

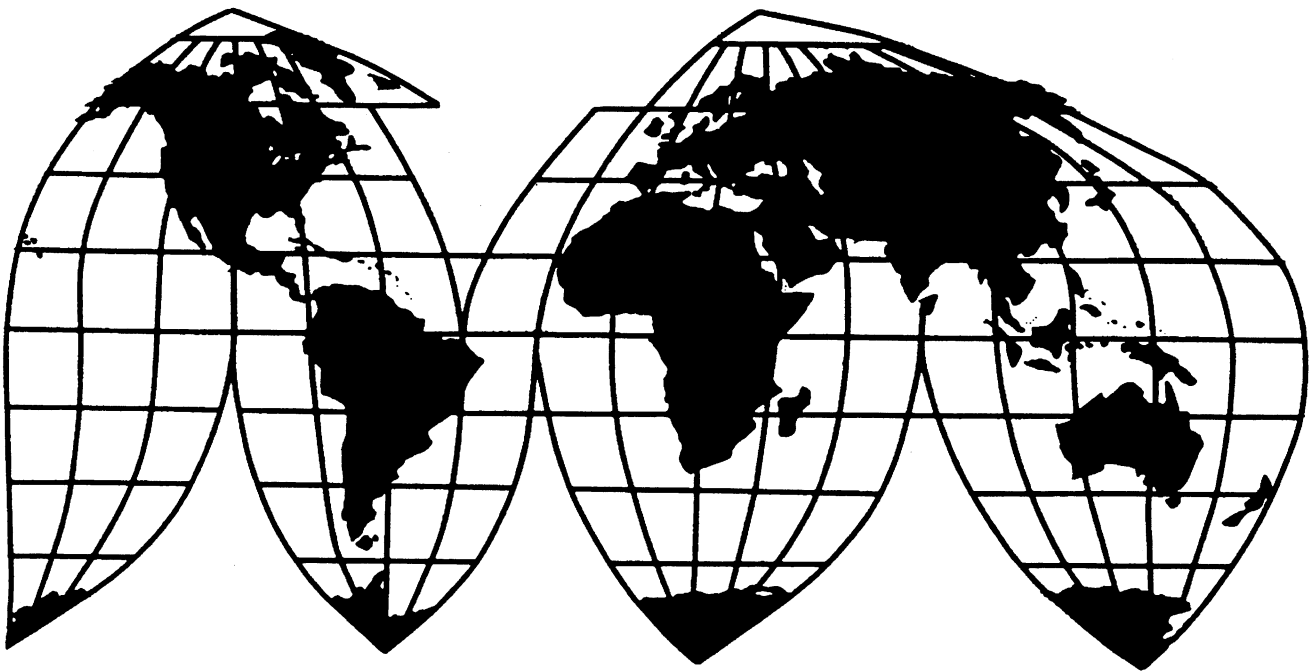
# Drafting Machines From Japan

Investigation No. 731-TA-432 (Review)

Publication 3252

November 1999

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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## **Drafting Machines From Japan**



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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

## GLOSSARY

Commerce .....	U.S. Department of Commerce
Commission .....	U.S. International Trade Commission
Customs .....	U.S. Customs Service
FR .....	<i>Federal Register</i>
HTS .....	Harmonized Tariff Schedule of the United States
Mutoh .....	Mutoh Industries Limited
Mutoh America .....	Mutoh America Incorporated
<i>Supplemental Vemco Response</i> .....	Vemco's Supplemental Response to the Commission's Notice of Institution (Aug. 3, 1999)
TSUSA .....	Tariff Schedules of the United States (Annotated)
Vemco .....	Vemco Drafting Products Corporation
<i>Vemco Response</i> .....	Vemco's Response to the Commission's Notice of Institution (July 21, 1999)

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-432 (Review)

**DRAFTING MACHINES FROM JAPAN**

**DETERMINATION**

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission determines,<sup>2</sup> pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**BACKGROUND**

The Commission instituted this review on June 1, 1999 (64 F.R. 29339) and determined on September 3, 1999, that it would conduct an expedited review (64 F.R. 50105, September 15, 1999).

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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 Thelma J. Askey dissenting.





## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order covering drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. BACKGROUND

In December 1989, the Commission determined that an industry in the United States was being materially injured by reason of imports of drafting machines from Japan that were being sold at less than fair value.<sup>2</sup> On December 29, 1989, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of drafting machines from Japan.<sup>3</sup> The Commission instituted this five-year review on June 1, 1999.<sup>4</sup>

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.<sup>5</sup> If the Commission finds the responses from either group of interested parties to be inadequate, the Commission may determine, pursuant to section 751(c)(3)(B) of the Act, to conduct an expedited review unless it finds that other circumstances warrant a full review.

In this review, Vemco Drafting Products Corporation (“Vemco”), a domestic manufacturer that claims to be the sole U.S. producer of drafting machines, filed a response to the notice of institution.<sup>6</sup>

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<sup>1</sup> Commissioners Crawford and Askey dissenting. Commissioners Crawford and Askey determine that revocation of the antidumping duty order covering drafting machines from Japan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Additional and Dissenting Views of Commissioners Carol T. Crawford and Thelma J. Askey. They join in sections I - III.B. of these views except as otherwise noted.

<sup>2</sup> Drafting Machines from Japan, Inv. No. 731-TA-432 (Final), USITC Pub. 2247 (Dec. 1989) (“Original Determination”).

<sup>3</sup> 54 Fed. Reg. 53671 (Dec. 29, 1989).

<sup>4</sup> 64 Fed. Reg. 29339 (June 1, 1999).

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

<sup>6</sup> Vemco is the successor corporation to the petitioner in the original investigation. According to information submitted by Vemco, it accounts for 100 percent of U.S. drafting machine production. Letter from Vemco Drafting Products Corp. to Int’l Trade Comm’n at 2 (July 21, 1999) (“Vemco Response”).

No foreign producer, U.S. importer, or other interested party responded to the Commission's notice of institution.

On September 3, 1999, the Commission determined that the domestic interested party group response to its notice of institution was adequate but that the respondent interested party group response was inadequate.<sup>7</sup> Pursuant to section 751(c)(3)(B) of the Act,<sup>8</sup> the Commission voted to conduct an expedited review of this antidumping duty order.

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."<sup>9</sup> The Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."<sup>10</sup> In its final five-year review determination, Commerce defined the subject merchandise as:

Drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. The term "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be read and set and lines to be drawn. The machine is generally clamped to the board. Also included within the scope are parts of drafting machines. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps, and scales are not subject to this order. This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 9017.10.00 and 9017.90.00. The merchandise was previously classified under the Tariff Schedule of the United States ("TSUSA") under item 710.8025. The HTS numbers are provided for convenience and for Customs purposes only. The written description remains dispositive.<sup>11</sup>

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<sup>7</sup> See Explanation of Commission Determination on Adequacy in Drafting Machines from Japan (Sept. 9, 1999). See also 64 Fed. Reg. 50105 (Sept. 15, 1999). The Commission's determinations as to the adequacy of the respondent interested party group and the domestic interested party group were unanimous.

<sup>8</sup> 19 U.S.C. § 1675(c)(3)(B).

<sup>9</sup> 19 U.S.C. § 1677(4)(A).

<sup>10</sup> 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 96-249 at 90-91 (1979).

<sup>11</sup> 64 Fed. Reg. 53996 (Oct. 5, 1999).

In its original determination, the Commission defined the domestic like product as drafting machines and drafting machine parts.<sup>12</sup> None of the additional information collected in this review warrants a departure from that definition. Accordingly, based on the facts available, we define the domestic like product as drafting machines and drafting machine parts.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.”<sup>13</sup> In defining the domestic industry in this review, we need not consider whether any producers of the domestic like product should be excluded from the domestic industry pursuant to the related parties provision in section 771(4)(B) of the Act<sup>14</sup> because Vemco apparently is the only domestic producer. In the original investigation, Vemco accounted for approximately 100 percent of U.S. production of drafting machines. Today Vemco is the only known producer of drafting machines.

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<sup>12</sup> Original Determination at 9.

<sup>13</sup> 19 U.S.C. § 1677(4)(A).

<sup>14</sup> 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers. Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each case. See Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff’d without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude such parties include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (CIT 1992), aff’d without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Sebacic Acid from the People’s Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793, at I-7 - I-8 (July 1994).

### III. REVOCATION OF THE ORDER ON DRAFTING MACHINES IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME<sup>15</sup>

#### A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>16</sup> The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports.”<sup>17</sup> Thus, the likelihood standard is prospective in nature.<sup>18</sup> The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”<sup>19</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”<sup>20 21</sup>

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<sup>15</sup> Commissioners Crawford and Askey dissenting. They join in sections III. A. & B., except as otherwise noted.

<sup>16</sup> 19 U.S.C. § 1675a(a).

<sup>17</sup> SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).” SAA at 883.

<sup>18</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

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

<sup>20</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>21</sup> In analyzing what constitutes a reasonably foreseeable time, Commissioners Crawford and Koplán examine all the current and likely conditions of competition in the relevant industry. They define “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, they consider all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, their analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.”<sup>22</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.<sup>23 24</sup>

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance with section 776.”<sup>25 26</sup> As noted above, no respondent interested parties responded to the Commission’s notice of institution. Accordingly, we have relied on the facts available in this review, which consist

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occur in predicting events into the more distant future.

<sup>22</sup> 19 U.S.C. § 1675a(a)(1).

<sup>23</sup> 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>24</sup> Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce stated in its expedited five-year review determination that it has not issued any duty absorption finding in this case. 64 Fed. Reg. 53996, 53997 (Oct. 5, 1999).

<sup>25</sup> 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences may include selecting from information from the record of our original determination and any other information placed on the record. *Id.*

<sup>26</sup> Chairman Bragg and Commissioners Koplan and Askey note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but emphasize that such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. “[T]he Commission balances all record evidence and draws reasonable inferences in reaching its determinations.” SAA at 869 [emphasis added]. Practically speaking, when only one side has participated in a five-year review, much of the record evidence is supplied by that side, though that data is supplemented with publicly available information. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” *Id.*

primarily of the record in the original investigation, limited information collected by the Commission since the institution of this review, and information submitted by Vemco.

For the reasons stated below, we determine that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.<sup>27</sup>

## **B. Conditions of Competition**

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>28</sup>

First, at the time of the original investigation, many purchasers were beginning to buy computer-aided design (“CAD”) systems in place of drafting machines, resulting in a marked decrease in apparent domestic consumption during the original investigation period.<sup>29</sup> This process continued after the imposition of the antidumping duty order. Apparent domestic consumption of drafting machines has fallen since then and continues to fall at the present time.<sup>30</sup>

Second, at the time of the original investigation, Vemco’s predecessor was the sole U.S. producer of drafting machines, and Mutoh Industries Ltd. (“Mutoh”), a Japanese producer, was the only other significant supplier of drafting machines to the U.S. market.<sup>31</sup> After imposition of the antidumping duty order, imports of nonsubject German drafting machines entered the U.S. market in increased quantities and ultimately replaced subject imports, but ceased in the mid-1990s.<sup>32</sup> Currently, Vemco remains the sole producer of drafting machines in the United States, facing no competition from other providers of drafting machines.

## **C. Likely Volume of Subject Imports**

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of imports would be

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<sup>27</sup> Commissioners Crawford and Askey determine that revocation of the antidumping duty order covering drafting machines from Japan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Dissenting Views of Commissioners Carol T. Crawford and Thelma J. Askey.

<sup>28</sup> 19 U.S.C. § 1675a(a)(4).

<sup>29</sup> Final Report to the Commission at A-46 (Dec. 12, 1989) (“Original Staff Report”).

<sup>30</sup> Vemco Response at 11.

<sup>31</sup> The Original Staff Report states that other nonsubject merchandise accounted for “an extremely small quantity” of drafting machine imports into the United States, and that Mutoh accounted for essentially all of the imports of the subject merchandise. Original Staff Report at A-37, n. 31, A-39.

<sup>32</sup> Affidavit of Paul McManigal, Vemco Response, Att. 1.

significant either in absolute terms or relative to production or consumption in the United States.<sup>33</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>34</sup>

Mutoh is now the largest manufacturer of drafting machines and drafting machine parts in the world,<sup>35</sup> with approximately \*\*\* times more productive capacity than Vemco.<sup>36</sup> The information on the record indicates that Mutoh’s production of drafting machines was approximately 20 times Vemco’s production in 1998.<sup>37</sup> Yet, Mutoh’s total sales of drafting equipment have decreased since the imposition of the order, including a 20 percent drop in sales revenue in 1998 alone, which indicates the existence of excess capacity and changing demand.<sup>38</sup> The 1998 reduction in sales alone would leave Mutoh sufficient idle productive capacity to satisfy 100 percent of the U.S. demand for drafting machines.<sup>39</sup> Thus, Mutoh has the ability to increase sales to the United States without decreasing sales to other markets.<sup>40</sup> In addition, although Mutoh’s U.S. subsidiary has stopped selling drafting machines in the United States, it has continued to supply other graphics materials to the U.S. market.<sup>41</sup> This established customer base and distribution system would facilitate Mutoh’s ability to increase sales of subject merchandise in the United States if the order were revoked.

The antidumping duty order had a significant restraining effect on subject imports. Mutoh completely ceased its exports of drafting machines to the United States upon issuance of the antidumping duty order, dropping from a sizable share of the U.S. market to essentially nothing over a relatively short period.<sup>42</sup> The record does not indicate any other sizable changes in the conditions of competition during this period. Therefore, we conclude that the order was primarily responsible for the reduction in Mutoh’s shipments of subject merchandise to the United States.

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<sup>33</sup> 19 U.S.C. § 1675a(a)(2).

<sup>34</sup> 19 U.S.C. § 1675a(a)(2)(A)-(D).

<sup>35</sup> Vemco Response at 4.

<sup>36</sup> See CR & PR, Tables I-1 & I-4.

<sup>37</sup> Id.

<sup>38</sup> Vemco Response at 4-5. There is no indication that Mutoh reduced its overall capacity during this period.

<sup>39</sup> Vemco Response at 4-5.

<sup>40</sup> Thus, given Mutoh’s total production capacity, even a shift in shipments that is relatively small from Mutoh’s perspective would be enough to satisfy 100 percent of U.S. demand.

<sup>41</sup> Vemco Response at 5.

<sup>42</sup> Vemco Response at 4, n. 4.

Based on the foregoing, we find it likely that Mutoh would, upon revocation of the order, increase exports to the U.S. market, and that the import volume would rise significantly if the discipline of the order were removed.<sup>43</sup> Consequently, and in the absence of contrary information or argument,<sup>44</sup> we conclude that, absent the restraining effect of the order, subject imports would likely increase to a significant level and would regain some or all of the sizable U.S. market share held during the original investigation period.

#### **D. Likely Price Effects**

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.<sup>45</sup>

The record in this expedited review contains a limited amount of pricing data for the U.S. market. In the original determination, the Commission found that subject imports were highly competitive with Vemco's drafting machines, and were traded through the same channels of distribution.<sup>46</sup> In addition, subject imports undersold the domestic merchandise in slightly more than half of the comparisons, with underselling highest for the products that were most fully comparable.<sup>47</sup> Nothing on the record suggests that Mutoh has changed its selling practices in the past decade. Furthermore, purchasers indicated that price was one of the most important considerations in their purchasing decisions.<sup>48 49</sup>

The relatively low operating profit margins reported by Vemco indicate that its sales of drafting machines are already under pressure from sales of CAD systems. Since the original record showed a close correlation between the changes in prices charged by Mutoh and Vemco, low prices for subject imports would likely depress the prices Vemco could demand for its U.S. sales.

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<sup>43</sup> See SAA at 890. The record in this five-year review does not contain information about the current levels of inventories maintained by Japanese producers.

<sup>44</sup> Chairman Bragg bases her conclusion on the entirety of the record in this review. She does not base her conclusion on the absence of argument to the contrary.

<sup>45</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

<sup>46</sup> Original Determination at 17, n.51.

<sup>47</sup> Id. at 18.

<sup>48</sup> Id.

<sup>49</sup> Chairman Bragg infers that, in the event of revocation, Mutoh will revert to aggressive pricing practices in connection with exports of subject merchandise to the United States, as evidenced in the Commission's original investigation.



The record in this review contains no evidence about the prices of the subject merchandise in the U.S. market because the subject imports have not entered the market since 1985. However, the record does indicate that there is a moderately high level of substitutability between the domestic and subject merchandise<sup>50</sup> and that price is an important factor in purchasing decisions for drafting machines.<sup>51</sup> Given this and Mutoh's underutilized capacity, we find that it is highly likely that Mutoh would offer attractively low prices to U.S. purchasers to regain market share should the antidumping duty order be revoked. As domestic demand and capacity utilization rates continue to decline, we find that this increased competition from Mutoh would be likely to have significant depressing or suppressing effects on prices for the domestic like product.

For the foregoing reasons, and in the absence of contrary information or argument,<sup>52</sup> we find that revocation of the antidumping duty order would be likely to lead to significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

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

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>53</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>54</sup> As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.<sup>55</sup>

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<sup>50</sup> CR at I-6 - I-7 & PR at I-5 - I-6.

<sup>51</sup> Original Determination at 18-19.

<sup>52</sup> Chairman Bragg bases her conclusion on the entirety of the record in this review; she does not base her conclusion on the absence of argument to the contrary.

<sup>53</sup> 19 U.S.C. § 1675a(a)(4).

<sup>54</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Under that provision of the statute, Commerce found that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at margins of 54.21 percent for all Chinese manufacturers and exporters. 64 Fed. Reg. 32481, 32483 (June 17, 1999).

<sup>55</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an

In the original determination, the Commission found that the domestic industry suffered material injury by reason of a significant volume of LTFV imports of drafting machines that were underselling the domestic like product.<sup>56</sup> Specifically, the Commission found that subject imports had prevented the domestic industry from increasing prices to cover increases in its unit costs.<sup>57</sup> These conditions had an adverse effect on the domestic industry in the form of a reduction in profitability, production levels, capacity utilization, and shipment volumes over the period of investigation.<sup>58</sup>

The order had an apparently significant effect on industry performance. Vemco registered a \*\*\* percent operating loss in 1988, which improved to a \*\*\* percent operating profit in 1989 and \*\*\* percent in 1990 after subject imports left the marketplace in response to issuance of the order.<sup>59</sup> Although Vemco's sales volume declined along with apparent domestic consumption, the unit value of its sales grew to become approximately \*\*\* percent higher in 1998 than at the end of the investigation period.<sup>60</sup> Profitability of \*\*\* percent in 1998 is somewhat lower than in 1989, but remains much higher than during the original investigation period. These data show that in the absence of subject imports, Vemco was able to keep pace with, and even exceed, increases in its cost of production. Since competition from CAD systems has been ongoing and other conditions of competition apparently remain unchanged, we conclude, absent other information, that these improvements in the domestic industry were in large measure a result of the antidumping duty order.

The domestic producer argues that it is vulnerable to material injury given its low level of profitability. We note that the industry has substantial unused capacity, but reported a modest operating income in 1998. Based on the limited record, we conclude that the industry is not currently in a "weakened state," as contemplated by the vulnerability criterion of the statute.<sup>61</sup>

Specifically, we find it likely that revocation would result in a significant increase in the volume of subject imports at prices significantly lower than Vemco currently receives from U.S. customers. Such shipments would likely depress Vemco's prices significantly, and have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the order will result in employment declines for Vemco.

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industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

<sup>56</sup> Original Determination at 17.

<sup>57</sup> Original Determination at 16-17.

<sup>58</sup> Original Determination at 10, 17-19.

<sup>59</sup> Vemco Response at 8.

<sup>60</sup> CR & PR, Table I-1.

<sup>61</sup> SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury. . . . If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order. . . .").

Accordingly, based on the limited record in this review, and in the absence of contrary information or argument,<sup>62</sup> we conclude that, if the antidumping duty order were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

### CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to the domestic drafting machine industry within a reasonably foreseeable time.

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<sup>62</sup> Chairman Bragg bases her conclusion on the entirety of the record in this review; she does not base her conclusion on the absence of argument to the contrary.



**ADDITIONAL AND DISSENTING VIEWS OF COMMISSIONERS  
CAROL T. CRAWFORD AND THELMA J. ASKEY**

Section 751(d) requires that the Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>1</sup> In this review of the order on drafting machines and parts thereof from Japan, we find that material injury is not likely to continue or recur within a reasonably foreseeable time if the order is revoked.

We join our colleagues in their discussion regarding the domestic like product and the domestic industry, and in their explanation of the relevant legal standard. We also join in their discussion of the relevant conditions of competition. However, we add further observations regarding such conditions of competition below.

As a preliminary matter, we note that the sole domestic producer, Vemco Drafting Products Corporation (“Vemco”), is the only interested party that responded to the Commission’s notice of institution. No respondent interested parties chose to participate in the review. We therefore have a limited record to review in determining whether revocation of the order will likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2</sup> In a case such as this, where only one party participates in an investigation or review, that party has an advantage in terms of its ability to present information to the Commission without rebuttal from the other side. However, irrespective of the source of information on the record, the statute obligates the Commission both to investigate the matters at issue and to evaluate the data before it in terms of the statutory criteria.<sup>3</sup> The Commission cannot properly accept a participating party’s information and characterizations thereof without question and without evaluating other available information.<sup>4</sup>

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<sup>1</sup> 19 U.S.C. §§ 1675(d)(2), 1675a(a)(1).

<sup>2</sup> Congress and the administration anticipated that the record in expedited sunset reviews would likely be more limited than that in full reviews and accordingly provided that the Commission’s determination would be upheld unless it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(b)(ii). Nevertheless, even under a more relaxed standard of review, the Commission must ensure that its decision is based on some evidence in the record. See Genentech Inc. v. United States Int’l Trade Comm’n, 122 F.3d 1409, 1415 (Fed. Cir. 1997) (discussing the Commission’s decision on sanctions).

<sup>3</sup> 19 U.S.C. § 1675a(a).

<sup>4</sup> See, e.g., Alberta Pork Producers’ Mktg. Bd. v. United States, 669 F. Supp. 445, 459 (Ct. Int’l Trade 1987) (“Commission properly exercised its discretion in electing not to draw an adverse inference from the low response rate to questionnaires by the domestic swine growers since the fundamental purpose of the rule to ensure production of relevant information is satisfied by the existence of the reliable secondary data.”).

## A. Conditions of Competition

As previously noted, we join the majority in the discussion of the relevant conditions of competition. However, discussed below are additional conditions of competition that weigh significantly in our analysis of the subject review.

In examining the current marketplace for drafting machines, we note that the record in this review indicates that the market is very different than it was during the original period of investigation. Demand for drafting machines has declined precipitously since the Commission made its original determination. Apparent U.S. consumption decreased more than \*\*\* times in the decade since the original order went into effect, falling from just over \*\*\* units in 1988<sup>5</sup> to approximately \*\*\* units in 1998.<sup>6</sup> Moreover, according to Vemco, demand for drafting machines will continue to decrease in the foreseeable future.<sup>7</sup> This decrease in demand is likely related to the presence of certain computer-aided design (“CAD”) systems in the market. As recognized by the parties in the original investigation, CAD systems have had an impact on the drafting machine market.<sup>8</sup> At that time, witnesses testified that many consumers had switched to CAD systems because it was a more efficient system that offered more capabilities than mechanical drafting machines.<sup>9</sup>

In addition, since the original period of investigation, the domestic industry continues to be consolidated in one manufacturer. The domestic industry has also greatly decreased its total production capacity since that time. Prior to the original investigation, between 1979 and 1985, three of the four domestic producers of drafting machines ceased production altogether.<sup>10</sup> This left Vemco as the only remaining domestic producer of drafting machines. By 1988, four of the five U.S. firms importing Japanese drafting machines had ceased importing such subject merchandise.<sup>11</sup> Since the original investigation, Vemco has significantly decreased its capacity from \*\*\* units in 1988 to \*\*\* units in 1998.<sup>12</sup>

Vemco identifies Mutoh Industries, Ltd. (“Mutoh”) as the only known subject foreign producer<sup>13</sup> and the largest manufacturer of drafting machines in the world.<sup>14</sup> While specific data concerning

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<sup>5</sup> Original Staff Report at A-15, Table 1.

<sup>6</sup> See CR/PR at Table I-1. U.S. shipments of drafting machines were \*\*\* units in 1998. *Id.* Therefore, while consumption data are not available, this figure provides a reasonable proxy for U.S. consumption since there are no subject imports and no apparent nonsubject imports. See CR/PR at Table I-2.

<sup>7</sup> Vemco’s Response at 7.

<sup>8</sup> See Original Staff Report at A-46-47.

<sup>9</sup> Original Transcript at 119-121, 124-125 and 127-128.

<sup>10</sup> Original Staff Report at A-16.

<sup>11</sup> *Id.* at A-17.

<sup>12</sup> CR/PR at Table I-1.

<sup>13</sup> Vemco’s Response at 9.

<sup>14</sup> *Id.* at 4.

Mutoh's capacity, production, and shipments are not publicly available, Vemco estimates that Mutoh's current production and sales of drafting machines is about 20 times greater than Vemco's production. Moreover, Vemco argues that Mutoh's general decline in total net sales of a product category including drafting machines is evidence of Mutoh's current low rate of capacity utilization.<sup>15</sup> Vemco also reports that a U.S. subsidiary of Mutoh ceased importing from Japan shortly after the imposition of duties and began importing from an alternative source of drafting machines in Germany. However, the subsidiary has not imported any drafting machines to the United States for at least the past five years.<sup>16</sup>

## B. General Considerations

The statute directs us to take into account several general considerations.<sup>17</sup> We have taken into account the Commission's prior injury determination, including the volume, price effects, and impact of the subject imports on the industry before the order was issued.<sup>18</sup> We have also considered whether any improvement in the state of the industry is related to the order, and whether the industry is vulnerable to material injury in the event of revocation.<sup>19</sup> However, our consideration of these factors does not have any effect on our determination.

Imposition of the order appears to have had an immediate effect on subject imports. Japanese imports fell from \*\*\* units in 1988 to zero units in 1998.<sup>20</sup> However, apparent consumption for drafting machines was falling throughout the original period of investigation and market conditions have continued to deteriorate since the imposition of the antidumping duty order. Moreover, the significant amount of time -- 11 years -- that has elapsed since the order was imposed counsels against attributing current market conditions to the existence of the order.

Vemco argues that it is vulnerable to injury if the order is revoked. However, we do not find that the record reflects such vulnerability.<sup>21</sup> Vemco reports that its operating income as a percentage of net

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<sup>15</sup> *Id.* at 4 and Attachment 1.

<sup>16</sup> *Id.*

<sup>17</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not issued a duty absorption finding, therefore it is not an issue in this review. *See* 64 Fed. Reg. 53996 (Oct. 5, 1999). The statute also provides that the Commission may consider the margin of dumping when making its determination. 19 U.S.C. § 1675a(a)(6). The margins of dumping that Commerce found likely to prevail if the existing order on Japan is revoked is 90.87 for Mutoh Industries, Ltd. and all other manufacturers/exporters. 64 Fed. Reg. at 53998.

<sup>18</sup> 19 U.S.C. § 1675a(a)(1)(A). According to the Statement of Administrative Action ("SAA") to the Uruguay Round Agreements Act, if pre-order conditions are likely to recur, it is reasonable to conclude that there is a likelihood of continuation or recurrence of injury. H. R. Rep. No. 103-316, vol. I, at 884 (1994).

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

<sup>20</sup> CR/PR at Table I-2.

<sup>21</sup> Commissioner Crawford finds that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the industry. She finds that the domestic industry in this review is not particularly vulnerable to injury if the order is revoked

sales improved to \*\*\* percent in 1998 from a low of \*\*\* percent in 1988.<sup>22</sup> More importantly, however, because subject and nonsubject imports are completely absent from the domestic market, Vemco is the sole producer of drafting machines and has a captive domestic market.

### C. Volume

In the original investigation, U.S. imports of drafting machines from Japan fell approximately \*\*\* percent, from \*\*\* units in 1986 to \*\*\* units in 1988.<sup>23</sup> In terms of U.S. market share, subject imports of drafting machines accounted for \*\*\* percent of the domestic market in 1986, before dropping to \*\*\* percent in 1988.<sup>24</sup> As previously stated, there were no imports of subject merchandise in 1998. Therefore, the data indicate that the market share held by subject imports from Japan has declined precipitously to zero.

Our focus in a sunset review is whether subject import volume is likely to be significant within a reasonably foreseeable time if the antidumping duty order is revoked. We find that it is likely that the volume of the subject imports will not be significant if the order is revoked. Additionally, although the available data suggest that the existing antidumping duty order in this review has affected the market penetration of subject imports, we find that current U.S. producer market share is not likely to be adversely affected if the order is revoked.

We have considered Vemco's estimate of Mutoh's current production volume, which would imply that the sole Japanese producer's current capacity is \*\*\* times greater than that of the domestic industry.<sup>25</sup> We find this to be unlikely. Prior to and through the original period of investigation, three of the four domestic manufacturers of drafting machines ceased production. Furthermore, three of the four U.S. importers of the subject merchandise ceased importing drafting machines from Japan before imposition of the order. Mutoh's U.S. subsidiary, the sole remaining U.S. importer of subject drafting machines, ceased its U.S. imports of such subject merchandise over five years ago. In addition, since the imposition of the order, domestic consumption and capacity have declined dramatically. Given the apparent increasing shift in demand towards substitute products (*e.g.*, CAD systems) and the continuing sharp decline in domestic consumption of drafting machines, we find it unlikely that Japan would not have decreased its production capacity in accordance with current market conditions.

Moreover, regardless of the true production capabilities of Mutoh, we find that it is unlikely that subject merchandise would reenter the domestic market in any significant level of volume upon revocation of the existing antidumping duty order. The available facts of this review support the conclusion that the sole remaining Japanese producer is not interested in participating in the U.S. market. We note that during the original period of investigation Mutoh did not participate in Commerce's investigation. Furthermore, Mutoh has not requested an administrative review from Commerce since the

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<sup>22</sup> CR/PR at Table I-1.

<sup>23</sup> *Id.* at Table I-2.

<sup>24</sup> *Id.* at Table I-3.

<sup>25</sup> *See id.* at Table I-1.



issuance of the antidumping duty order and did not participate in this current review.<sup>26</sup> Moreover, the fact that nonsubject imports have not been a factor in the U.S. market for over five years indicates that other manufacturers are similarly disinterested in exporting drafting machines to the United States. This information leads us to conclude that Mutoh has abandoned the dwindling U.S. market for drafting machines and is likely to remain absent from the market if the order is revoked.

In sum, we find that revocation of the antidumping duty order is not likely to lead to a significant increase in the volume of subject imports within a reasonably foreseeable time.

#### **D. Price**

The record in this review contains no current pricing data. However, even if subject imports were to enter the United States following revocation of the order, we conclude that such volume would be too small to have any effect on domestic prices. We have already found that the volume of the subject imports is not likely to be significant if the order is revoked, and thus any increase in demand for the subject imports is not likely to be significant either. There are no nonsubject imports in the domestic market. Thus, absent a significant shift in demand away from the domestic product, revocation of the order is not likely to have any effect on domestic prices. Consequently, we find that revocation of the order would not be likely to have any significant suppressing or depressing effect on domestic prices within a reasonably foreseeable time.

#### **E. Impact**

As discussed above, revocation of the order is not likely to lead to a significant shift in demand away from the domestic like product. Therefore, we find that subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the event the order is revoked. In conjunction with our conclusion regarding likely volume and price effects, we find that revocation is not likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time. Consequently, we find that there likely would not be a significant impact on the domestic industry if the order is revoked.

#### **F. Conclusion**

In conclusion, we determine that subject imports of drafting machines from Japan are not likely to have significant volume or price effects if the existing order is revoked, and are therefore not likely to have a significant impact on the domestic industry. Consequently, we determine that material injury would not be likely to continue or recur within a reasonably foreseeable time if the antidumping duty order is revoked.

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<sup>26</sup> See CR at I-4 n.7; PR at I-3 n.7.



**INFORMATION OBTAINED IN THE REVIEW**



## INTRODUCTION

On June 1, 1999, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>1</sup> On September 3, 1999, the Commission determined that the domestic interested party response to its notice of institution was adequate;<sup>2</sup> the Commission also determined that the respondent interested party response was inadequate.<sup>3</sup> The Commission found no other circumstances that would warrant a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)(B)).<sup>4</sup> The Commission voted on this review on October 28, 1999, and notified Commerce of its determination on November 8, 1999.

### The Original Investigation

The Commission completed the original investigation<sup>5</sup> in December 1989, determining that an industry in the United States was materially injured by reason of imports of drafting machines from Japan that were sold at less than fair value. The Commission defined the domestic like product as drafting machines and parts thereof, excluding portable drafting machines, and found the relevant domestic industry to consist of producers of the domestic like product.<sup>6</sup> After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of drafting machines from Japan.<sup>7</sup>

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<sup>1</sup> 64 FR 29339, June 1, 1999. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>2</sup> A single response to the Commission's notice was filed on behalf of Vemco; this firm is the only known U.S. producer of drafting machines. *Vemco Response*, p. 9.

<sup>3</sup> No respondent interested party response to the Commission's notice of institution was received in this review.

<sup>4</sup> 64 FR 50105, Sept. 15, 1999. The Commission's notice of expedited review appears in app. A. See the Commission's web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review. The Commission's statement on adequacy is presented in app. B. There are limited public data available concerning drafting machines; therefore, most of the information presented in this report is from the record of the original investigation and from the *Vemco Response*.

<sup>5</sup> The investigation resulted from a petition filed by Vemco on Apr. 7, 1989.

<sup>6</sup> Vemco stated in its response to the Commission's notice of institution in this review that it agrees with the Commission's definitions of domestic like product and domestic industry. *Vemco Response*, p. 12.

<sup>7</sup> 54 FR 53671, Dec. 29, 1989. This order required the posting of a cash deposit equal to the estimated weighted-average antidumping duty margin, which was 90.87 percent for the reviewed firm (Mutoh) and all other firms. In determining its weighted-average antidumping duty margin, Commerce compared the U.S. price with the foreign market value based on the best information available because the respondent declined to participate in the investigation. There have been no requests for administrative reviews of the antidumping duty order and no investigations of duty absorption by Commerce. See Commerce's web site ([http://www.ita.doc.gov/import\\_admin/records/sunset](http://www.ita.doc.gov/import_admin/records/sunset)) at *Case History and Scope Information*.

## Commerce's Final Results of Expedited Sunset Review

On September 29, 1999, the Commission received Commerce's "Final Results of Expedited Sunset Review" concerning drafting machines from Japan.<sup>8</sup> The review covered all manufacturers and exporters of drafting machines from Japan. Commerce determined that dumping is likely to continue or recur if the antidumping duty order is revoked. The following tabulation provides information with regard to the margin (*in percent*) of dumping that Commerce found would likely prevail if the order is revoked:<sup>9</sup>

<u>Manufacturer/exporter</u>	<u>Margin (percent)</u>
Mutoh .....	90.87
All others .....	90.87

### THE PRODUCT

#### Scope

Commerce defined the scope of the subject merchandise as follows:

The merchandise subject to this order includes drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. The term "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be read and set and lines to be drawn. The machine is generally clamped to the board. Also included within the scope are parts of drafting machines. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps, and scales are not subject to this order. This merchandise is currently classifiable under the HTS item numbers 9017.10.00 and 9017.90.00. This merchandise was previously classified under item number 710.8025 of the TSUSA. The HTS items numbers are provided for convenience and Customs purposes only. The written description remains dispositive.<sup>10</sup>

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<sup>8</sup> The *Federal Register* notice of Commerce's final results (64 FR 53996, Oct. 5, 1999) is presented in app. A.

<sup>9</sup> Commerce determined that the margin calculated in the original investigation reflects the behavior of Japanese producers and exporters without the discipline of the order and is probative of their behavior if the order were revoked.

<sup>10</sup> 64 FR 53996, Oct. 5, 1999. Subheading 9017.10.00 was subdivided, effective July 1, 1997, into two provisions: 9017.10.40 (plotters) and 9017.10.80 (other drafting tables and machines, whether or not automatic).

## Description and Uses<sup>11</sup>

Drafting machines are used for lineal graphic presentation by a variety of users including draftsmen, engineers, students, architects, navigators, designers, and graphic artists. Drafting machines are manually operated devices primarily used to construct a line of predetermined length either through a single point at a predetermined angle with respect to one base line or, alternatively, through a pair of predetermined points. The operation of a drafting machine involves aligning perpendicularly situated scales (or rulers) at a variety of angles anywhere on a drawing surface with the use of a protractor head, which allows angles to be set and read, and lines to be drawn at a predetermined angle. There are two types of drafting machines: the track drafting machine and the band-and-pulley (elbow-type) drafting machine. Within each type, there are various models of domestically-produced and imported drafting machines.

The track drafting machine is newer, generally larger, more versatile, and more expensive than the band-and-pulley drafting machine. The major components are the horizontal track (including horizontal carriage and clamps), the vertical track (including vertical track bracket, vertical carriage, and support roller), and the protractor head, which attaches to the vertical carriage. The track drafting machine consists of a protractor head assembly mounted on a carriage that glides along a vertical track and whose movement is controlled by a vertical brake. The vertical track is, in turn, mounted on a carriage that glides along the horizontal track and is controlled by a horizontal brake. Parallel motion of the protractor head and accurate orientation of the scales is, therefore, achieved by means of the two carriages moving in mutually perpendicular tracks. The track drafting machine is normally mounted on the upper edge of a drafting board or other drawing surface by means of clamps attached to the horizontal track.

The band-and-pulley (elbow-type) drafting machine is generally smaller and less expensive than the track drafting machine and primarily consists of upper and lower arms, tension bands, a pulley system, and the protractor head. The band-and-pulley drafting machine is mounted by means of a clamp to the upper edge of a drafting board or other drawing surface, not angled more than 25 degrees. The upper and lower arms, tension bands, and pulley linkage provide parallel motion and maintain accurate orientation of the protractor head, allowing rotation at the elbow. Disc brakes at the elbow joint are provided to steady the lower arm on an inclined board. A gravity-compensating adjustable counterweight may be offered on some models to adjust for more board tilt.

The primary component of a drafting machine is the protractor head. Protractor heads are available in three types (digital, dial, and vernier), distinguished by user preference and price. At the time of the original investigation, the three types of protractor heads accounted for \*\*\* percent of total U.S. drafting machine consumption, respectively. The vernier protractor head was the only type produced in the United States at the time of the original investigation.

During the original investigation, the Commission found that the vast majority of all drafting machines sold in the United States by the U.S. producer and U.S. importers were sold through a common dealer network of unrelated distributors either under the producer's label or the distributor's trademark. A minor amount of drafting machines were sold directly to unrelated end users in the United States. The majority of distributors reported that the quality of the U.S.-produced and Japanese-produced product was comparable and that the average lead times for delivery were generally similar for the U.S. and Japanese drafting machines. Actual transaction prices were discounted from published list prices by both

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<sup>11</sup> All of the discussion in this section is from the original investigation. *Staff Report of Dec. 12, 1989*, pp. A-3 through A-8, A-17 through A-18, and A-44 through A-50.

the U.S. producer (Vemco) and the U.S. importer (Mutoh America). Vemco's discount schedule was based on the quantity of drafting machines purchased, the method of payment, and the amount of product promotion. Mutoh America based its discounts on the quantity of drafting machines purchased.

## THE INDUSTRY IN THE UNITED STATES

As in the original 1989 investigation, Vemco is currently the sole producer of drafting machines in the United States.<sup>12</sup> Data concerning drafting machines reported by Vemco in the Commission's original investigation and in response to its review institution notice are presented in table I-1.

Vemco reported substantially lower levels of production, capacity, and U.S. shipments of drafting machines for 1998 than for 1986-88, although the firm's reported level of capacity utilization was essentially the same.<sup>13</sup>

There are limited 1998 financial data available for drafting machines. Vemco reported in its response in this review that although it was operating at "significant losses" during the period immediately preceding the filing of the antidumping petition, its operating income in 1998, as a percentage of net sales, was \*\*\* percent. Vemco also stated that as a result of the affirmative determination in the original investigation, its financial performance for all drafting products greatly improved during the years immediately after the order was put in place.<sup>14</sup>

There are no 1998 pricing data available for drafting machines; however, Vemco stated in its response that Mutoh's decision to stop importing after the imposition of the antidumping duty order is evidence that Mutoh cannot sell in the U.S. market without dumping. It added that the declining import volumes, in addition to existence of dumping margins after the order went into effect, are highly probative of the likelihood of continuation or recurrence of dumping if the order were revoked. Further, it stated that in view of the historical levels of underselling by the subject imports and the likelihood of continued dumping, it is likely that revocation of the antidumping duty order will adversely affect prices for the domestic like product within a reasonably foreseeable time.<sup>15</sup>

## U.S. IMPORTS AND CONSUMPTION

### U.S. Imports

During 1989, Mutoh America was the only U.S. importer of the subject merchandise from Japan. Four other U.S. importers were reported by the Commission as having ceased imports of the subject merchandise from Japan during 1987-88; however, Mutoh America's imports of the subject merchandise accounted for \*\*\* imports of the subject merchandise during 1987-89.<sup>16</sup> In its response to the Commission's notice of institution in this review, Vemco indicated that imports from Japan declined to negligible amounts within a year of the implementation of the order in December 1989 and that since that time, such imports have not risen above a negligible level. Also, Mutoh America ceased imports of drafting machines from Japan and began importing from Nestler, a German manufacturer; however,

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<sup>12</sup> *Staff Report of Dec. 12, 1989*, p. A-15; *Vemco Response*, p. 2.

<sup>13</sup> *Staff Report of Dec. 12, 1989*, pp. A-20 and A-21; *Vemco Response*, p. 10.

<sup>14</sup> *Staff Report of Dec. 12, 1989*, p. A-26; *Vemco Response*, pp. 7-8.

<sup>15</sup> *Vemco Response*, pp. 6-7.

<sup>16</sup> *Staff Report of Dec. 12, 1989*, pp. A-17 and A-40.



<b>Table I-1 Drafting machines: Certain trade and financial data of Vemco, 1986-88 and 1998<sup>1</sup></b>				
<b>Item</b>	<b>1986</b>	<b>1987</b>	<b>1988</b>	<b>1998</b>
Production ( <i>units</i> )	***	***	***	***
Capacity ( <i>units</i> )	***	***	***	***
Capacity utilization ( <i>percent</i> )	***	***	***	***
U.S. shipments: Quantity ( <i>units</i> )	***	***	***	***
Value ( <i>1,000 dollars</i> )	***	***	***	***
Unit value ( <i>dollars per unit</i> )	***	***	***	***
Operating income (loss)/net sales (%)	***	***	***	***
<p><sup>1</sup> Quantity data and ratios derived from quantity data are for completed drafting machines. Value data are for completed drafting machines and parts thereof. Drafting machine parts accounted for less than *** percent of U.S. shipments during 1986-88 and less than *** percent during 1998. Vemco explained that because drafting machine parts comprise a diverse mix of products, measuring drafting machine parts in terms of units is not meaningful. <i>Supplemental Vemco Response</i>, p. 2.</p> <p>Source: <i>Staff Report of Dec. 12, 1989</i>, pp. A-20, A-21, and A-28 for 1986-88 data; <i>Vemco Response</i>, pp. 7 and 10 for 1998 data.</p>				

Mutoh America has not imported drafting machines from Nestler or any other supplier for at least the last five years.<sup>17</sup> As shown in table I-2, U.S. imports of drafting machines from Japan fell by \*\*\* percent from 1986 to 1988 and were zero in 1998.<sup>18</sup>

### Apparent U.S. Consumption

According to data collected in the original investigation, apparent U.S. consumption of drafting machines fell from 1986 to 1988 (table I-3). During this time period, Vemco's domestic shipments and Mutoh America's imports from Japan fell, but their market shares remained relatively stable. The market shares of U.S. imports from countries other than Japan were \*\*\* percent during 1986-88. There

<sup>17</sup> *Vemco Response*, pp. 4 and 9, and att. 1.

<sup>18</sup> *Staff Report of Dec. 12, 1989*, pp. A-41; *Antidumping/Countervailing Duty Annual Report*. Official import statistics are not available for drafting machines because the applicable HTS subheadings include a substantial amount of nonsubject merchandise; however, data on the value of annual imports reported by Customs that are subject to the antidumping order confirm that there were no imports of subject product from Japan listed during fiscal years 1997-98.

**Table I-2**  
**Drafting machines: U.S. imports, 1986-88 and 1998<sup>1</sup>**

Item	1986	1987	1988	1998
	<b>Quantity (units)</b>			
Japan	***	***	***	0
Other sources <sup>2</sup>	***	***	***	(3)
Total	***	***	***	(3)
	<b>Landed duty-paid value (1,000 dollars)</b>			
Japan	***	***	***	0
Other sources <sup>2</sup>	***	***	***	(3)
Total	***	***	***	(3)
	<b>Landed duty-paid unit value (dollars per unit)</b>			
Japan	***	***	***	(4)
Other sources <sup>2</sup>	***	***	***	(3)
Total	***	***	***	(3)

<sup>1</sup> Quantity data and ratios derived from quantity data are for completed drafting machines. Value data are for completed drafting machines and parts thereof. Drafting machine parts accounted for less than \*\*\* percent of imports from Japan during 1986-88. Vemco explained that because drafting machine parts are comprised of a diverse mix of products, measuring drafting machine parts in terms of units is not meaningful. *Supplemental Vemco Response*, p. 2.

<sup>2</sup> The other source for drafting machines during 1986-88 was Italy.

<sup>3</sup> Not available.

<sup>4</sup> Not applicable.

Source: *Staff Report of Dec. 12, 1989*, p. A-39 for 1986-88 data; *Antidumping/Countervailing Duty Annual Report* for 1998 data. Note that landed, duty-paid values do not include antidumping duties. Official import statistics are not presented because the tariff categories under which drafting machines enter the United States include a substantial amount of nonsubject merchandise.

<b>Table I-3 Drafting machines: Apparent U.S. consumption and shares of apparent U.S. consumption, on the basis of value, 1986-88 and 1998</b>				
<b>Item</b>	<b>1986</b>	<b>1987</b>	<b>1988</b>	<b>1998</b>
	<b>Value (1,000 dollars)</b>			
Apparent U.S. consumption	***	***	***	(1)
	<b>Share of consumption (percent)</b>			
U.S. producers' U.S. shipments	***	***	***	(1)
U.S. imports from Japan	***	***	***	0
U.S. imports from other sources	(2)	(2)	(2)	(1)
<sup>1</sup> Not available. <sup>2</sup> The share of U.S. consumption supplied by other sources is *** percent.				
Source: <i>Staff Report of Dec. 12, 1989</i> , pp. A-15 and A-44 for 1986-88 data; <i>Antidumping/Countervailing Duty Annual Report</i> for 1998 imports from Japan.				

are no U.S. consumption data available for 1998; however, Vemco stated in its response that apparent U.S. consumption of drafting machines continued to fall after the original investigation was completed.<sup>19</sup>

### THE INDUSTRY IN JAPAN

In its original investigation, Commerce examined sales of drafting machines produced by Mutoh in Japan for the period November 1, 1988 through April 30, 1989.<sup>20</sup> In the Commission's original investigation, three producers of drafting machines in Japan were identified, although one producer (Mutoh) was characterized as the major Japanese producer and exporter of the subject merchandise during 1986-88. In fact, the U.S. firms importing from the other two Japanese producers of drafting machines reportedly ceased importations of the subject merchandise during 1987-88.<sup>21</sup>

In its response to the Commission notice of institution in this review, Vemco identified Mutoh as currently the largest manufacturer of drafting machines in the world. Although specific information concerning Mutoh's capacity, production, and shipments is not available publicly, Vemco estimated that Mutoh's current production and sales of drafting machines are about 20 times greater than Vemco's production. Vemco added that because Mutoh reported a significant drop in total net sales of drafters (which in addition to drafting machines, include tables, lamps, and scales) since the imposition of the

<sup>19</sup> *Vemco Response*, p. 7.

<sup>20</sup> Mutoh declined to participate in Commerce's original investigation. Commerce used best information available in making its determination. 54 FR 46961, Nov. 8, 1989.

<sup>21</sup> *Staff Report of Dec. 12, 1989*, pp. A-37 through A-39.

antidumping duty order in 1989, it believes that Mutoh is currently operating at a low rate of capacity utilization.<sup>22</sup>

Mutoh's capacity, production, and total shipments fell from 1986 to 1987 but increased in 1988 to a level higher than that reported for 1986 (table I-4).<sup>23</sup> According to data estimates provided by Vemco in its response to the Commission's notice of institution in this review, the level of production of drafting machines by Mutoh during 1998 is thought to be similar to that reported by Mutoh for 1987.<sup>24</sup> Exports of drafting machines to the United States by Mutoh fell from 1986 to 1988 and were zero in 1998.<sup>25</sup>

<b>Item</b>	<b>1986</b>	<b>1987</b>	<b>1988</b>	<b>1998</b>
	<b>Quantity (units)</b>			
Capacity	***	***	***	(1)
Production	***	***	***	*** <sup>2</sup>
Shipments:				
Home market	***	***	***	(1)
Exports:				
United States	***	***	***	0
Other	***	***	***	(1)
Total exports	***	***	***	(1)
Total shipments	***	***	***	(1)
<sup>1</sup> Not available. <sup>2</sup> Calculated using figures supplied by Vemco in its response to the Commission's notice of institution.  Source: <i>Staff Report of Dec. 12, 1989</i> , p. A-39 for 1986-88 data; <i>Vemco Response</i> , pp. 4 and 10 for 1998 production data; and <i>Antidumping/Countervailing Duty Annual Report</i> for 1998 export data.				

<sup>22</sup> *Vemco Response*, p. 4 and att. 1.

<sup>23</sup> *Staff Report of Dec. 12, 1989*, p. A-39.

<sup>24</sup> *Vemco Response*, pp. 4 and 10.

<sup>25</sup> *Staff Report of Dec. 12, 1989*, p. A-39; *Antidumping/Countervailing Duty Annual Report*.

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



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**INTERNATIONAL TRADE  
COMMISSION****[Investigation No. 731-TA-432 (Review)]****Drafting Machines From Japan****AGENCY:** International Trade Commission.**ACTION:** Scheduling of an expedited five-year review concerning the antidumping duty order on drafting machines from Japan.

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**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to § 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.**EFFECTIVE DATE:** September 3, 1999.**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).**SUPPLEMENTARY INFORMATION:**

*Background.*—On September 3, 1999, the Commission determined that the domestic interested party group response to its notice of institution (64 FR 29339, June 1, 1999) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

*Staff report.*—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on October 12, 1999, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

*Written submissions.*—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>2</sup> and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 15, 1999, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 15, 1999. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 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 §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will

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<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

<sup>2</sup> The Commission found the response submitted by Vemco Drafting Machines Corp. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

*Authority:* This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 9, 1999.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99-24066 Filed 9-14-99; 8:45 am]

BILLING CODE 7020-02-P



*Countervailing Duty Orders* 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3 "Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin" 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

#### Scope

The merchandise subject to this order includes drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. The term "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be read and set and lines to be drawn. The machine is generally clamped to the board. Also included within the scope are parts of drafting machines. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps and scales are not subject to this order. This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 9017.10.00 and 9017.90.00. (This merchandise was previously classified under item number 710.8025 of the Tariff Schedule of the United States.) The HTS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

#### History of the Order

On November 8, 1989, the Department issued a final determination of sales at less than fair value on imports of drafting machines from Japan.<sup>1</sup> On December 29, 1989, the antidumping duty order on the subject merchandise was published in the **Federal Register**.<sup>2</sup>

In the antidumping duty order the Department established an estimated weighted-average dumping margin of 90.87 percent for (one respondent)

## DEPARTMENT OF COMMERCE

### International Trade Administration [A-588-811]

#### Final Results of Expedited Sunset Review: Drafting Machines From Japan

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

**ACTION:** Notice of final results of expedited sunset review: drafting machines from Japan.

**SUMMARY:** On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on drafting machines from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

#### FOR FURTHER INFORMATION CONTACT:

Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482-5050 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** October 5, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and*

<sup>1</sup> See *Drafting Machines and Parts Thereof From Japan; Final Determination of Sales at Less Than Fair Value*, 54 FR 46961 (November 8, 1989).

<sup>2</sup> See *Drafting Machines and Parts Thereof From Japan; Antidumping Duty Order*, 54 FR 53671 (December 29, 1989).

Mutoh Industries, Ltd. ("Mutoh"), and an "all others" rate of 90.87 percent. *Id.* There have been no administrative reviews of this order, and no investigations of duty absorption by the Department.

The order remains in effect for Mutoh, and all other producers and exporters of drafting machines from Japan.

#### Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on drafting machines from Japan pursuant to section 751(c) of the Act. On June 16, 1999 we received a Notice of Intent to Participate on behalf of Vemco Drafting Products Corporation ("Vemco"), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from the domestic interested party on July 1, 1999, within the deadline specified in section 351.218(d)(3)(i) of the *Sunset Regulations*. Vemco claimed interested party status under section 771(9)(C) of the Act as a U.S. manufacturer of a domestic like product. Vemco was the petitioner in the original investigation.

We did not receive any response from respondent interested parties in this review. As a result, and in accordance with our regulations (19 CFR 351.218(e)(1)(ii)(C)(2)) we determined to conduct an expedited sunset review of this order.

#### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, Vemco's comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are

addressed within the respective sections below.

#### Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section II.A.2 of the Sunset Policy Bulletin). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3 of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In its substantive response, Vemco argues that dumping is likely to continue or recur if the antidumping duty order on drafting machines from Japan were revoked because sales of the subject merchandise to the United States declined to negligible amounts after the Department imposed the antidumping duty order. Therefore, Vemco asserts that this action serves as evidence that producers and exporters of the subject merchandise cannot sell in any significant quantities in the United States without dumping.

Specifically, with regard to imports of the subject merchandise, Vemco asserts that prior to the imposition of this order, import volumes of drafting machines to

the U.S. were substantial (see Vemco's Substantive Response, July 1, 1999 at 7), and that after the imposition of the order, Mutoh America, ceased its imports of drafting machines from Japan.<sup>3</sup> Because the applicable HTS item numbers cover imports in addition to the subject merchandise, (*i.e.*, cover a basket category) in further support of its assertion that sales ceased to the U.S., Vemco submitted an affidavit from Mr. Paul McManigal Vemco's Vice President (see Attachment 1 of Vemco's Substantive Response). In the affidavit, Mr. Paul McManigal states that since the imposition of the order he has closely monitored imports of drafting machines. Mr. McManigal notes that in the year following the issuance of the order imports declined in negligible amounts.

With regard to the existence of dumping margins, Vemco notes that in the Department's final determination of sales at less than fair value, the Department assigned a dumping margin to Mutoh and "all others" of 90.87 percent; the duty deposit rate of 90.87 percent still exists.

In conclusion, Vemco argues that a decline in import volume after the issuance of the order, coupled with the continuation of dumping margins above the *de minimis* level, is probative that producers and exporters of drafting machines from Japan will continue to dump if the order were revoked. Therefore, Vemco maintains that the Department should determine that there is a likelihood of the continuation of dumping of drafting machines from Japan if the order were revoked.

As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, existence of dumping margins after the order is issued is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were revoked. We agree with Vemco that dumping margins above the *de minimis* level continue to exist for Mutoh, the only respondent reviewed in the original investigation.

Although Vemco asserts at various points in its argument that imports of drafting machines from Japan ceased entirely after the imposition of the order, the import statistics do not conclusively support a finding of

<sup>3</sup> Vemco variously asserts that imports of drafting machines from Japan have declined significantly, on the one hand, and ceased altogether, on the other.

cessation of imports. As noted above, imports of the subject merchandise enter the United States under an HTS basket category (i.e., entries of non-subject merchandise are also reported under the same item number). After examining the Department's import trade statistics, we find that imports declined significantly after the issuance of the order. We are unable to determine from the statistics however whether the negligible imports under the HTS item number are of subject or non-subject merchandise.

As noted in the SAA, declining import volumes, accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes. Therefore it is reasonable to conclude that Japanese producers and exporters of the subject merchandise cannot sell in the United States without dumping. Given that dumping above *de minimis* continued over the life of the order, imports decreased significantly after the issuance of the order, respondent interested parties waived their right to participate in the instant review, and absent argument and evidence to the contrary, the Department determines that dumping would likely continue or recur if the order on drafting machines from Japan were revoked.

**Magnitude of the Margin**

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final affirmative determination of sales at less than fair value, published a weighted-average dumping margin of 90.87 percent for one Japanese producer/exporter of the subject merchandise, and an "all others" rate of 90.87 percent.

With respect to the magnitude of the margin likely to prevail if the order were revoked, in its substantive response, Vemco urged the Department to follow the guidance of the SAA and its stated policy and provide to the Commission the margins from the original investigation.

We agree with Vemco's assertion that we should report to the Commission the rate from the original investigation. Consistent with the *Sunset Policy Bulletin*, the Department, in this case, finds that the rates from the original investigation are the most probative of the behavior of Japanese producers and exporters of drafting machines if the order were to be revoked. Therefore, absent information and argument to the contrary, we see no reason to deviate from our stated policy, and we will report to the Commission the margins contained in the Final Results of Review of this notice.

**Final Results of Review**

As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturer/exporter	Margin (percent)
Mutoh Industries, Ltd. (Mutoh)	90.87
All Others .....	90.87

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 29, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-25874 Filed 10-4-99; 8:45 am]

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**APPENDIX B**  
**STATEMENT ON ADEQUACY**



## EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

### *Drafting Machines from Japan* Inv. No. 731-TA-432 (Review)

On September 3, 1999, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic interested party group response to its notice of institution was adequate. In this regard, the Commission received a response from a domestic producer of drafting machines, which accounts for all U.S. production of the domestic like product.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate.

The Commission did not find any circumstances that would warrant conducting a full review. The Commission, therefore, determined to conduct an expedited review.

