inelastic demand, the significant volume of LTFV imports, and petitioner’s monopolistic market power—would have allowed petitioner to increase both output and prices. Therefore, revenues and profits would have increased significantly.<sup>23</sup> Consequently, the impact on the domestic industry would have been significant.

IV. CONCLUSION

On the basis of the foregoing analysis, I find that the domestic industry likely would have significantly increased its output, sales, and prices, and therefore its revenues, had the subject imports been fairly traded. Therefore, I find that the domestic industry would have been materially better off if the subject imports had not been dumped. Consequently, I determine that there is a reasonable indication that the domestic industry producing APMs is materially injured by reason of allegedly LTFV imports of APMs from Japan.

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<sup>22</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>23</sup> A monopolist seeks to maximize profits. The combination of price and production levels that maximizes profits may or may not result in an increase in overall revenues. However, due to the low elasticity of demand in the APM market, I find that both an increase in profits and revenues would have occurred.



## DISSENTING VIEWS OF COMMISSIONER STEPHEN KOPLAN REGARDING IMPORTS FROM JAPAN

On the basis of the information obtained in this preliminary investigation, I determine that there is a reasonable indication that the industry in the United States producing certain aperture masks (“APMs”) is threatened with material injury by reason of imports of APMs from Japan that allegedly are sold in the United States at less-than-fair-value (“LTFV”). Therefore, I dissent from the Commission's determination with respect to imports from Japan. I join in the Commission's determinations that subject imports from Korea are negligible and that there is no reasonable indication that the industry in the United States producing APMs is materially injured by reason of the allegedly LTFV imports of APMs from Japan.<sup>1</sup>

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.”<sup>2</sup> The Commission may not make such a determination “on the basis of mere conjecture or supposition,”<sup>3</sup> and considers the threat factors “as a whole.”<sup>4</sup> In making my determination, I have considered all factors<sup>5</sup> that are relevant to these investigations.<sup>6 7</sup>

Based on an evaluation of the relevant statutory factors, I find a reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports from Japan. In particular, I find that the domestic industry is vulnerable to a threat of material injury. As the SAA states, in assessing whether the domestic industry is vulnerable to material injury, “the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized

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<sup>1</sup> I also join the Commission's determination regarding the domestic like product, the domestic industry, and the conditions of competition.

<sup>2</sup> 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

<sup>3</sup> 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon “positive evidence tending to show an intention to increase the levels of importation.” Metallwerken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), *citing* American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). *See also* Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), *citing* H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

<sup>4</sup> 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 Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that the “new language is fully consistent with the Commission’s practice, the existing statutory language, and judicial precedent interpreting the statute.” SAA at 184.

<sup>5</sup> 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 185.

<sup>6</sup> 19 U.S.C. § 1677(7)(F)(i). Factor I regarding countervailable subsidies and Factor VII regarding raw and processed agriculture products are inapplicable to the product at issue. *See* 19 U.S.C. § 1677(7)(F)(i)(I) and (VII).

<sup>7</sup> In its notice of initiation, Commerce identified estimated dumping margins for Japanese producers ranging from 3.77 to 85.34 percent. 64 Fed. Reg. at 13770.

imports.”<sup>8</sup> In a threat determination, “the Commission must carefully assess current trends and competitive conditions in the marketplace to determine the probable future impact of [subject] imports on the domestic industry and whether the industry is vulnerable to future harm.”<sup>9</sup> In this regard, the domestic industry has \*\*\*.<sup>10</sup> Under those circumstances, further \*\*\*.<sup>11</sup> Based on the current financial condition of the domestic industry and the trends in the market over the period of investigation, I find that the domestic industry “is in a weakened state” and will deteriorate further if significant quantities of lower-priced subject imports enter the U.S. market.<sup>12</sup>

With respect to the likely volume of subject imports in the imminent future, Japanese producers reported that their exports to the United States are projected to increase substantially over 1998 levels in 1999 and 2000, to \*\*\* million APMs and \*\*\* million APMs, respectively.<sup>13</sup> As a consequence, assuming consumption does not continue to decline as it did during the period of investigation, subject imports would capture \*\*\* percent of the market in 1999, nearly double the \*\*\* percent held in 1998.<sup>14</sup> U.S. purchasers also predict significant increases in imports from Japan into the United States in 1999, although the predicted increase is not as great as that projected by the Japanese producers.<sup>15</sup> Using either projection, these increases in volume from 1998 to 1999 and 2000 indicate an admitted likelihood of substantially increased subject imports in the imminent future.<sup>16</sup>

I also find that producers in Japan have a substantial amount of excess capacity that may permit them to increase exports to the United States even beyond projected levels in the imminent future. The Japanese producers’ capacity utilization rates steadily declined from \*\*\* percent in 1996, to \*\*\* percent in 1997, to \*\*\* percent in 1998.<sup>17</sup> Although their capacity utilization rate is projected to increase to \*\*\* percent in 1997 and to \*\*\* percent in 2000 from the 1998 level, the amount of their excess capacity nonetheless will remain significant. Moreover, the projected increase in capacity utilization reflects the projected substantial increase in exports of LTFV APMs from Japan to the U.S. market.

The United States has been a significant market over the period of investigation, and this trend will likely continue, given that the Japanese producers project that their U.S. shipments will dramatically

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<sup>8</sup> SAA at 885.

<sup>9</sup> *Id.*

<sup>10</sup> CR at VI-4-VI-5.

<sup>11</sup> See, e.g., Calabrian, at 387 (“A healthy industry can better withstand competition from future imports than can one that is functioning close to a state of material injury”). Thus, while the industry may be faulted for having acted \*\*\* during the period of investigation, nevertheless the statute provides that the industry should not be forced to compete with LTFV imports in the imminent future if those imports are likely to be a cause of material injury.

<sup>12</sup> *Id.*

<sup>13</sup> CR at Table VII-1.

<sup>14</sup> Of course, if consumption continues to decline as it did during the period of investigation, the market share held by subject imports would be even greater.

<sup>15</sup> U.S. purchasers predict purchasing \*\*\* Japanese APMs in 1999, a substantial increase from reported purchases of \*\*\* APMs from Japan in 1998. See CR at V-27. I recognize that the purchasers’ projections are based on bids, which typically \*\*\*. See CR at V-4-5.

<sup>16</sup> I normally would give limited weight to projected figures, regardless of the source, since projections by their nature must be based on informed conjecture about likely future occurrences. Nevertheless, in this investigation, both the foreign exporters and the U.S. purchasers project significant increases in subject imports. I note that neither the exporters nor the U.S. purchasers would stand to gain in this investigation from reporting such increases.

<sup>17</sup> CR at Table VII-1.

increase over 1998 levels and in view of the fact that APM demand has weakened in third country markets.<sup>18</sup> There is also a potential that Japanese producers may shift production \*\*\* to the production of APMs.<sup>19</sup> Based on the foregoing, I find that there is a strong likelihood that subject imports will increase substantially in the imminent future.

With respect to the likely effects on domestic prices, I note that domestically produced and Japanese APMs manufactured to the same specifications are broadly interchangeable, and price is a significant factor in purchasing decisions.<sup>20</sup> The record evidence indicates that APM prices have steadily declined over the period examined.<sup>21</sup> The record evidence also indicates a mixed pattern of underselling and overselling by the Japanese producers.<sup>22</sup> Nevertheless, the record evidence indicates price competition between the domestic producer and the Japanese producers in bidding and sales for APMs. In particular, this price competition is reflected in the data supplied by \*\*\*. Those data indicate that in most instances, the \*\*\*.<sup>23</sup> Although the domestic producer generally \*\*\*.<sup>24</sup>

I note that, despite this bidding information, the record indicates that pressure from purchasers and the existence of BMC's \*\*\* forced prices down during the period of investigation, and these conditions are likely to continue to place downward pressure on domestic prices. Nevertheless, toward the end of the period of investigation \*\*\*.<sup>25</sup> I also note that there are no non-subject imports other than the imports from Korea that the Commission unanimously found to be negligible.<sup>26</sup> Therefore, the record

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<sup>18</sup> CR at Table VII-1 (Japanese producers' exports to the United States accounted for \*\*\* percent of their total shipments in 1996, \*\*\* percent in 1997, \*\*\* percent in 1998, and are projected to account for \*\*\* percent and \*\*\* percent of their total shipments in 1999 and 2000, respectively).

<sup>19</sup> All of the Japanese producers produce \*\*\* on the same production equipment used to produce APMs. CR at VII-3-4. I also note that the levels of inventories of the subject merchandise held by importers relative to imports, declined over the period examined, and the ratios of inventories held by foreign producers to their production remained relatively stable. CR at Table VII-3 (importers' inventories relative to imports increased from \*\*\* percent in 1996 to \*\*\* percent in 1997, but then declined to \*\*\* percent in 1998); CR at Table VII-1 (the Japanese producers' inventories relative to production were \*\*\* percent in 1996 and \*\*\* percent in 1997, increased substantially to \*\*\* percent in 1998, and are projected to be \*\*\* percent and \*\*\* percent in 1999 and 2000, respectively). Thus, inventories have increased since 1996. CR at Appendix C, Table C-1. While the projected data do not indicate increased inventories in the imminent future, this factor is outweighed by other factors which cause me to conclude that there is a reasonable indication that a substantial increase in subject imports is likely in the imminent future.

<sup>20</sup> See CR at II-7 ("All 10 importers/purchasers and BMC agreed that U.S.-produced and Japanese imported APMs are used interchangeably."); CR at II-7 (\*\*\*) of the six U.S. purchasers of APMs indicated that price was one of the three most important factors in purchasing, with \*\*\* purchasers reporting that price was the most important factor); CR at II-7 (\*\*\*) of the six U.S. purchasers reported that the lowest price will usually win the sale, but other factors play a role; \*\*\* of the six U.S. purchasers reported that the lowest price will sometimes win the sale).

<sup>21</sup> See CR at V-7-19 and Tables V-1-V-6.

<sup>22</sup> Based on the data collected for purposes of the preliminary phase of these investigations, Japanese producers were the low bidder for APM sales in 27 instances, and in 24 instances the domestic producer was the low bidder. CR at Tables V-1- V-6.

<sup>23</sup> CR at V-14-16, Table V-4.

<sup>24</sup> *Id.* I recognize that there is conflicting information regarding the importance of the initial bid in the bidding process. However, \*\*\*. Had this investigation proceeded to a final phase, I would have sought additional information on this issue.

<sup>25</sup> CR at V-9.

<sup>26</sup> CR at Appendix C, Table C-1.

indicates that competition from the likely significant volume of subject imports likely will materially contribute to further price declines in the imminent future, especially since the record reveals that the subject import \*\*\*.<sup>27</sup> Accordingly, based on the record in this preliminary phase of the investigation, I find that subject imports are likely to enter the U.S. at prices that are likely to significantly suppress or depress domestic prices.

Thus, as stated above, I find that there is a likelihood that subject imports will increase significantly, both in absolute terms and relative to domestic production, in the imminent future. I recognize that the projected increases would bring subject imports back up to approximately the level held in 1996, and that the domestic industry acknowledges that it was not experiencing material injury by reason of subject imports in 1996. Nevertheless, the industry currently is in a weakened condition, in stark contrast to 1996. From 1996 to 1998, apparent consumption declined 5.5 percent by volume and 10.2 percent by value, as prices and unit values declined while unit cost of goods sold \*\*\*.<sup>28</sup> Consequently, in contrast to the period of investigation, during which subject imports ceded market share to the domestic industry, in the imminent future, the LTFV subject imports will substantially increase market penetration on the basis of price at a time when the industry is not in a position to effectively compete against them. In sum, given these trends and the vulnerable condition of the domestic industry, together with my finding that the subject imports are likely to suppress or depress domestic prices to a significant degree if imported in such increasing volumes, I find that there is a reasonable indication that the domestic industry producing APMs is threatened with material injury by reason of the subject imports from Japan.

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<sup>27</sup> CR at V-11, Table V-3. I reiterate that, had this investigation proceeded to a final phase, I would have sought additional information regarding this issue.

<sup>28</sup> CR at V-5-V-6, Appendix C, Table C-1.



## PART I: INTRODUCTION

### BACKGROUND

These investigations result from petitions filed on February 24, 1999, by counsel on behalf of BMC Industries, Inc. (BMC), Minneapolis, MN. The petitions allege that an industry in the United States is materially injured and threatened with material injury by reason of imports from Japan and Korea of certain aperture masks that are alleged to be sold in the United States at less than fair value.<sup>1</sup> Information relating to the background of the investigations is provided below.<sup>2</sup>

<i>Date</i>	<i>Action</i>
February 24, 1999.....	Petitions filed with Commerce and the Commission; institution of Commission investigations Nos. 731-TA-823-824 (Preliminary) (64 FR 10316, March 3, 1999)
March 17, 1999.....	Commission's conference <sup>3</sup>
March 22, 1999.....	Commerce's notice of initiation <sup>4</sup> (64 FR 13768, March 22, 1999)
April 12, 1999.....	Date of the Commission's vote
April 12, 1999.....	Commission's determinations to Commerce
April 19, 1999.....	Commission's views to Commerce

### ORGANIZATION OF THIS REPORT

Information on the subject imported product, the domestically-produced product, and the alleged margins of dumping is presented in Part I. Information on the conditions of competition and other relevant economic factors is presented in Part II. Information on the condition of the U.S. industry, including data on capacity, production, shipments, and inventories, is presented in Part III. Information on the volume of imports, apparent U.S. consumption, and market shares is presented in Part IV.

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<sup>1</sup> The products covered by these investigations are all aperture masks (also known as "shadow masks") made from aluminum-killed, open-coil annealed steel (decarburized) (known generally as "AK steel") for color picture tubes ("CPTs") used in television sets. AK steel includes the following types of steel: low carbon, AF (annealing-free) steel, AK type A steel (commonly referred to as AKM steel), AK type B steel, and general AK steel. The aperture masks covered by the scope generally have a vertical pitch (distance between the centers of two apertures) of greater than 0.28 mm. Specifically excluded from the scope are the following products: (1) aperture masks made from FeNi 36 alloy (whether sold under the brand names Invar, Inovar, or LLTE); (2) aperture masks that have a vertical pitch of less than 0.28 mm that are generally used for color display tubes ("CDTs") used in computer monitors; and (3) grille masks (a grille mask replaces the slots in an aperture mask with an array of finely tensioned vertical wires). The merchandise subject to these investigations is provided for in subheading 8540.91.50 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive. Products entering under this subheading have a 1999 column 1-general tariff rate of 5.4 percent *ad valorem*, applicable to imports from the subject countries.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

<sup>3</sup> A list of witnesses appearing at the conference is presented in app. B.

<sup>4</sup> The petitioners' alleged dumping margins, as revised in the March 16, 1999, supplement to the petitions, are from 3.77 to 85.34 percent for Japan and 10.61 percent for Korea.

Information on pricing factors and pricing of the domestic and imported products is presented in Part V. Information on the financial experience of U.S. producers is presented in Part VI. Finally, information related to the Commission's consideration of the reasonable indication of the threat of material injury is presented in Part VII.

## SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C. Table C-1 presents summary data on the subject aperture masks. Other tables present summary data for other potential "domestic like product" groupings. U.S. industry data for the subject aperture masks are based on the questionnaire response of the petitioner, and represent 100 percent of U.S. production during 1998. U.S. imports are based on the questionnaire responses of 7 firms that are believed to account for virtually all U.S. imports.<sup>5</sup>

## THE PRODUCT

The imported products subject to these investigations consist of all aperture masks (also known as shadow masks) made from AK steel for CPTs, as described on page I-1. **In the remainder of this report, the subject aperture masks are referred to as "APMs."** This section presents information on both imported and domestically produced APMs as well as information related to the Commission's "domestic like product" determination.<sup>6</sup>

### The Subject Product (APMs)

#### Physical Characteristics and Uses

An APM is a thin sheet of AK steel that contains thousands of precise holes designed to focus the beam emitted from an electron gun in a CPT onto the proper phosphor color dot on the inside of the faceplate, in order to produce a crisp image (see figure 1). APMs are used in tubes ranging in size from 6- to 40-inch diagonal measurement. Most U.S. consumption of APMs is of those 19 inches in measurement and larger. An APM is made to the specifications and demands of the customer, and the APM for one customer likely will not be substitutable for the APM of another customer.<sup>7</sup> Although there are standard sizes of CPTs, there are no "off-the-shelf" APMs. Both imported and domestic APMs are used for the same purpose.

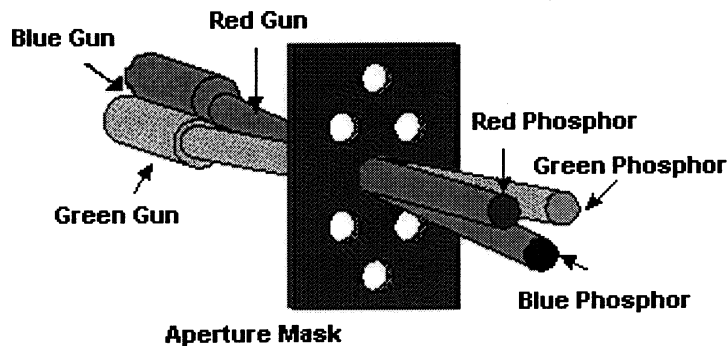
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<sup>5</sup> Official statistics of the U.S. Department of Commerce are not kept specifically for this product. The HTS subheading 8540.91.50 is a residual or "basket" category for parts of cathode-ray tubes and includes such items as the liner, ferrite core, cross arms, and corrector of the television deflection yokes. Petition, p. 5, footnote 3.

<sup>6</sup> 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) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

<sup>7</sup> Conference transcript, pp. 38-39.

Figure 1  
Aperture mask



Source: Mitsubishi Electric.

Aperture masks are produced by:

- obtaining rolls of the appropriate grade of steel in coils;
- unrolling the steel;
- cleaning shipping oils from the steel with a seven-step process to ensure that the steel is absolutely clean;
- coating the steel with a photosensitive chemical;
- printing the image of the mask on the steel using glass printer plates;
- developing the image by removing unexposed coating;
- etching with acid through the steel in areas unprotected by the coating;
- stripping the remaining coating;
- cleaning and drying the completed mask; and
- inspecting the mask for thickness, uniformity of the surface finish, flatness of the strip, and grain size and shape as they relate to the magnetic properties of steel.

The same manufacturing process is used for both domestic and imported APMs. A roll of steel may be subjected to all these steps in sequence, referred to as continuous line processing, or it may be subjected to a number of the steps, then re-rolled, stored, retrieved later, and subjected to the remaining processes, referred to as batch or segmented processing.<sup>8</sup> The petitioner uses only continuous line processing, while foreign sources may use either continuous line processing or batch processing.

The steel used for APMs is a flat-rolled product of iron or non-alloy steel which has not been further worked than by cold-rolling, and generally has been open coil annealed prior to cold-rolling.<sup>9</sup>

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<sup>8</sup> Conference transcript, p. 38.

<sup>9</sup> AK steel, or shadow mask steel, was addressed in detail in *Flat-Rolled Steel Sheet from Japan and Germany*, USITC Pub. 2664, Aug. 1993.

This steel is aluminum-killed, has an iron content of not less than 99.2 percent, and contains no more than the following amounts of additional elements:

- carbon 0.004 percent
- silicon 0.040 percent
- aluminum 0.070 percent
- nitrogen 0.008 percent
- manganese 0.450 percent
- copper 0.080 percent
- sulfur 0.030 percent
- chromium 0.060 percent
- phosphorus 0.035 percent

AK steel is between 0.05 mm (0.00197 inch) and 0.305 mm (0.012inch) in thickness and usually is shipped in coils. Both foreign producers and BMC \*\*\*. According to BMC, \*\*\*.

### **Interchangeability**

Imported and domestic subject products are interchangeable if they have been made to the same specifications and requirements. As noted earlier, APMs made for one customer likely will not be substitutable for the APMs of another customer.<sup>10</sup>

### **Customer and Producer Perceptions**

The customer's concern is to acquire APMs of sufficient quality to meet design requirements at the lowest cost. The market for color television receivers, the finished product to which APMs are an input, is extremely competitive, with very thin profit margins.<sup>11</sup> The margins are higher for large-screen televisions with more features, and lower or non-existent for small-screen sets. Two customers of the petitioner maintain that imported APMs are of higher quality than domestically-produced APMs.<sup>12</sup>

### **Channels of Distribution**

APMs are sold to producers of CPTs either directly by factory representatives or by trading companies representing the APM producer. Contracts are negotiated, typically for a customer's requirements globally for a year, in the previous year, generally finalizing in the fourth quarter. The quantity of APMs demanded is a function of the estimated demand for color television receivers by the end consumer. Some foreign CPT producers have captive APM production. Channels of distribution for domestic and imported products are generally the same.<sup>13</sup> Suppliers have to prove to the customer that they can produce goods to the required specifications before they will receive a major contract.

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<sup>10</sup> Conference transcript, pp. 38-39.

<sup>11</sup> Conference transcript, p. 67.

<sup>12</sup> \*\*\*.

<sup>13</sup> Conference transcript, p. 29.

CPT factories must be operated continuously in order to be competitive. Respondents claim that, because all suppliers experience quality or production problems from time to time, it is necessary for CPT producers to have multiple sources of APMs.<sup>14</sup>

## Price

From 1996 to the present, domestic and foreign prices have fallen sharply on all major APM types, based on testimony at the conference.

### Invar Aperture Masks

Aperture masks also may be made of FeNi 36 alloy (whether sold under the brand names Invar, Inovar, or LLTE), hereafter referred to as Invar. Invar has a rate of thermal expansion approximately one-tenth that of carbon steel at temperatures up to 400° F (204° C). It is used for applications where dimensional changes due to temperature variation must be minimized.<sup>15</sup> Invar is a steel alloy that contains by weight from 35 to 37 percent nickel, and the following elements (each stated as a maximum):

- carbon 0.001 percent
- silicon 0.2 percent
- aluminum 0.01 percent
- nitrogen 0.01 percent
- manganese 0.4 percent
- copper 0.1 percent
- sulfur 0.003 percent
- chromium 0.1 percent
- phosphorus 0.005 percent
- boron 0.0035 percent

Invar aperture masks are produced by the same process as that for APMs except for the need to soften the Invar sheet, to handle the softened Invar sheet more carefully than AK steel because it is more subject to damage in the production process than AK steel, and to dispose of the nickel-carrying residue.<sup>16</sup> Aperture masks made from AK steel or from Invar may be made on the same production line if the line was established to handle Invar. Lines established to produce APMs cannot be used for Invar aperture masks unless additional stages are added to the line for the additional processing required by Invar.

Some mask producers and mask purchasers contend that Invar aperture masks may be substituted for masks of AK steel,<sup>17</sup> while others argue they cannot be substituted.<sup>18</sup> Even if substitutable, Invar aperture masks tend to raise the price of an otherwise competitive television receiver to a price unacceptable to most consumers.<sup>19</sup> The price of Invar is estimated at up to 7 times the price of AK

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<sup>14</sup> E.E. Dorschuck, Thomson Consumer Electronics, conference transcript, p. 52.

<sup>15</sup> Reade Advanced Materials, Internet site, <http://www.reade.com/Products/Alloys/invar.html>, Feb. 18, 1999.

<sup>16</sup> Petition, p. 14.

<sup>17</sup> \*\*\*.

<sup>18</sup> \*\*\*.

<sup>19</sup> Conference transcript, p. 15.

steel.<sup>20</sup> Therefore, to provide the buyer of a television receiver with the perception of value, more features are added to a television receiver with an Invar aperture mask, placing it in a higher-priced category. The use of an APM made from Invar results in a price for the finished television that is at least 25 percent more than a television containing an APM made from AK steel.<sup>21</sup> Aperture masks of Invar are sold through the same channels to the same customers as APMs.

### Aperture Masks of AK Steel for Computer Displays

Most aperture masks for CDTs use Invar; however, aperture masks for CDTs may also be made of AK steel, and are produced using the same technology as APMs.<sup>22</sup> Masks for CDTs generally are produced on separate production lines from APMs. CDTs with AK steel aperture masks are used for value-type products such as 14-inch monitors, while high-end CDTs use Invar aperture masks.<sup>23</sup> Most CDTs are from 15 to 17 inches in size, corresponding to 14 to 16 inches in viewable diagonal.<sup>24</sup>

Aperture masks of AK steel for CDTs are not interchangeable with the subject products because the vertical pitch for aperture masks for CDTs is much smaller than that of APMs.<sup>25</sup> The aperture masks covered by the scope of the investigations have a vertical pitch (distance between the centers of two apertures) of greater than 0.28 mm, typically about 0.7 mm, sometimes larger, rarely smaller.<sup>26</sup> Aperture masks used for computer display tubes generally have a vertical pitch of less than 0.28 mm. The smaller the vertical pitch, the higher the resolution of the resultant image.

### Grille Masks

Grille masks, used only by Sony, are produced from AK steel by a photoetching process like APMs, but instead of holes, grille masks are etched so that there is an array of slits like piano wire on the mask, and the electron beams pass between the wires (see figure 2). Unlike an APM, a grille mask is welded to a sturdy frame under tension to minimize the effect of heat on the alignment of the electron beam, grille, and phosphor dots on the faceplate. Grille masks range in size from about 9- to 36-inch diagonal measurement. Grille pitch is roughly equivalent to a slightly bigger dot pitch. For example, a 0.25 mm grille pitch is roughly equivalent to a 0.27 mm dot pitch.<sup>27</sup>

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<sup>20</sup> Petition, p. 14.

<sup>21</sup> The price differential is not entirely attributable to the use of the Invar since the high-end television sets that feature an Invar APM also tend to incorporate other higher-quality inputs.

<sup>22</sup> \*\*\*.

<sup>23</sup> Conference transcript, p. 15.

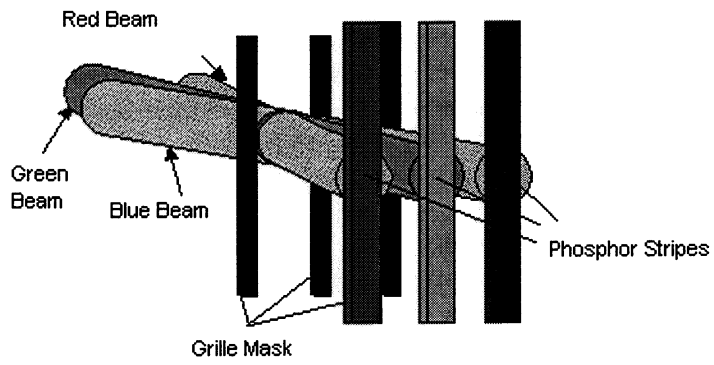
<sup>24</sup> Television receivers are measured by viewable diagonal, while computer monitor sizes are measured by the diagonal size of the CDT itself. A 20V (20-inch viewable) tube physically measures over 21 inches diagonally. A 20-inch color television gives about the same viewing area as a 21-inch computer monitor.

<sup>25</sup> \*\*\*.

<sup>26</sup> Staff telephone conversation with \*\*\*, Mar. 18, 1999.

<sup>27</sup> Viewsonic, "The Monitor Buyers Guide," Internet site, <http://www.monitorbuyersguide.com/dotpitch.htm>, Mar. 5, 1999.

Figure 2  
Grille mask



Source: Mitsubishi Electric.





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

### MARKET SEGMENTS

Aperture masks are components of television sets and computer monitors. Aperture masks can be made of AK steel or Invar.<sup>1</sup> Television sets with Invar aperture masks, while offering a brighter picture, are more expensive than APMs. U.S. consumers tend to prefer less expensive sets with APMs except in the high-end, large screen market.<sup>2</sup>

### CHANNELS OF DISTRIBUTION

BMC sells its APMs directly to CPT manufacturers worldwide, maintaining an in-house sales staff that works with purchasers. The other major mask producers-- LG Micron (LGM), Dai Nippon Printing (DNP), Dainippon Screen (DNS), and Toppan Printing, also sell to CPT manufacturers worldwide. (All the foreign producers are Japanese except LGM, which is Korean.) Toshiba manufactures CPTs in the United States, \*\*\*:

There are five U.S. CPT producers that produce CPTs with APMs: American Matsushita Electronics Corporation (AMEC), Hitachi Electronic Devices, Philips Display Components, Thomson Consumer Electronics, and the aforementioned Toshiba. Zenith also produced CPTs with APMs during a portion of the period examined, but ceased its U.S. production in 1998.

### SUPPLY AND DEMAND CONSIDERATIONS

#### U.S. Supply

##### Domestic Production

*	*	*	*	*	*	* 3
*	*	*	*	*	*	* 4 5

BMC reported that its average production capability was \*\*\* million units in 1996, \*\*\* million units in 1997, and \*\*\* million units in 1998. Capacity utilization was \*\*\* percent in 1996, \*\*\* percent in 1997, and \*\*\* percent in 1998.<sup>6</sup>

##### Production Alternatives

BMC reports that masks for television sets and those for computer monitors are manufactured on different lines. According to BMC, a television mask line cannot produce computer masks. A computer mask line could produce television masks, but BMC says \*\*\*. Sony's grille mask is produced on a

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<sup>1</sup> One television manufacturer, Sony, uses its own special "grille mask" design to substitute for an aperture mask.

<sup>2</sup> Petition, p. 14.

<sup>3</sup> BMC's postconference brief, exhibit 8.

<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

<sup>6</sup> BMC's questionnaire, question II-10, and staff calculations.

different type of line. Grille mask lines require a higher degree of material handling. BMC does not have a grille mask line.

BMC further states that an APM line cannot necessarily produce Invar aperture masks.<sup>7</sup> An APM line must be “Invar capable” before being used for Invar aperture masks. The cost of Invar steel is three to seven times higher than AK steel due to the Invar’s additional nickel content and processing needed to soften the Invar.<sup>8</sup> Furthermore, petitioner states that the use of nickel leaves a hazardous waste that is “expensive and troublesome to dispose of.”<sup>9</sup> \*\*\*.<sup>10</sup>

DNS explains that APMs involve a production line that performs “single-stage etching.” However, all Invar masks and all masks for CDTs require two-stage etching. DNS further reports that a two-stage line can produce single-stage (i.e., AK steel) masks and that a single-stage production line constitutes the “vast majority of the investment made,” only requiring adding second-stage etching for Invar and CDT mask production.<sup>11</sup> BMC says that \*\*\*.

### **Inventory Levels**

BMC reported end-of-period inventories of \*\*\* APMs in 1998, \*\*\* from \*\*\* units in 1997 \*\*\* units in 1996. Inventories as a percentage of BMC’s U.S. shipments \*\*\* to \*\*\* percent in 1998 from \*\*\* percent in 1997 \*\*\* percent of 1996.<sup>12</sup>

### **Export Markets**

In 1998, BMC reported that approximately \*\*\* percent of all its mask sales were exports. \*\*\*. The remainder was divided among \*\*\* and miscellaneous areas.<sup>13</sup> \*\*\*.<sup>14</sup>

### **U.S. Demand**

BMC estimates that U.S. mask demand is \*\*\* percent higher than U.S. television set demand. (This demand is for both APMs and Invar CPT masks, but BMC says most sets use APMs). It says its customers have an average yield of about \*\*\* percent, so they order about \*\*\* percent more masks than they make tubes.<sup>15</sup>

\*\*\* estimates that since 1996, CPT demand has increased by approximately \*\*\* units (and each tube uses only one mask). \*\*\* agrees that world demand increased significantly due to increased demand for both television and computer masks. \*\*\* also notes an increase in the volume of tubes.

\*\*\* feel that demand had not changed significantly since 1996. However, \*\*\* notes one demand aberration: the 1998 bankruptcy of Zenith. \*\*\* says that when Zenith went bankrupt, BMC lost a major customer, leading to “further price erosion from BMC.”

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<sup>7</sup> Petition, p. 14.

<sup>8</sup> Petition, p. 14; Thomson Consumer Electronics’ postconference brief.

<sup>9</sup> Petition, p. 14.

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

<sup>11</sup> Conference transcript, p. 97.

<sup>12</sup> BMC’s questionnaire, question II-10, and staff calculations.

<sup>13</sup> Petition, exhibit 4.

<sup>14</sup> \*\*\*.

<sup>15</sup> Staff conversation with \*\*\* of BMC, Mar. 25, 1999.

\*\*\* also sees demand as basically stable, but notes that larger models of television sets seem to have shifted to Invar due to new demand for high resolution multi-media sets. \*\*\* also notices a change in demand for large masks, but says that demand for large APMs is increasing. \*\*\* agrees with this characterization, saying that “the mix of product has changed to larger sizes.”

\*\*\* all mention declining demand or price declines. \*\*\* characterizes the CPT market as facing “severe price competition.” \*\*\* sees fluctuating export demand that is currently declining. \*\*\* describes two market changes: a decline in US production of small (19" and 20") CPTs, and the Asian, Brazilian, and Russian crises hurting U.S. exports of CPTs. \*\*\* alleges that U.S. CPT manufacturers are trying to reduce the cost of large screen sizes relative to the smaller sizes.

There is disagreement as to the relative demand for Invar masks versus APMs. BMC states that APMs remain the most important masks marketed for U.S. television sets. BMC estimates that total U.S. demand for Invar masks \*\*\* units in 1998 from \*\*\* units in 1997 and \*\*\* units in 1996.<sup>16</sup>

### **Substitute Products**

BMC maintains that Invar aperture masks are not a substitute product for APMs. According to BMC, AK steel can deform under the high temperatures associated with frequent television use, causing colors to bleed into each other.<sup>17</sup> Invar is not as affected by high temperatures, and thus can produce brighter pictures. At the tube design stage, an Invar mask could be substituted for an AK steel mask. However, use of Invar in a mask will increase the price of the set.<sup>18</sup> BMC believes that the magnitude of the price rise is more than the typical American consumer is willing to pay for the benefits of Invar.

BMC also maintains that Sony-type grille masks are not a substitute product. The grille mask is only compatible with the Trinitron set that Sony produces. BMC masks could not be used in Sony sets, and likewise Sony grille masks could not be used by other set manufacturers (unless they copied the entire Sony Trinitron CPT).<sup>19</sup>

BMC further maintains that APMs are not substitute products for aperture masks for CDTs. A 14-inch CPT mask will average 150,000 apertures, whereas the same size CDT mask will have 800,000. The apertures in a CDT mask are also significantly smaller. BMC reports that the Customs Service has ruled that CPTs and CDTs are different products.<sup>20</sup>

Seven of 10 importers/purchasers agree that there are no substitute products for APMs. \*\*\* explains that Invar masks can be substituted for AK steel masks “subject to cost differences between the two that affect the economic practicality of substitution.” \*\*\* elaborates that Invar and AK steel masks may be substituted at the design stage. However, after the specifications are fixed, each model CPT has its own masks, and substitution is impossible.

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<sup>16</sup> BMC’s postconference brief, exhibit 7.

<sup>17</sup> Petition, p. 14.

<sup>18</sup> Petition, p. 14.

<sup>19</sup> Petition, p. 17.

<sup>20</sup> Petition, exhibit 19, and conference transcript, p. 31.

## SUBSTITUTABILITY ISSUES

### Factors Affecting Purchasing Decisions

\*\*\* all require supplier certification for 100 percent of purchases. Certification time can range from \*\*\* to \*\*\*. The certification process usually involves examining supplier product quality, reliability, capacity, and customer service. It may also involve a test run of an order. Over the last three years, no supplier has failed to be certified at the above five purchasers.

The tabulation below shows the three most important factors in purchasing as reported by the six U.S. purchasers of APMs:

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

\*\*\* report that the lowest price will “usually” win a sale, but other factors, including availability, quality, capacity, and business relationships, can play a role. \*\*\* report that the lowest price “sometimes” wins. \*\*\* stresses the importance of product quality, a dual source policy, reliability, delivery, and the ability to respond to rush orders. \*\*\* stresses the same factors, as well as technical ability and timing.

### Comparisons of Domestic Products and Subject Imports

#### Korea

\*\*\* agree that U.S.-produced and imported Korean APMs are used interchangeably. \*\*\* did not comment.

#### Japan

All 10 importers/purchasers and BMC agreed that U.S.-produced and imported Japanese APMs are used interchangeably. \*\*\*.<sup>21</sup>

### Comparisons of Subject Imports

Four importers/purchasers and BMC report that Japanese and Korean APMs are used interchangeably. \*\*\* disagrees, noting that they used Korean imports for \*\*\* and Japanese imports for \*\*\*. The other respondents did not comment.

### Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Three importers/purchasers and BMC report that U.S. and nonsubject imports are used interchangeably. Five importers/purchasers and BMC report that Japanese imports and nonsubject imports are used interchangeably. Two importers/purchasers report that nonsubject imports and Korean imports are used interchangeably. \*\*\*. All other responses in every comparison were “not applicable,” or the responder either did not know or did not comment.

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<sup>21</sup> \*\*\*.

### 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 alleged dumping margins 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 response of the petitioner, which represents 100 percent of U.S. production of APMs during the period covered by the investigations.<sup>1</sup>

#### U.S. PRODUCER

The petitioner, BMC, headquartered in Minneapolis, MN, accounts for all domestic production of APMs. BMC's mask operations are located in Cortland, NY. A sister plant, Buckbee Mears Europe (BME), located in Mullheim, Germany, also produces APMs.

The petitioner's facility has 4 CPT mask production lines. One production line produces only APMs, while the other 3 lines are used to produce either APMs or Invar aperture masks for CPTs.<sup>2</sup> Two other products manufactured by BMC at the same facility, AK steel aperture masks for CDTs and Invar aperture masks for CDTs, are made on a separate line from the CPT lines.<sup>3</sup> BMC's other products (precision and photo-etched metal, electroformed parts, polycarbonate and glass and plastic eyewear lenses) are made at separate facilities.<sup>4</sup> Two of BMC's mask production lines, one for APMs (also Invar capable) and the other for CDT masks, were installed beginning in 1995.<sup>5</sup> The \$90 million project was completed in 1997.<sup>6</sup> The following chart summarizes BMC's production lines.

	CPT	CDT	Invar capable	Opened in '97	Date down	Date restarted
Line 1	X				June '98	Still down
Line 2	X		X			
Line 3	X		X		June '98	Aug. '98
Line 4	X		X	X		
Line 5		X	X	X	June '98	Jan. '99

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

Data on BMC's production, capacity, and capacity utilization are shown in table III-1. Domestic production of APMs increased from 1996 to 1998. BMC's capacity increased \*\*\* from 1996 to 1997, and decreased \*\*\* in 1998. This reflects the opening of a new APM (also Invar capable) line in 1997, and the subsequent closing of one APM line and one APM (also Invar capable) line in 1998. BMC

<sup>1</sup> Sony Electronics, Inc., has a U.S. facility in Mt. Pleasant, PA, that produces grille masks for Trinitron CPTs and CDTs.

<sup>2</sup> BMC's postconference brief, exhibit 8.

<sup>3</sup> Petitioner's facility has 1 production line for CDT masks (both AK steel and Invar capable). BMC's postconference brief, exhibit 8.

<sup>4</sup> BMC's 1997 annual report. Petition, exhibit 2.

<sup>5</sup> Ibid.

<sup>6</sup> Conference transcript, p. 15.

reported that it opened the APM (also Invar capable) line in 1997 \*\*\*, and shut down the APM and APM (Invar capable) lines in 1998 \*\*\*.<sup>7</sup>

Table III-1

APMs: U.S. producer's capacity, production, and capacity utilization, 1996-98

\* \* \* \* \*

**U.S. PRODUCER'S DOMESTIC SHIPMENTS, EXPORT SHIPMENTS, AND INVENTORIES**

Data on BMC's domestic shipments and export shipments of APMs are shown in table III-2. Both the quantity and value of domestic shipments decreased from 1996 to 1997, then rose in 1998 for a overall increase from 1996 to 1998. Unit values declined steadily from 1996 to 1998. Export shipments rose steadily from 1996 to 1998, while the value of these shipments rose from 1996 to 1997 and fell in 1998. BMC's principal export markets are \*\*\*. End-of-period inventories are shown in table III-3. BMC's inventories increased \*\*\* from 1996 to 1997, then fell \*\*\* in 1998.

Table III-2

APMs: U.S. producer's shipments, by type, 1996-98

\* \* \* \* \*

Table III-3

APMs: U.S. producer's end-of-period inventories, 1996-98

\* \* \* \* \*

**U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY**

Data on BMC's number of production and related workers (PRWs) engaged in the production of APMs, the total hours worked by such workers, and the wages paid during the period examined are shown in table III-4. The number of workers, hours worked, wages paid, hourly wages, and unit labor costs increased from 1996 to 1998. Productivity decreased from 1996 to 1998.<sup>8</sup> The production process is entirely automated with only few people monitoring the lines, therefore fluctuations in employment largely take place in the inspection and quality-assurance sectors.<sup>9</sup>

Table III-4

Average number of production and related workers producing APMs, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1996-98

\* \* \* \* \*

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<sup>7</sup> BMC's questionnaire, p. 3.

<sup>8</sup> BMC reported in its 1997 annual report that during the start-up phase of its new CPT and CDT production lines in 1997, the performance of all production lines, including the existing lines, suffered. Petition, exhibit 2.

<sup>9</sup> Ibid., p. 31.

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

### U.S. IMPORTERS

The Commission sent importer questionnaires to 66 possible importers of aperture masks or grille masks.<sup>1</sup> Seven firms responded that they are importers of APMs: \*\*\*. These firms are believed to account for 100 percent of subject imports in 1998.<sup>2</sup> Five of the responding firms imported APMs only from Japan,<sup>3</sup> one imported APMs only from Korea,<sup>4</sup> and one imported from both Japan and Korea during the period for which data were collected in the investigations.<sup>5</sup> Three firms imported APMs for internal consumption,<sup>6</sup> and four importers sold APMs to end users.<sup>7</sup> Five of the importers are subsidiaries of, or related to, foreign companies.<sup>8</sup> The importers and their share (*in percent*) of 1998 APM imports are listed below:

<u>Company</u>	<u>Share of 1998 APM imports</u>
*   *   *   *   *   *   *	*   *   *   *   *   *   *

### U.S. IMPORTS

Import data based on responses to Commission questionnaires are shown in table IV-1. The quantity and value of imports of APMs from subject countries increased from 1996 to 1997, then dropped sharply in 1998, for an overall decrease. There were no reported transshipments of Japanese or Korean APMs through other countries.<sup>10</sup> While there were no reported imports from other countries, \*\*\*.<sup>11</sup>

Table IV-1  
APMs: U.S. imports, by sources, 1996-98

\*   \*   \*   \*   \*   \*   \*

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<sup>1</sup> Twenty-five firms responded that they did not import APMs or grille masks during 1996-98. Thirty-three firms did not respond to the Commission's request for information.

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

<sup>3</sup> \*\*\*.

<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

<sup>6</sup> \*\*\*.

<sup>7</sup> \*\*\*.

<sup>8</sup> \*\*\*.

<sup>9</sup> \*\*\*.

<sup>10</sup> Some or all APMs from Korea \*\*\*. LGM's postconference brief, p. 9, footnote 4, and exhibit 4.

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

The Korean respondent has argued that imports of APMs from Korea were negligible in the 12-month period for which data are available prior to the filing of the petition. The statutory provision defining “negligibility” provides that imports from a subject country that are less than 3 percent of the volume of all such product imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition shall be deemed negligible.<sup>12</sup>

The petition was filed on February 24, 1999. Based on importer questionnaire responses, imports for consumption of APMs from Korea during January-December 1998, which amounted to \*\*\*, were \*\*\* percent of the volume of total imports for consumption, \*\*\* units.

### APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Data on apparent U.S. consumption of APMs are shown in table IV-2 and U.S. market shares are presented in table IV-3. The quantity and value of apparent U.S. consumption fell steadily from 1996 to 1998. U.S. producers’ market share decreased from 1996 to 1997 then increased in 1998, for an overall increase. Imports from Japan and Korea increased in market share from 1996 to 1997, then decreased in 1998. Imports from Japan and Korea combined lost \*\*\* percentage points of market share from 1996 to 1998.

Table IV-2

APMs: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption, 1996-98

\* \* \* \* \*

Table IV-3

APMs: Apparent U.S. consumption and market shares, 1996-98

Item	1996	1997	1998
Quantity (1,000 APMs)			
Apparent consumption . . . . .	21,295	21,211	20,132
Value (\$1,000)			
Apparent consumption . . . . .	89,701	88,493	80,561

\* \* \* \* \*

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

<sup>12</sup> 19 U.S.C. § 1677(24)(A)(i).



## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

#### **Raw Material Costs**

The primary raw material used in APM production is AK steel. \*\*\*. BMC's total raw material costs per APM sold \*\*\* in 1996 to \*\*\* in 1997 and then decreased to \*\*\* in 1998.<sup>1</sup>

#### **Exchange Rates**

Quarterly exchange rates reported by the International Monetary Fund for Japan and Korea during the period January 1996-December 1998 are shown in figures V-1 and V-2.

### **PRICING PRACTICES**

#### **Pricing Methods**

Purchasers of APMs generally seek bids or price negotiations late in the calendar year for the following year's supply.<sup>2</sup> Different purchasers and suppliers have different pricing processes.<sup>3</sup> However, most purchasers have production plans that can fluctuate during the year. Supplier considerations during the bidding process include desired load, current capacity, and production costs. Purchaser considerations include market demand for color television sets, price and quantity of APMs, reliability of delivery, and, for importers, exchange rates and transportation costs.

Initial bids are sometimes used to open negotiations. The initial bid indicates the state of the vendor and availability of the product. \*\*\*. All the respondents except \*\*\* reported that there is more than one chance to bid on a particular sale.

All responding importers provided information on the sales process for APMs. \*\*\*.

Purchasers also provided information on the sales process for APMs. \*\*\*.

\*\*\* reports that negotiation sessions are open; that is, bids from other companies are discussed. \*\*\* say negotiations are closed, but competitors are well known. \*\*\* agree with \*\*\* in saying that bids are open. \*\*\* understands such discussions to be common industry practice. \*\*\* say that actual pricing and negotiations are confidential, but "general" bid levels may be referred to. \*\*\* says that no pricing information is disclosed to competitors.

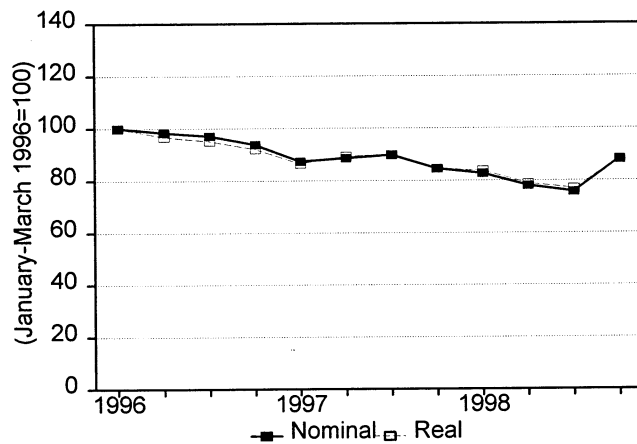
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<sup>1</sup> Petition, exhibit 1, SEC Form 10-K; and BMC's response to Commerce questions, p. 4.

<sup>2</sup> Conference transcript, pp. 49-50, 69-70. See also \*\*\* questionnaires, question III-A.1.

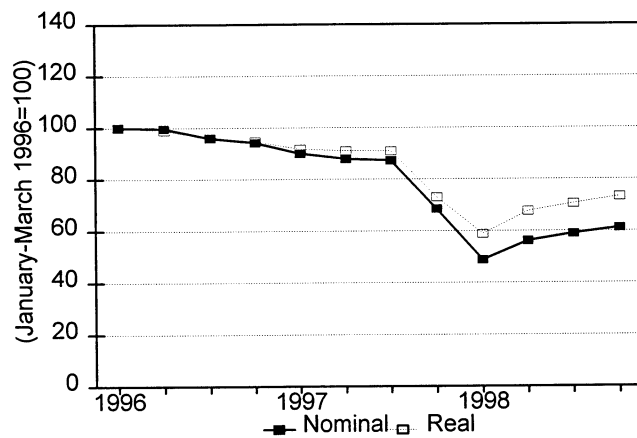
<sup>3</sup> See importer/purchaser questionnaires, question III-A.1.

Figure V-1  
 Exchange rates: Indexes of the nominal and real exchange rates of the Japanese yen relative to the U.S. dollar, by quarters, Jan. 1996-Dec. 1998



Source: International Monetary Fund, *International Financial Statistics*, March 1999.

Figure V-2  
 Exchange rates: Indexes of the nominal and real exchange rates of the Korean won relative to the U.S. dollar, by quarters, Jan. 1996-Dec. 1998



Source: International Monetary Fund, *International Financial Statistics*, March 1999.

## Sales Terms and Discounts

Contract terms vary from bid to bid. Some bids are dependent on sales of both other APMs and other types of masks, such as Invar. \*\*\*.<sup>4</sup> \*\*\*.<sup>5</sup>

\* \* \* \* \*

## PRICE DATA

The Commission requested BMC to provide data for its 10 largest yearly bids on APMs and requested importers and purchasers to provide yearly data for their 5 largest bids on APMs between January 1996 and December 1998.

### Price Trends

The petitioner, as well as both importers and purchasers, provided information on general price trends in the APM market for the years 1996-98. \*\*\* reported that there was an undercapacity in 1996, leading APM manufacturers to increase capacity worldwide. Since then, prices have been declining. \*\*\* confirms this, adding the detail that U.S. mask prices began dropping in 1998 while Japanese mask prices had already begun dropping in 1997. \*\*\* also reports that price pressure increased from at least one customer in 1998. \*\*\* sees generally steady prices since 1996, but reports that BMC has been lowering prices recently. \*\*\* and \*\*\* attribute the constant pressure for cost reduction to a highly competitive U.S. market for CPTs and CDTs. \*\*\*. \*\*\* further describes \*\*\* as demanding very low bids in 1998, bids that were sent by \*\*\*.

\*\*\* describe BMC as the price leader. \*\*\* points out that BMC has about \*\*\* percent of the U.S. market share for APMs. \*\*\*.

\* \* \* \* \*

Tables V-1 through V-6 present the available bidding information for APMs over the period 1996 to 1998. The Commission did not ask for all bids, and the following is not an exhaustive list. It should be noted that masks are classified by their V-size, thickness, and the company producing the tube. Even if a mask has the same V-size and thickness for different tube producers, it is not necessarily the same mask, as different producers will ask for different specifications.

BMC asked in its petition that the Commission look at nine key products: .

\* \* \* \* \*

Presented on the following pages are tables containing the above nine products, as well as others in which there were large volume sales or multiple bids. Data are as reported by the purchasers of APMs. Most companies only provided winning bids. Thomson provided all bids, winning or losing. Toshiba provided the initial target volumes for the winning bids. Philips provided winning and losing

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<sup>4</sup> \*\*\*

<sup>5</sup> \*\*\*

bids in 1998. "Years" represent the year of bidding, i.e., 1998 means bids placed in 1998 for delivery in 1999.

\* \* \* \* \*

Table V-1

APMs: Price and quantity data as submitted by AMEC for its purchases, by products and year of bid, 1996-98

\* \* \* \* \*

Table V-2

APMs: Price and quantity data as submitted by Hitachi for its purchases, by products and year of bid, 1996-98

\* \* \* \* \*

Table V-3

APMs: Price and quantity data as submitted by Philips for its purchases, by products and year of bid, 1996-98

\* \* \* \* \*

Table V-4

APMs: Price and quantity data as submitted by Thomson for its purchases, by products and year of bid, 1996-98

\* \* \* \* \*

Table V-5

APMs: Price and quantity data as submitted by Toshiba for its purchases, by products and year of bid, 1996-98

\* \* \* \* \*

Table V-6

APMs: Price and quantity data as submitted by Zenith for its purchases, by products and year of bid, 1996-97

\* \* \* \* \*

### LOST SALES AND LOST REVENUES

#### Lost Sales

BMC did not provide lost sales allegations in the traditional format, but instead alleged lost sales through lost market share. Its allegations are summarized in table V-7. This table shows the number of

APMs BMC reported that it sold and the share (in percent) that quantity accounted for of the purchaser's total purchases. BMC's data (in the table) are from \*\*\*. \*\*\* are summarized in table V-7 as well.

Table V-8 summarizes the shares of bids for the five existing U.S. tube producers, as reported in their questionnaires. The data for AMEC, Philips, and Hitachi match the data in table V-7. (Note that the bid year in table V-8 will be the year before the shipment year reported in table V-7). The Thomson and Toshiba data do not match in both tables because Thomson and Toshiba submitted bid data as well as actual sales data. For Thomson and Toshiba, the bid volumes in table V-8 were targets that could have been exceeded or not met by the actual shipments in table V-7.

Table V-9 summarizes the quantity purchased by each purchaser from the United States and from each subject country in each year. Reported purchases in the table differ somewhat from BMC's reported sales to each customer listed in exhibit 8 of the petition.

Table V-7

APMs: BMC's alleged market share, and its actual market share as reported by purchasers, by purchaser and by year of shipment (i.e., the year after the year of bid), 1996-99

\* \* \* \* \*

Table V-8

Winning sales and volume bids reported by U.S. purchasers, by sources and year of bid, 1996-98

\* \* \* \* \*

Table V-9

APMs: APM purchases by country of origin and by year of shipment (i.e., the year after the year of bid), 1996-99

\* \* \* \* \*

**Lost Revenues**

BMC made four specific lost revenues allegations in its questionnaire. Information on these allegations follows.

\* \* \* \* \* 6 7 8 9 10 11

<sup>6</sup> Petitioner questionnaire section IV-E and \*\*\*.

<sup>7</sup> Petitioner questionnaire section IV-E and \*\*\*.

<sup>8</sup> Petitioner questionnaire, section IV-E and \*\*\*.

<sup>9</sup> Petitioner questionnaire, section IV-E and \*\*\*.

<sup>10</sup> Postconference briefs of Thomson and LGM; petitioner questionnaire sections IV-B.2, IV-B.4, and IV-B.6.

<sup>11</sup> Petitioner questionnaire, section IV-B.



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

### BACKGROUND

The sole U.S. producer of aperture masks, BMC, provided usable financial data. The company manufactures a variety of products in two business segments. The Precision Imaged Products segment manufactures principally aperture masks for color television tubes and computer monitors. Net sales of aperture masks (all types) comprised 61 percent of BMC's revenues in 1997 or approximately \$191 million on total company revenues of approximately \$313 million. APMs, \*\*\*.<sup>1</sup> Many comments in the company's public financial reports related to all aperture masks; however, the increase in costs associated with the extended shutdown of three manufacturing lines at the Cortland facility<sup>2</sup> in the third quarter of 1998 related to \*\*\*.<sup>3</sup>

### OPERATIONS ON APMs

The results of the APM operations of the U.S. producer are presented in table VI-1. Total sales quantities declined in 1997 from 1996, but increased \*\*\* in 1998. Sales values increased each year, in 1998 due to higher volume. \*\*\*. \*\*\*.

While the average per mask sales value, as shown in table VI-2, increased in 1997 compared to 1996 by \*\*\* cents, increasing costs reduced \*\*\*. \*\*\*.

Table VI-1

Results of operations of BMC in the production of APMs, fiscal years 1996-98

\* \* \* \* \*

Table VI-2

Results of operations (per aperture mask) of BMC in the production of APMs, fiscal years 1996-98

\* \* \* \* \*

This is further evidenced by the variance analysis showing the effects of prices and volume on BMC's net sales of APMs and of costs and volume on its total costs, as shown in table VI-3. The analysis shows that the \*\*\*. The variance analysis may be affected by the mix of the various sizes of APMs.

\* \* \* \* \*

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<sup>1</sup> BMC's 1997 annual report, p. 38. BMC has a fiscal year-end of December 31.

<sup>2</sup> BMC's 10Q for the quarter ended Sept. 30, 1998, p. 11.

<sup>3</sup> Telephone conversation with \*\*\*, BMC, Apr. 1, 1999.

<sup>4</sup> Ibid.

\* \* \* \* \*

Table VI-3  
Variance analysis for APM operations of BMC, fiscal years 1996-98

\* \* \* \* \*

**CAPITAL EXPENDITURES, R&D EXPENSES,  
AND INVESTMENTS IN PRODUCTIVE FACILITIES**

Capital expenditures, R&D expenses, and the original cost and book value of property, plant, and equipment used in the production of APMs are shown in table VI-4. Capital expenditures amount to \*\*\*.

Table VI-4  
Capital expenditures, research and development expenses, and value of assets of BMC with respect to APMs, fiscal years 1996-98

\* \* \* \* \*

R&D expenses \*\*\*.

**CAPITAL AND INVESTMENT**

BMC's comments regarding any actual or potential negative effects of imports of APMs from Japan and Korea on the firm's growth, investment, ability to raise capital, and/or development and production efforts (including efforts to develop a derivative or more advanced version of the product) are as follows:

\* \* \* \* \*

In response to any anticipated negative impact of imports of APMs from Japan and/or Korea, BMC indicated that the anticipated negative effect would be \*\*\*.

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<sup>5</sup> BMC's 10Q for the quarter ended Sept. 30, 1998, p. 5.



## 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 nature of alleged margins of sales at LTFV and cumulation considerations was presented earlier in this report; information on the volume and pricing of imports of subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on the U.S. producer's existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

### THE INDUSTRY IN JAPAN

There are four producers of aperture masks in Japan: Dainippon Screen Manufacturing Company, Ltd. (DNS), Dai Nippon Printing Company, Ltd. (DNP), Toshiba Corporation, and Toppan Printing Company (Toppan). \*\*\* is the largest producer, accounting for \*\*\* percent of Japanese production in 1998 and \*\*\* percent of Japanese exports to the U.S. market. \*\*\* is the second-largest producer, accounting for \*\*\* percent of Japanese production in 1998 and \*\*\* percent of Japanese exports to the U.S. market. \*\*\* is the third largest producer, accounting for \*\*\* percent of Japanese production in 1998 and \*\*\* percent of Japanese exports to the U.S. market. \*\*\* is the smallest producer, accounting for \*\*\* percent of Japanese production in 1998 and \*\*\* percent of Japanese exports to the U.S. market. All companies submitted foreign producer questionnaires to the Commission. Data provided by these companies are shown in table VII-1.

Table VII-1

APMs: Data for the producers in Japan, 1996-98 and projected 1999-2000

\* \* \* \* \*

Total Japanese production of aperture masks decreased steadily from 1996 to 1998. Japanese exports to the United States increased from 1996 to 1997 then dropped sharply in 1998 for an overall decrease. Exports to the United States are projected to increase substantially in 1999 compared with 1998 (which appears to have been a year of unusually low exports), and then to decrease slightly in 2000. Throughout the period, \*\*\* percent or more of the Japanese producers' shipments of aperture masks went to export markets other than the United States. Production capacity increased steadily from 1996 to 1998. Capacity utilization fell from 1996 to 1998.

\*\*\* reported that its production capacity increased from \*\*\* units in 1996 and 1997 to \*\*\* units in 1998, reflecting \*\*\*. However, \*\*\* projects its production capacity will decrease to \*\*\* units in 1999 and 2000 because it anticipates the product-mix will shift towards larger size aperture masks. For the most recent fiscal year, \*\*\* percent of \*\*\* total sales was represented by sales of APMs. \*\*\*. \*\*\* end-of-period inventories \*\*\* from \*\*\* units in 1996 to \*\*\* units in 1998. Besides the United States, \*\*\* other major export markets are \*\*\*. \*\*\*.<sup>1</sup> \*\*\* decreased slightly from 1996 to 1998.

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<sup>1</sup> \*\*\*. No Japanese producer reported exports to Mexico during the period 1996 to 1998.

\*\*\* reported a production capacity of \*\*\* units throughout the period.<sup>2</sup> For the most recent fiscal year, \*\*\* percent of \*\*\* total sales was represented by sales of APMs. \*\*\* produced \*\*\*. \*\*\* end-of-period inventories dropped from \*\*\* units in 1996 to \*\*\* units in 1997, then increased to \*\*\* units in 1998.

\*\*\* reported an increase in production capacity from \*\*\* units in 1996 to \*\*\* units in 1997, then a reduction to \*\*\* units in 1998. For the most recent fiscal year, \*\*\* percent of \*\*\* total sales was represented by sales of APMs. \*\*\*. \*\*\* end-of-period inventories increased from \*\*\* units in 1996 to \*\*\* units in 1997 then dropped to \*\*\* units in 1998. All of \*\*\*. Besides the United States, \*\*\* other major export markets are \*\*\*.

\*\*\* reported its production capacity for \*\*\* as \*\*\* units in 1996, \*\*\* units in 1997 and \*\*\* units in 1998. For the most recent fiscal year, \*\*\* percent of \*\*\* total sales was represented by sales of APMs. \*\*\*. \*\*\* end-of-period inventories increased from \*\*\* units in 1996 to \*\*\* units in 1997.<sup>3</sup> Besides the United States, \*\*\* other major export markets are \*\*\*.

### THE INDUSTRY IN KOREA

LG Micron, Ltd. (LGM), is the only producer of aperture masks in Korea. Data from LGM's foreign producer questionnaire are shown in table VII-2. LGM's reported production capacity decreased from 1996 to 1998, reflecting \*\*\*.<sup>4</sup> Production decreased from 1996 to 1998. Capacity utilization increased \*\*\* from 1996 to 1998. Exports to the United States increased from 1996 to 1997 then dropped \*\*\* in 1998 for an overall decrease.<sup>5</sup> Throughout the period, over \*\*\* percent of LGM's shipments were home market sales, and over \*\*\* percent of shipments were to export markets other than the United States. For the most recent fiscal year, \*\*\* percent of LGM's total sales were represented by sales of APMs. \*\*\*. LGM's end-of-period inventories decreased from 1996 to 1998. Besides the United States, LGM's other major export markets are \*\*\*. LGM's exports to Brazil and Mexico increased from 1996 to 1998.<sup>6</sup>

Table VII-2

APMs: Data for the producer in Korea, 1996-98 and projected 1999-2000

\* \* \* \* \*

### U.S. IMPORTERS' INVENTORIES

End-of-period inventories of aperture masks held by U.S. importers are presented in table VII-3. Subject inventories almost doubled between 1996 and 1997, then fell sharply in 1998. Inventories from Japan account for the majority of subject inventories in 1996 and all inventories in 1997 and 1998.

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

<sup>3</sup> Inventories were not provided for 1998.

<sup>4</sup> \*\*\*.

<sup>5</sup> LGM's only U.S. importer in 1998, Zenith, has filed for bankruptcy and closed its U.S. CPT plant in December 1998. Zenith \*\*\*. LGM's postconference brief, p. 11 and footnote 22.

<sup>6</sup> LGM's customers in Mexico are \*\*\*, and its customer in Brazil is \*\*\*. \*\*\* are LGM's largest home market customers for aperture masks. Respondent argues \*\*\*. LGM's postconference brief, p. 8.

VII-3

APMs: U.S. importers' end-of-period inventories of imports from subject countries, 1996-98

\* \* \* \* \*

**EXPECTED DELIVERIES**

The Commission requested that importers list any expected deliveries of aperture masks from the subject countries after December 1998. According to importers questionnaires, reported deliveries of APMs expected in 1999 are \*\*\* masks from Japan, and none from Korea.

**DUMPING IN THIRD-COUNTRY MARKETS**

There is no indication that APMs have been the subject of other import relief investigations, including antidumping findings or remedies, in the United States or in any other countries.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



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**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731-TA-823-824  
(Preliminary)]

**Certain Aperture Masks From Japan  
and Korea**

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

**ACTION:** Institution of antidumping  
investigations and scheduling of  
preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731-TA-823-824 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and Korea of certain aperture masks,<sup>1</sup> provided for in subheading 8540.91.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. § 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days,

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<sup>1</sup> The imported products covered by these investigations consist of all sizes and all thicknesses of aperture masks for color television picture tubes (CPTs) made from aluminum killed, open coil annealed steel (decarburized) ("AK steel"), and also known as iron aperture masks for CPTs. Specifically excluded are imports of aperture masks for computer display tubes, aperture masks made from materials other than AK steel (such as invar), and grille masks.

or in this case by April 12, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by April 19, 1999.

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

**EFFECTIVE DATE:** February 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202-205-3200), 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>).

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted in response to a petition filed on February 24, 1999, by Buckbee-Mears Cortland (BMC) Industries, Inc., Minneapolis, MN.

*Participation in the investigations and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are

parties to the investigations under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 17, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202-205-3200) not later than March 15, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 22, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: February 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**  
*Secretary.*

[FR Doc. 99-5260 Filed 3-2-99; 8:45 am]

BILLING CODE 7020-02-P



**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-588-848, A-580-838]

**Initiation of Antidumping Duty Investigations: Certain Aperture Masks From Japan and South Korea**

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

**EFFECTIVE DATE:** March 22, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Ross, at (202) 482-4794, or Thomas Schauer, at (202) 482-4852; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

**Initiation of Investigations***The Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to Department of Commerce ("Department") regulations refer to the regulations codified at 19 CFR Part 351 (1998).

*The Petitions*

On February 24, 1999, the Department received petitions filed in proper form by BMC Industries, Inc. ("BMC," referred to hereafter as "the petitioner"). The petitioner filed supplemental information to the petitions on March 8, 12, and 16, 1999.

The petitioner alleges that imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The Department finds that the petitioner has standing to file the petitions because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigations it is requesting the Department to initiate. See "Determination of Industry Support for the Petitions" below.

*Scope of Investigations*

For purposes of these investigations, the products covered consist of all aperture masks (also known as "shadow

masks") made from aluminum-killed, open-coil annealed steel (decarburized) (known generally as "AK steel") for color picture tubes ("CPTs") used in television sets. AK steel includes the following types of steel: low carbon, AF (annealing-free) steel, AK type A steel (commonly referred to as AKM steel), AK type B steel, and general AK steel. The aperture masks covered by the scope generally have a vertical pitch (distance between the centers of two apertures) of greater than .28mm. Specifically excluded from the scope are the following products: (1) aperture masks made from FeNi 36 alloy (whether sold under the brand names Invar, Inovar or LLTE); (2) aperture masks that have a vertical pitch of less than .28 mm that are generally used for color display tubes ("CDTs") used in computer monitors; and (3) grille masks (a grille mask replaces the slots in an aperture mask with an array of finely tensioned vertical wires).

The merchandise subject to these investigations is classifiable under 8540.91.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

During our review of the petitions, we discussed the scope with the petitioner to ensure that the scope accurately reflects the merchandise for which the domestic industry is seeking relief. Moreover, as we discussed in the preamble to the Department's regulations (62 FR at 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by April 5, 1999. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

#### *Determination of Industry Support for the Petitions*

Section 732(c)(4)(A) of the Act requires that the Department determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets this minimum requirement if the domestic producers

or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product, and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Under section 732(c)(4)(D) of the Act, if the petitioner(s) account for more than 50 percent of the total production of the domestic like product, the Department is not required to poll the industry to determine the extent of industry support.

To determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The ITC, which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.<sup>1</sup>

Section 771(10) of the Act defines domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the like-product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petitions, and as clarified by the March 8 and 12, 1999, supplements to the petitions, is the single product defined in the "Scope of Investigation" section, above. No party has commented on the petitions' definition of domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted this definition of the domestic like product.

<sup>1</sup> See *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

With respect to the above-cited industry-support requirements, the Department has determined that the petitions and supplemental information contained adequate evidence of sufficient industry support. See Initiation Checklist, dated March 16, 1999 (public document on file in the Central Records Unit of the Department of Commerce, Room B-099). Additionally, no person who would qualify as an interested party pursuant to sections 771(A), (C), (D), (E), or (F) of the Act has expressed on the record opposition to the petitions. Information currently on the record indicates that the producer who supports the petitions accounts for 100 percent of the production of the domestic like product. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

#### *Export Price and Normal Value*

The petitioner identified three Japanese producers and one South Korean producer in its less-than-fair-value allegations. The Japanese producers are Dai Nippon Printing Co., Ltd. ("DNP"), Dainippon Screen Manufacturing Company, Ltd. ("DNS"), and Toppan Printing Co., Ltd. ("Toppan"). The South Korean producer is LG Micron Ltd. ("LGM"). The petitioner determined export prices for each of these producers based on price quotes obtained by the petitioner's sales personnel in the ordinary course of business. These price quotes are for various sizes of the aperture masks covered by the scope of the petitions. The petitioner provided trip reports and an affidavit from a BMC sales representative to support the validity of the price quotes. All U.S. price quotes were denominated in U.S. dollars and, where appropriate, the petitioner made adjustments for movement expenses. Our review of the petitioner's calculation of export prices did not indicate the need to make changes to those prices.

With respect to normal value for Japan, the petitioner could not find data regarding Japanese home market prices. Moreover, the petitioner alleges that the volume of Japanese domestic sales of in-scope merchandise is insufficient to form a basis for normal value. In support of its claims that pricing information is unavailable and that the Japanese domestic market is not viable, the petitioner provided an affidavit from a responsible BMC sales representative. The affidavit documents the employee's efforts to uncover pricing information and indicates that most of the aperture

masks sold in Japan are types specifically excluded from the scope of the petitions (e.g., aperture masks made from Invar). Lacking pricing information for sales of the foreign like product in the Japanese market, the petitioner turned to third-country sales as the basis for normal value in accordance with section 773(a)(1)(C) of the Act. However, as described in more detail below, the petitioner provided information in the petitions demonstrating reasonable grounds to believe or suspect that sales of certain aperture masks from Japan to third-country markets were made at prices below the cost of production (i.e., the sum of the cost of materials and fabrication (i.e., COM), selling, general and administrative ("SG&A") expenses, and packing), within the meaning of section 773(b) of the Act. The petitioner therefore concluded that sales from Japan to third countries cannot serve as the basis for normal value. Furthermore, the petitioner requested that the Department conduct a countrywide investigation of sales below cost for third-country market sales from Japan.

With respect to normal value for South Korea, the petitioner stated that it believes that the volume of South Korean home market sales is sufficient to form a basis for normal value. The petitioner also provided information in the petitions demonstrating reasonable grounds to believe or suspect that sales of certain aperture masks in South Korea were made at prices below the cost of production, within the meaning of section 773(b) of the Act. The petitioner therefore concluded that sales in the South Korean home market cannot serve as the basis for normal value. Furthermore, the petitioner requested that the Department conduct a countrywide investigation of sales below cost for home market sales in South Korea.

To support its allegations that prices from Japan to third-country markets and prices in the South Korean home market are below the cost of production, the petitioner compared price quotes for each of the identified producers to each company's cost of production. The petitioner calculated the COM and packing components of the cost of production based on its own production experience with adjustments for known differences in costs incurred in the United States and costs incurred in Japan and South Korea. It derived company-specific SG&A expenses for the Japanese producers using each company's financial statements. For LGM, the South Korean producer of certain aperture masks, the petitioner said it was not able to obtain a financial statement for the calculation of SG&A

expenses. However, since the petitioner could obtain the financial statements of LGM's parent company, LG Electronics, it calculated SG&A based on the financial statements of LG Electronics. We reviewed the cost-of-production calculations and accepted the underlying cost data contained in the petitions, as revised and/or supplemented by the March 8, 12, and 16, 1999, submissions.

We compared the cost-of-production data supplied in the petitions to the corresponding Japanese producers' third-country prices and the South Korean producer's home market prices. We found that the prices in every instance were below the cost of production. Thus, for both Japan and South Korea, these findings constitute "reasonable grounds to believe or suspect" that sales of the foreign like product were made below their respective cost of production within the meaning of section 773(b)(2)(A)(i) of the Act. See "Initiation of Cost Investigation," below.

Since the petitioner found that the third-country prices of the Japanese producers and the home market prices of the South Korean producer were below the cost of production, the petitioner based normal value on constructed value. The petitioner calculated constructed value by adding profit to the figures that it used to compute the cost of production. It based profit on the same financial statements it used for the calculation of SG&A expenses. We reviewed the calculation of constructed value and accepted the underlying cost data contained in the petitions, as revised and/or supplemented by the March 8, 12, and 16, 1999, submissions.

#### *Fair Value Comparison*

Based on the data provided by the petitioner, we find that there is reason to believe that imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold at less than fair value.

The margin calculations in the petitions, as revised in the March 16, 1999, supplement to the petitions, indicate dumping margins ranging from 3.77 to 85.34 percent for certain aperture masks from Japan and a dumping margin of 10.61 percent for certain aperture masks from South Korea.

If it becomes necessary at a later date to consider the petitions as a source of facts available under section 776 of the Act, we may review and, if necessary, revise the margin calculations.

#### *Allegations and Evidence of Material Injury and Causation*

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of imports of the subject merchandise sold at less than normal value. The petitioner explained that the industry's injured condition is evident in declining trends in capacity utilization, income growth, and profits. The allegations of injury and causation are supported by relevant evidence including lost sales and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and they meet the statutory requirements for initiation. See Initiation Checklist, dated March 16, 1999.

#### *Initiation of Antidumping Investigations*

We have examined the petitions on certain aperture masks from Japan and South Korea and have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value.

Our preliminary determinations will be issued by August 3, 1999, unless the deadline for the determinations is extended.

#### *Initiation of Cost Investigation*

As explained above, the Department has found that there are "reasonable grounds to believe or suspect" that sales of certain aperture masks in the comparison markets for Japan and South Korea were made below their respective cost of production within the meaning of section 773(b)(2)(A)(i) of the Act. Therefore, we are initiating countrywide sales-below-cost investigations with respect to certain aperture masks from Japan and South Korea.

#### *Distribution of Copies of the Petitions*

In accordance with section 732(b)(3)(A) of the Act, copies of public versions of the petitions have been provided to the representatives of the Governments of Japan and South Korea.

#### *International Trade Commission Notification*

We have notified the ITC <sup>of our</sup> initiation of these investigations, as required by section 732(d) of the Act.

*Preliminary Determination by the ITC*

The ITC will determine by April 12, 1999, whether there is a reasonable indication that imports of certain aperture masks from Japan and South Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in termination of the investigations; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: March 16, 1999.

**Robert S. LaRussa,**  
*Assistant Secretary for Import  
Administration.*

[FR Doc. 99-6934 Filed 3-19-99; 8:45 am]

**BILLING CODE 3510-DS-P**

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**APPENDIX B**

**LIST OF WITNESSES APPEARING AT THE CONFERENCE**



## CALENDAR OF THE COMMISSION'S CONFERENCE

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

Subject: Certain Aperture Masks from Japan and Korea  
Invs. Nos.: 731-TA-823-824 (Preliminary)  
Date and Time: March 17, 1999 - 9:30 a.m.

Sessions were held in connection with the investigations in the Commission's Courtroom A, 500 E Street, S.W., Washington, DC.

### **Congressional Appearance:**

**The Honorable James T. Walsh**, United States Congressman, New York

### **In Support of the Imposition of Antidumping Duties:**

Oppenheimer Wolff Donnelly & Bayh  
Washington, DC  
on behalf of

BMC Industries, Inc.

**Gary W. Nelson**, Vice President, Worldwide Sales, BMC Mask Operations, BMC Industries, Inc.

**Gerald C. Gugger**, Director of Finance and Administration, BMC Mask Operations, BMC Industries, Inc.

**Lizabeth R. Levinson**  
**Courtenay Ellis** )--OF COUNSEL  
**Edward Fishman** )

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

#### Panel 1

#### Japanese Producers

Paul, Hastings, Janofsky & Walker  
Washington, DC  
on behalf of

Dai Nippon Printing Company (DNP)

**Hamilton Loeb**--OF COUNSEL

**In Opposition--Continued**

Powell, Goldstein, Frazer & Murphy  
Washington, DC  
on behalf of

Toppan Printing Company, Ltd.

**Lawrence R. Walders--OF COUNSEL**

deKieffer & Horgan  
Washington, DC  
on behalf of

Thomson Consumer Electronics, Inc.

**Amy J. Mizelle**, Procurement Administrator, North American Tube Division, Thomson  
Consumer Electronics

**E. E. Doerschuk**, Manager, Product Support Department, Thomson Consumer Electronics

**J. Kevin Horgan)**  
**John J Kenkill )**--OF COUNSEL

LECG, Inc.

**Andrew R. Wechsler**, Principal and Managing Director

Pillsbury, Madison & Sutro  
Washington, DC  
on behalf of

Dainippon Screen Manufacturing Company, Ltd. (DNS)

**Arthur Wineburg)**  
**William Atkins )**--OF COUNSEL

Panel 2

Korean Producer

Kaye, Scholer, Fierman, Hays & Handler  
Washington, DC  
on behalf of

LG Micron, Ltd.

**Michael P. House--OF COUNSEL**



**APPENDIX C**  
**SUMMARY TABLES**



Table C-1  
APMs: Summary data concerning the U.S. market, 1996-98

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Table C-2  
APMs plus grille masks for CPTs: Summary data concerning the U.S. market, 1996-98

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Table C-3  
APMs plus AK steel aperture masks for CDTs: Summary data concerning the U.S. market, 1996-98

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Table C-4  
APMs plus grille masks plus Invar aperture masks for CPTs: Summary data concerning the U.S. market, 1996-98

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Table C-5  
APMs plus grille masks plus Invar aperture masks for CPTs and CDTs: Summary data concerning the U.S. market, 1996-98

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