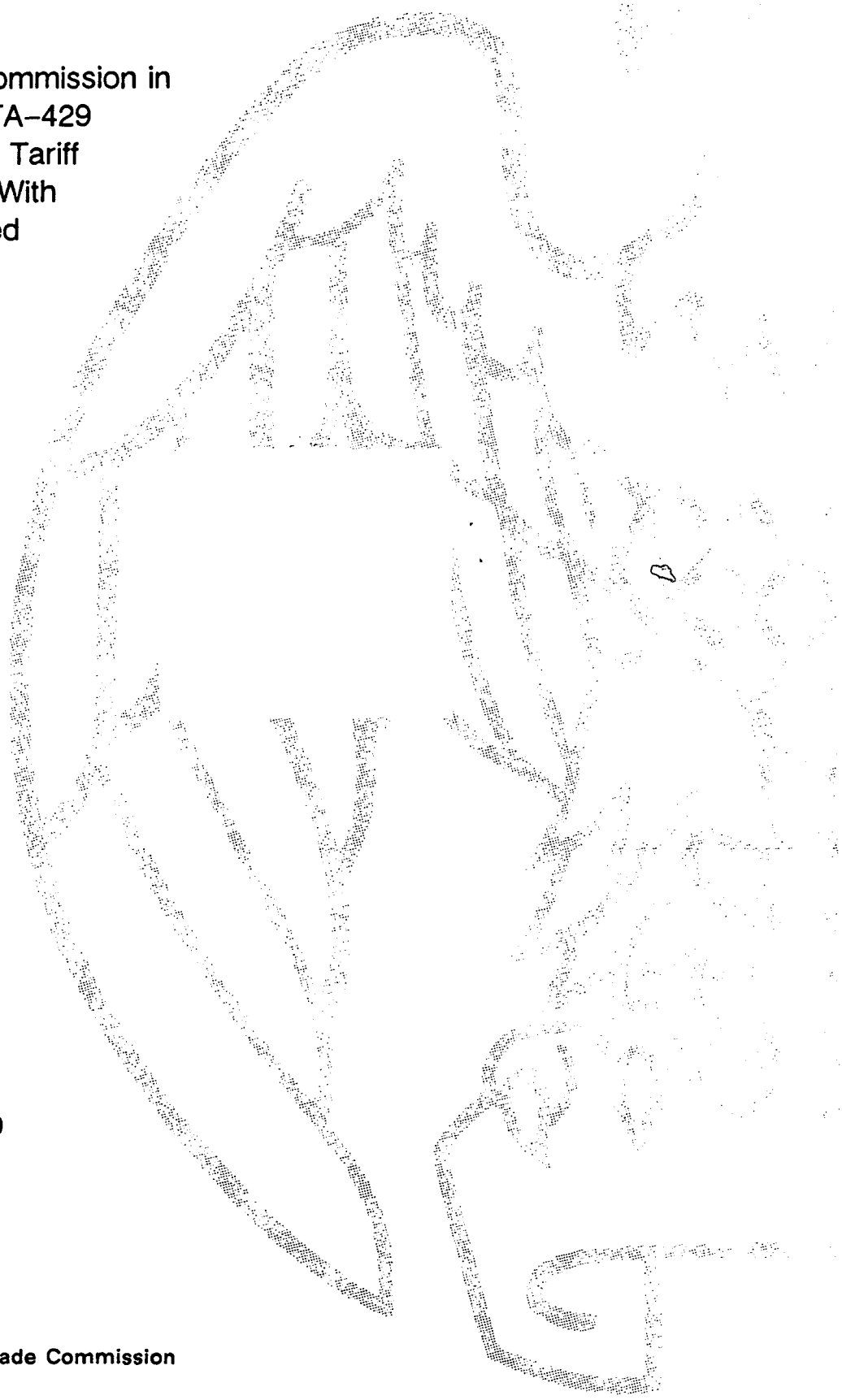
MECHANICAL TRANSFER PRESSES FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-429 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-429 (Preliminary)

MECHANICAL TRANSFER PRESSES FROM JAPAN

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of mechanical transfer presses 2/ provided for in subheadings 8462.29.00, 8462.39.00, 8462.49.00, 8462.99.00, and 8466.94.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On January 12, 1989, a petition was filed with the Commission and the Department of Commerce by Verson Division of Allied Products Corp., the United Auto Workers, and the United Steelworkers of America (AFL-CIO-CLC) alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of mechanical transfer presses from Japan. Accordingly, effective January 12, 1989, the Commission instituted preliminary antidumping investigation No. 731-TA-429 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of January 25, 1989 (54 F.R. 3693). The conference was held in Washington, DC, on February 3, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(h)), as amended by 53 F.R. 33041 (August 29, 1988).

2/ For purposes of this investigation, the term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the workpiece is moved from station to station by a transfer mechanism synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be assembled or unassembled.

VIEWS OF THE COMMISSION

We unanimously determine that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly LTFV imports of mechanical transfer presses from Japan.

I. Like Product and Domestic Industry

To determine whether there is a reasonable indication of material injury to a U.S. industry by reason of the subject imports, the Commission must first make factual determinations with respect to the "like product" and the "domestic industry" corresponding to the imported merchandise under investigation. Section 771(4)(10) of the Tariff Act of 1930 defines the "like product" as "[a] product that is like, or in the absence of like, most similar in characteristics and uses with the articles subject to investigation." 1/ The domestic industry, correspondingly, is defined 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." 2/

A. Like Product

The Commission's decision regarding the appropriate like product(s) is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. 3/

1/ 19 U.S.C. § 1677(10).
2/ 19 U.S.C. § 1677(4)(A).
3/ Asociacion Columbiana de Exportadores de Flores, et. al. v. United States ("ASOCOLFLORES") __CIT__ , Slip. Op. 88-91 at 9 (July 14, 1988).

In analyzing like product issues, the Commission generally examines such factors as: (1) physical characteristics, (2) end uses, (3) interchangeability of the products, (4) channels of distribution, (5) production processes, (6) customer or producer perceptions, (7) common manufacturing facilities and production employees, and (8) price. 4/ No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a given investigation. The Commission has found minor product variations to be an insufficient basis for a separate like product analysis, and instead, has looked for clear dividing lines among products. 5/ The like product requirement is not "intepreted in such a narrow fashion as to permit minor differences in physical characteristics and uses to lead to the conclusion that the products are not like each other." 6/

The imported articles subject to this investigation are mechanical transfer presses. 7/ The parties raised various arguments concerning

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4/ Light-Duty Integrated Hydrostatic Transmissions and Subassemblies Thereof, With or Without Attached Axles, from Japan, Inv. No. 731-TA-425 (Preliminary), USITC Pub. No. 2149 (January 1989); Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987) (hereinafter Crankshafts); ASOCOLFLORES at 12, n.8.

5/ See, e.g., Operators for Jalousie and Awning Windows from El Salvador, Invs. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 (January 1987) at 4, n.4.

6/ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

7/ The "article subject to investigation" is defined by the scope of the investigation established by Commerce. In its notice, Commerce defined the scope of the investigation as mechanical transfer presses, which:

> refers to automatic metal-forming machine tools with multiple die stations in which the workpiece is moved from station to station by a transfer mechanism synchronized with the press action, whether imported as machines or parts suitable for

(continued...)

whether U.S. produced mechanical transfer presses are a single product like mechanical transfer presses from Japan, or whether there are two discrete and separate types of U.S. produced mechanical transfer presses, namely "auto-body panel" 8/ mechanical transfer presses and "all other" mechanical transfer presses corresponding to the subject imports from Japan. 9/

Petitioners Verson, the United Auto Workers, and the United Steel Workers of America (collectively "Verson") argued that mechanical transfer presses constitute a single like product, 10/ based on the physical appearance and characteristics of all transfer presses and their similar uses. Verson also notes that all transfer presses are manufactured at the same facilities by the same production employees. 11/

Opposing Verson's single like product argument, respondents Komatsu American Industries Corp. ("Komatsu") and AIDA Engineering Inc. ("AIDA") argued that the Commission should find that mechanical transfer presses for

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7/(...continued)
use solely or principally with these machines. These presses may be assembled or unassembled. During most of the review period, such merchandise was classifiable under items 674.3583, 674.3586, 674.3587, 674.3592, 674.3594, 674.3596, 674.5315, and 674.5320 of the Tariff Schedules of the United States Annotated (TSUSA). This merchanise is currently classifiabe under HTS items 8462.29.00, 8462.39.00, 8462.49.00, 8462.99.00, 8466.94.50.

54 Fed. Reg. 5993 (February 7, 1989).

8/ An "auto-body panel" transfer press is a mechanical transfer press used for auto-body panel stamping.

9/ Compare Transcript of preliminary conference (Tr.) at 53 with Tr. at 88, 89, 122.

10/ Verson postconference brief at 5-7; Tr. at 35 (Mr. Rosenthal); Tr. at 52 (Mr. German); Tr. at 53 (Mr. Pisciotta).

11/ Id.

use in auto-body panel stamping are a separate like product, distinct from all other mechanical transfer presses. 12/

Based upon our review of the record and the parties' arguments, for purposes of this preliminary determination, we find one like product consisting of U.S. produced mechanical transfer presses. We do not believe that the record before us in this preliminary investigation suggests a clear dividing line between mechanical transfer presses on the basis of their physical characteristics. Indeed, only Komatsu and AIDA attempted to define the physical characteristics of an auto-body mechanical transfer press, and even they did not agree on a characteristic set of physical attributes for auto-body panel mechanical transfer presses. 13/

Separate like product treatment for auto-body panel mechanical transfer presses based upon their end use is equally troublesome in this investigation. We find no inherent attribute of a particular mechanical transfer press which identifies it as an "auto-body stamping" press or limits it to that use. Indeed, because of the interchangeability of dies within a transfer press, any particular press is capable of a variety of applications. For instance, an "auto-body" transfer press could easily be converted to produce parts for appliance manufacture. 14/ Instead, on the

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12/ See e.g., Tr. at 69 (Mr. Weber); Komatsu postconference brief at 4-5; AIDA postconference at 4-9.
13/ Komatsu's expert conceded that "there is no definite line" of physical characteristics which distinguishes mechanical transfer presses made for auto-body stamping, for "[i]t's very hard really to define it." Tr. at 88 (Mr. Weber). After counsel interceded, Mr. Weber retracted this concession. Tr. at 89.
14/ See Report at A-8 ("large transfer presses are used primarily in the appliance and automotive industries for stamping large auto-body panels").

record before us, the "auto-body stamping" end use designation appears to serve as a proxy for size.

The Commission, however, has found size differences alone to be an insufficient basis for distinguishing separate like products. 15/ Because each press is custom-built to specification, no clear dividing lines can be established based upon size. 16/

Furthermore, because the record indicates that customers purchase mechanical transfer presses meeting their particular specifications, 17/ we are not persuaded that customers or producers perceive transfer presses in discrete categorical terms sufficient to establish clear boundaries between U.S. produced mechanical transfer presses.

Finally, we note that auto-body mechanical transfer presses and other transfer presses are generally manufactured using common manufacturing facilities and production employees, that all transfer presses have common production processes, and that there are overlapping distribution channels between auto-body panel transfer presses and other mechanical transfer presses.

15/ See Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 at 5 (Dec. 1987); Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Republic of Germany, France, Italy, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20 and Inv. Nos. 731-TA-391-399 (Preliminary) USITC Pub. 2083 (May 1988); Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987).

16/ Once the size of a transfer press is determined, it is not strictly interchangeable with other transfer presses of different sizes. Thus, lack of perfect interchangabilty between a large auto-body panel mechanical transfer press and "other" transfer presses is similarly not a distinguishing characteristic of an auto-body transfer press.

17/ See Report at A-9.

For these reasons, we preliminarily find one like product consisting of all mechanical transfer presses. Accordingly, we also find a single domestic industry consisting of all domestic producers of mechanical transfer presses.

B. Related Parties

The record indicates that there are four domestic producers of transfer presses: Danly Machine Division Connell Limited Partnership ("Danly"), Hitachi Zosen-Clearing, Inc. ("Clearing"), Minster Machine Company ("Minster"), and Verson Division of Allied Corporation. Clearing, however, is a wholly-owned subsidiary of Hitachi Zosen, Ltd. ("Hitachi Ltd."), Tokyo, Japan. Together, these firms accounted for nearly all domestic production of the like product over the period of investigation.

Under the related parties provision, section 771(4)(B) of the 1930 Act, when a producer is related to exporters or importers of the merchandise subject to investigation, or is itself an importer of the product, the Commission may exclude the producer from the definition of the "domestic industry" in appropriate circumstances. 18/ The related parties provision enables the Commission to avoid any distortion in the aggregate data for the domestic industry that might result from including producers whose operations are shielded from the effect of the imports by reason of their relationship with a foreign producer or status as an importer of the like product. 19/

18/ 19 U.S.C. § 1677(4)(B).
19/ See e.g., Granular Polytetrafluorethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 386 (Preliminary), USITC Pub. 2043 (December 1987) at 9.

In determining whether appropriate circumstances exist, we have focused principally upon: 20/

> (1) the position of the related producers vis-a-vis the rest of the domestic industry;
>
> (2) the reasons why the domestic producers have chosen to import the product under investigation--to benefit from the unfair trade practice, or to enable them to continue production and compete in the domestic market; and
>
> (3) the percentage of domestic production attributable to the related producers. 21/

We have also considered whether each company's records are maintained separately from its "relations" and whether the primary interests of the related producer lie in domestic production or in importation. 22/

20/ See Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071 at 13 (March 1988). See also Granular Polytetrafloroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 386 (Final), USITC Pub. 2112 at 15 (August 1988); Granular Polytetrafloroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 386 (Preliminary), USITC Pub. 2043 at 9 (December 1987).

21/ ATVs, citing Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 386 (Preliminary), USITC Pub. 2043 at 9; Empire Plow v. United States, 675 F. Supp. at 1353-1354.

22/ ATVs at 13, n. 44, citing Rock Salt from Canada, infra. In its analysis, the Commission has considered whether the related party is primarily in the position of a domestic producer or an importer, and whether inclusion of the firm's data would skew overall industry data. See Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final) at 9-10 and n. 27. In particular, the Commission has examined: (1) the amount of the U.S. producer's domestic output relative to the amount imported by the U.S. producer, and (2) the relationship between the products produced in the United States and those produced abroad, including which products or product lines are produced in the United States and which are produced abroad, and where in the United States sales of the domestically and foreign produced merchandise occur. See also Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 11 (January 1986) (If exclusion of related parties would necessarily exclude or distort economic data of considerable significance to, or determinative of, an accurate picture of the domestic industry as

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Clearing meets the definition of a related party. The question is whether circumstances are appropriate to exclude Clearing from the domestic industry. We conclude that Clearing should be excluded from the definition of the domestic industry in this preliminary investigation. We base this determination on confidential information bearing on the factors listed above, as well as on our finding that excluding Clearing would not skew the data for the majority of economic indicators describing the condition of the domestic industry. 23/

Accordingly, for purposes of this preliminary determination, we have excluded Clearing from the domestic industry and defined it to include Minster, Danly and Verson. 24/

III. Condition of the Industry

In assessing the condition of the domestic industry, we consider, among other factors, production, capacity, capacity utilization, shipments, inventories, employment, wages, sales and profitability. 25/ Mechanical transfer presses are big-ticket, made-to-order products with relatively low

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22/(...continued)
a whole, then exclusion of the related party would not be appropriate).

23/ See Report at tables 4, 5, and 6. Should this investigation return for a final determination, however, we will revisit this issue and collect additional information regarding both Clearing's relationship to Hitachi, and the extent to which Clearing imports transfer presses to benefit from the allegedly less than fair value ("LTFV") subject imports as opposed to importation for the purpose of continuing production and remaining competitive in the domestic market.

24/ We further note that, within the statutory 45 day period of this preliminary investigation, we were unable to obtain complete data concerning the operations of Minster and Danly. We will seek more complete data in any final investigation.

25/ 19 U.S.C. § 1677(7)(C)(iii).

and irregular sales over time. For this reason, year-by-year comparisons of certain indicators that we normally examine--most notably production, shipments, capacity and capacity utilization--must be viewed with caution. 26/ Nevertheless, the data concerning the factors listed above point to a reasonable indication of material injury: capacity utilization is low; employment is decreasing; and financial performance is relatively poor. 27/ 28/

For these reasons, we find a reasonable indication that the domestic industry is materially injured. 29/ 30/

We find the industry's poor financial performance especially significant given the putatively high levels of investment in equipment and engineering

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26/ We also note that mechanical transfer presses are not inventoried. Report at A-19.

27/ Because virtually all the relevant information is Verson's business confidental information, we discuss it in general terms.

28/ Commissioners Eckes and Rohr note that domestic production and shipments were erratic but declined sharply by the end of the period. Capacity was flat during the entire period, and capacity utilization rose in 1986 but declined to well below 1985 levels in 1987 and interim 1988. Employment and wages decreased overall from 1985 through interim 1988.

29/ Acting Chairman Brunsdale does not believe that the condition of the industry lends itself to a legal conclusion regarding material injury, particularly where, as the Commission itself notes the data on production, shipments, capacity, and capacity utilization are not comparable from year-to-year or from producer-to-producer. She concludes only that, on the record now before the Commission, there is a reasonable indication that imports of transfer presses from Japan have had a material negative impact on the domestic industry.

30/ Commissioner Cass does not join in this statement. Commissioner Cass believes that the statute under which the Commission conducts Title VII investigations does not contemplate an inquiry into the existence of material injury to a domestic industry that is divorced from the question of causation of material injury by reason of LTFV imports. See Digital Readout Systems and Subassemblies thereof from Japan, Inv. No. 731-TA-390 (Final) 95-117 (January 1989)(Concurring and Dissenting Views of Commissioner Cass).

expertise necessary to remain competitive in the industry and given the recent upward swing in the automotive industry business cycle and automotive industry capital outlays. Should this investigation return for a final determination we will seek further information on the "normal" rate of return necessary to cover the risks associated with operating in this capital intensive industry and on the correlation, if any, between the automotive business cycle and transfer press production. 31/

IV. Reasonable Indication of Material Injury by Reason of the Subject Imports 32/

Under 19 U.S.C. § 1673(b)(a), the Commission must determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports. 33/

The Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act), moreover, amended 19 U.S.C. § 1677(7)(B) to require, inter alia, that the Commission evaluate: (1) the "impact on the domestic industry" factors within the context of the business cycle and conditions of competition that

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31/ Furthermore, within the domestic industry there are differing financial accounting methods which do not permit easy comparison; should this investigation return for a final determination, we will seek to normalize this data. See Report at A-21.

32/ Commissioner Cass does not join this section of the Commission's opinion. His analysis of the question of whether there is a reasonable indication of material injury to the domestic industry by reason of alleged LTFV imports is described separately in his Additional Views.

33/ See Hercules, Inc. v. United States, Slip. Op. 87-114 (CIT, Oct. 20, 1987) at 52-54, 58. In making our determination, we take into account any information demonstrating possible alternative causes of injury to the domestic industry. See S. Rep. No. 249, 96th Cong., 1st Sess. 58 (1979); 19 C.F.R. § 202.27. We do not, however, weigh causes. S. Rep. 249, 96th Cong., 1st Sess. 57-58, 75 (1979).

are distinctive to the domestic industry, and (2) the "actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product." 34/

The "conditions of competition" and "business cycle" amendment is intended to insure that "the condition of an industry [is] considered in the context of the dynamics of that particular industry sector, not in relation to other industries or manufacturers as a whole," 35/ and recognizes that "temporary cyclical trends can mask real harm being caused by unfairly traded imports." 36/

We find, based upon the information gathered in this preliminary investigation, that the subject imported mechanical transfer presses from Japan are a cause of material injury to the domestic industry. Specifically, we find that the volume of the subject imports, both absolutely and relative to domestic production and consumption, is significant. 37/

As respondents emphasized, mechanical transfer presses are "a very big

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34/ See new section 771(C)(iii)(IV) of the statute, to be codified at 19 U.S.C. § 1677(7)(C)(iii)(IV).
35/ S. Rep. No. 71, 100th Cong., 1st Sess. 117 (1987).
36/ Id. at 16. ("For example, capital intensive industries that are suffering severe dislocation from imports may stop investing in new plant and equipment because they cannot raise capital or the existence of low priced imports in the market makes investment unprofitable. Such industries may continue to have respectable operating profits from fully depreciated plant and equipment, thereby appearing on cursory examination not to be injured, although examination of such factors as capital expenditures would show they are becoming uncompetitive").
37/ The data are confidential and cannot be discussed in detail.

ticket item" and "[t]here are relatively few sales." 38/ These presses are generally custom built machines. The record before us in this preliminary investigation, moreover, suggests that mechanical transfer press production is characterized by economies of scale. 39/ These economies of scale in the production of mechanical transfer presses, and the experience derived from working with the customer during the installation and subsequent operation, significantly add to the ability of a manufacturer to design, build, and install mechanical transfer presses. 40/

Most mechanical transfer presses are sold to end users through bid

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38/ Tr. at 81 (Mr. Herzstein); Compare with S. Rep No. 71, infra, at 117. In explaining the purpose of the "derivative product" amendment, the Senate stated:

> To compete successfully in R&D and investment intensive industries, U.S. producers can remain in the forefront of technical progress only through maintaining the ability to develop new product innovations and the next generation of a product. Dumped or subsidized foreign sales in the U.S. impede or threaten to impede the ability of U.S. producers to devote the necessary resources to important product innovations and next generation development because of the long lead times from product design to actual production, business uncertainties, lost marketing opportunities, and erosion of profitability caused by such unfair trade practices. This is particularly relevant to industries producing big-ticket items, such as aircraft and heavy electrical equipment, where loss of a single sale may have major impact on revenues and profits and thus the ability to proceed with research and development or production plans.

Senate Rep. No. 71, 100th Cong., 1st Sess. 117 (1987). See also Report at A-14. Because mechanical transfer presses are arguably the type of product contemplated in these amendments, we request that parties brief the issue of the applicability of this amendment and legislative history to the facts at issue in any final investigation.

39/ Report at 9; Tr. at 55 (Mr. Rosenthal).

40/ Report at A-9; Tr. at 55 (Mr. Rosenthal).

competition. 41/ Although bidding is closed in most cases, firms generally know which other firms are competing for the bid. 42/ Mechanical transfer press manufacturers prepare their bids based upon the purchaser's technical specifications of the press, their costs of production, and knowledge of competitors' recent bids. 43/ Because mechanical transfer presses are extremely complex products, bids are differentiated not only by price but also by manufacturer, design, engineering aspects and option packages. 44/ Purchasers consider price, delivery time, reliability, and previous experience with mechanical transfer press manufacturers in deciding with whom to place an order. 45/

While price is not the paramount consideration when purchasing a mechanical transfer press, we do find that it is a significant factor. Confidential information on the record reasonably indicates that the subject imports supressed or depressed prices and captured sales based at least in part upon price. 46/

Moreover, technological development in this industry appears to be directly related to the installed base of machines of a particular producer. 47/ Accordingly, a few lost sales might have a significant effect on the condition of the domestic industry. 48/

41/ Report at A-29.
42/ Id.
43/ Id.
44/ Id.
45/ Id.
46/ See Report at A-29-30.
47/ Report at A-9.
48/ Acting Chairman Brunsdale concurs in the discussion of lost sales set forth infra. She also notes that, while she generally is not influenced by lost sales allegations because of evidentiary and sampling problems associated with such contentions these defects are of far less concern in an industry

(continued...)

Verson alleged significant lost sales and lost revenues in this investigation due to price depression or supression attributable to the subject imports. 49/ Furthermore, Verson alleged several more instances in which they were "locked out of" or not invited to bid upon mechanical transfer press sales to Japanese-owned companies for use in their U.S. facilities.

In response to petitioners' lost sales allegations, respondents argued that the domestic industry, however defined, is not suffering injury by reason of the alleged less than fair value sales because the alleged lost

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48/(...continued)
characterized by a low number of large contract sales reached through a competitive bidding process. See Certain Electrical Conductor Aluminum Redraw Rod from Venezuela, Inv. No. 701-TA-287 (Final), USITC Pub. 2103 (1988) at 44 and n.29 (Dissenting Views of Vice Chairman Brunsdale).

49/ We previously have determined that there is no lost sale when a bid is nonresponsive. See Certain Automated Fare Collection Equipment and Parts Thereof from France, Inv. No. 701-TA-200 (Preliminary), USITC Pub. 1323 (Nov. 1982) (hereinafter Automated Fare Cards) (The sole domestic supplier submitted an admittedly nonresponsive bid hoping to force a new bidding process with different product specifications and time limits); Cell-Site Transceivers and Subassemblies Thereof from Japan, Inv. No. 731-TA-163 (Final), USITC Pub. 1618 (Dec. 1984) (No lost sale where the domestic company submitted a bid based upon a different type of equipment from that requested by the supplier). The fact that a producer's bid does not accord with every element of the purchaser's specifications and terms, however, does not automatically constitute nonresponsiveness. Offshore Platform Jackets and Piles from the Republic of Korea and Japan, 731-TA-259 and 260 (Final), USITC Pub. 1848 (May 1986) at 16. ("On balance we do not find that these shortfalls constitute nonresponsiveness"). Moreover, we have found that a purchaser's doubts about whether offers of timely delivery could be relied upon in light of the financial consequences associated with delay do not make a bid unresponsive. Id.

To determine whether sales are indeed "lost" to the subject imports, we attempt to independently examine (1) the extent to which price influenced the bid outcomes for the sales under investigation, and (2) identify those transfer press bid specifications which are so central that nonconformity with them makes the entire bid nonresponsive.

sales were not lost for reasons of price. 50/ Price, they argued, is not a particularly significant consideration when purchasing a mechanical transfer press. 51/ Indeed, respondents argued that mechanical transfer press customers' purchase decisions are determined principally by whether the bid specification requests a mechanical transfer feed or an electronic transfer feed. 52/

The evidence in this preliminary investigation does not support respondents' assertion that strong purchaser predilictions for a particular type of transfer feed mechanism dominate price as a consideration when purchasing a mechanical transfer press. 53/ Indeed, respondents' own line of argument undercuts this assertion. 54/

50/ See IHI's postconference brief at 1-2, n.1; Hitachi's postconference brief at 10, n.14; Komatsu's postconference brief at 11, n.8.

51/ Tr. at 65 (Mr. Herzstein); IHI's postconference brief at 15, 17; Komatsu's postconference brief at 11 ("It is the technological and design preferences of U.S. automakers--not any alleged dumping--that has determined which sales Verson has 'won' and which it has 'lost.').

52/ See e.g., IHI's postconference brief at 15. We note that Verson offers a mechanical feed option and has bid on requests which specify mechanical feeds. Tr. at 143-144 (Mr. Rosenthal).

53/ Report at A-29-30.

54/ Respondent Hitachi concedes that transfer presses with electronic feeds can produce large precision items, but only if run at one-half to three quarters speed, thus reducing productivity. Hitachi concludes that in purchasing transfer presses "[s]mart end-users will calculate their investment cost based not just on the initial price but on lifetime operating cost for the system." Tr. at 107 (Mr. Bruns).

This suggests that electronic feed mechanical transfer presses compete with and are interchangable with mechanical feed transfer presses for any size, and that although electronic feed presses are allegedly less efficient, the relevent parameter for choosing between the two feed mechanisms is the press' lifetime cost of operation (including the press' intital purchase price). Thus, Hitachi appears to undercut the assertion that price is tertiary in choosing between Japanese and U.S. produced transfer

(continued...)

Even assuming, arguendo, 55/ that in every instance in which a Japanese producer bid against Verson on a transfer press with a mechanical transfer feed, the Japanese producer won; this does not imply, as respondents urged, that the Japanese producer won each bid only because the bid specified a mechanical feed.

In a final investigation we will seek additional information from purchasers regarding their preferences for feed mechanism, their price sensitivity in purchase decisions, their non-price purchase considerations, and the sequence, if any, in which price and other factors are considered in their purchase decision-making. In addition, we will seek to gather more information regarding both particular bids and the bidding process generally. 56/

Finally, we will seek information from Japanese automakers and their U.S. subsidiaries regarding all purchases of mechanical transfer presses in Japan for subsequent importation into the United States for use in the Japanese automakers' U.S. subsidiaries' ("transplant") facilities. We will

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54/(...continued)
presses. Indeed, this testimony indicates that while intial purchase price is not determinative, relative price expressed in terms of lifetime operating costs, not transfer feed mechanism, is the predominant decision variable when purchasing a mechanical transfer press.

55/ Komatsu stated that for every sale of tri-axial transfer presses for large auto-body panels during the period of investigation where the request for purchase specified an electronic feed, Verson got the order, and where the request specified mechanical feed, Verson did not get the order. Simply, respondents argued that where the auto producer wants a mechanical feed, Verson will not get the order. Komatsu's postconference brief at 11; Hitachi's postconference brief at 11; IHI's postconference brief at 16.

56/ In a final determination, we most likely will seek information regarding several General Motors purchases in 1984.

also attempt to ascertain the bases upon which the Japanese producers of the subject merchandise won these transplant orders.

CONCLUSION

For all the reasons set forth above, we determine that there is a reasonable indication that a domestic industry in the United States is materially injured by reason of allegedly LTFV imports of mechanical transfer presses from Japan.

ADDITIONAL VIEWS OF COMMISSIONER RONALD A. CASS

Mechanical Transfer Presses from Japan
Inv. No. 731-TA-429
(Preliminary)

I concur with the Commission's affirmative determination in this investigation, finding that there is a reasonable indication that the domestic industry is suffering material injury by reason of alleged less than fair value ("LTFV") imports of mechanical transfer presses from Japan. I join the opinion of the Commission, but I offer these Additional Views because my analysis of the legal and factual questions presented in these investigations differs in several respects from that of certain of my colleagues.

I. LEGAL STANDARD GOVERNING DISPOSITION OF PRELIMINARY INVESTIGATIONS

I have discussed the legal standard that controls disposition of preliminary investigations under Title VII of the Tariff Act of 1930[1]/ in other opinions[2]/ and do not believe extended

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1/ The standard is codified at 19 U.S.C. § 1671b(a) (countervailing duty investigations) and at 19 U.S.C. § 1673b(a) (antidumping investigations).

2/ See, e.g., Certain Telephone Systems from Japan, Korea and Taiwan, USITC Pub. 2156, Inv. Nos. 731-TA-426-28 (Preliminary) 53-63 (Feb. 1989) (Additional Views of Commissioner Cass) ("Phone Systems"); Generic Cephalexin Capsules from Canada, USITC Pub. 2143, Inv. No. 731-TA-433 (Preliminary) 39-45 (Dec. 1988) (Dissenting Views of Commissioner Cass) ("Cephalexin Capsules"); New Steel Rails from Canada, USITC Pub. 2135, Inv. Nos. 701-TA-297, 731-TA-422 (Preliminary) 19-31 (Nov. 1988) (Additional Views of Commissioner Cass) ("New Steel Rails").

discussion again is required here. The relevant aspects of the standard for preliminary Title VII antidumping investigations, however, can be stated in short compass.

Five propositions concerning the legal standard for such investigations are established. First, the preliminary determination requires an affirmative showing to be made that the injury necessary to imposition of antidumping duties -- material injury by reason of the alleged LTFV imports -- occurred or is imminent.3/ Second, less evidence is required to show the requisite injury from LTFV imports in a preliminary investigation than in a final investigation.4/ Third, the Commission must consider all of the evidence before it, not just the evidence offered in support of an affirmative determination, in deciding whether that showing has been made.5/ Fourth, in weighing conflicting evidence, the Commission should not reject evidence supporting a factual inference necessary to an affirmative determination unless the contrary evidence is plainly more probative or more credible.6/ Finally, the absence of evidence necessary to an affirmative finding of injury from LTFV imports is not necessarily dispositive of a preliminary determination.

3/ Where, as here, the domestic industry producing the like product is well established, material retardation is not at issue.

4/ See, e.g., Phone Systems, supra, at 54-55; New Steel Rails, supra, at 21.

5/ See American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986).

6/ Id.

Rather, the Commission must consider such evidentiary gaps in light of the likelihood that in a final determination the gap could be filled with evidence that would support an affirmative decision.7/

II. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

The opinion of the Commission explains the definition of the domestic like product we have adopted for purposes of this investigation. The following comments are in accord with that explanation; they are offered to emphasize certain factors I believe are especially important and are not at odds with the discussion in the Views of the Commission.

The imports that are the subject of this investigation are mechanical transfer presses ("MTPs") from Japan. MTPs are a type of metal-working machine tool.8/ There are many other such tools, including other mechanical presses, such as gap frame presses and straight-side presses; hydraulic presses; and pneumatic presses.9/ However, none of the parties contend that these other presses are "like" the subject imports.

Furthermore, it does not appear that any of the other types of presses constitutes a like product under the criteria

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7/ Id.

8/ Report at A-1.

9/ Id. at A-1, A-7; Transcript of 2/3/89 Conference ("Tr.") at 24-25.

traditionally employed by the Commission in making like-product determinations.10/ None of these other kinds of metal-forming presses is in fact a close substitute for MTPs. The closest substitutes for MTPs are a type of mechanical press known as a "straight-side press" ("SSPs").11/ However, there is abundant record evidence that SSPs are not a good substitute for MTPs in many, if not most, of the uses to which MTPs are put. MTPs are automatic machine tools with multiple die stations where the metal that is being worked on is moved from station to station by a transfer mechanism synchronized with the action of the press.12/ The transfer is accomplished through a feed that is an integral part of the press.13/ SSPs may be grouped together to form a production line (commonly known as a "tandem press line") and the workpieces moved from station to station by an external feed, and thereby perform essentially the same function as an

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10/ These criteria involve an examination of five factors: (1) product characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer or producer perceptions of the relevant articles; and (5) common manufacturing equipment, facilities and production employees. See, e.g., Fabric and Expanded Neoprene Laminate from Taiwan, USITC Pub. 2032, Inv. No. 731-TA-371 (Final) at 4 & n. 5 (Nov. 1987). In addition, although the Commission has not expressly incorporated comparison of prices as one of the factors examined in its like-product determinations, it has often considered the similarity (or disparity) of prices for imports and potential like domestic products. See Asociacion Columbiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1167 (Ct. Int'l Trade 1987).

11/ See Report at A-7.

12/ Id. at A-2.

13/ Id.

MTP.14/ However, for most uses, MTPs are substantially cheaper than a tandem press line.15/ MTPs also typically produce more parts per minute than a tandem press line.16/ In addition, MTPs consume much less space, energy and labor and are both cheaper and easier to maintain and service.17/

For all of these reasons, I believe that it would not be appropriate to consider SSPs as part of the domestic like product in this investigations. Accordingly, MTPs are the only domestic product "like" the subject imports. The only remaining question is whether we should determine that domestically produced MTPs comprise more than a single like product.

In this investigation, two Respondents have argued that there are two like products: (1) MTPs used to make large auto-body panels ("auto-panel MTPs"); and (2) all other MTPs.18/ According to these Respondents, the separation of MTPs into two like products is justified under the Commission's traditional like product criteria for a number of reasons. First, they argue

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14/ Id. at A-7.

15/ Id.

16/ Id.

17/ Id.

18/ See Post-Conference Brief of Komatsu Ltd. and Komatsu America Industries Corp. ("Komatsu Brief") at 4; Post-Conference Brief of AIDA Engineering, Ltd. and AIDA Engineering, Inc. ("AIDA Brief") at 4. The other two Respondents do not take a position on this issue. See Post-Conference Statement of Hitachi Zosen Corporation and Hitachi Zosen-Clearing, Inc. ("Hitachi Brief") at 1, n. 1; Post-Conference Brief on Behalf of Ishikawajima-Harima Heavy Industries, Ltd. ("IHI Brief") at 1-1, n. 1.

that the physical characteristics of auto-panel MTPs are different than those of other MTPs. Although these Respondents appear to advance slightly different arguments on this point,19/ the essential thrust of their argument is the same: that auto-panel MTPs are large; always have certain components in excess of certain specific dimensions; and always have certain other common physical characteristics.20/ Second, Respondents assert that auto-panel MTPs are sold to only one category of customers for a special end use, and are not interchangeable with other MTPs.21/ Third, Respondents claim that auto-panel MTPs and other MTPs are sold through different channels of distribution than other MTPs; according to Respondents, auto-panel MTPs are sold directly to the end user and are always custom-designed, whereas other MTPs are usually sold through distributors and are more standardized than auto-panel MTPs.22/ Fourth, Respondents note that the production of MTPs is somewhat segmented in that not all MTP manufacturers make MTPs.23/ Finally, Respondents contend that

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19/ See Komatsu Brief at 4; AIDA Brief at 6.

20/ Komatsu states, for example, that auto-panel MTPs always are tri-axial, and have four suspension points per slide. Komatsu Brief at 4.

21/ AIDA Brief at 7.

22/ Komatsu Brief at 4-5; AIDA Brief at 7-8.

23/ AIDA Brief at 8.

auto-panel MTPs are typically much more expensive than other MTPs.24/

Petitioners assert that auto-panel MTPs should not be treated as separate from other MTPs for there are, in Petitioners' view, no clear dividing lines between auto-panel MTPs and other MTPs.25/ Petitioners argue that the product characteristics of the two types of MTPs are similar in that their physical appearance is the same, and they have the same basic components and functions.26/ Petitioners assert that the two types of MTPs can, for the most part, be made with the same personnel, equipment and production processes.27/ Petitioners acknowledge that there is little or no interchangeability between MTPs of different size.28/ Petitioners note, however, that in their view, all major differences between MTPs -- e.g., price and channels of distribution -- are essentially a function of factors other than the use to which the MTP is put; for example, price is said to be a function of the size of the MTP, and channels of distribution are said to be a function of marketing strategies that are unrelated to the type of end use.29/

24/ Id.

25/ See Post-Conference Brief of Petitioners ("Petitioners' Brief") at 4-5.

26/ Id. at 5.

27/ Id.

28/ Id. at 6.

29/ Id. at 6-7.

On this issue, given the record before us in this preliminary investigation, Petitioners have the better of the argument. For practical reasons as well as fidelity to statutory command, the Commission has endeavored, as noted in the Commission's Views here, to find both clear and meaningful distinctions between articles included in the like product definition and those excluded from it. Although plainly Respondents are correct that auto-panel MTPs differ from other MTPs, the record evidence does not persuade me that there are clear dividing lines between auto-panel MTPs and other MTPs that would warrant a conclusion that the two types of MTPs are separate like products.30/

Many of Respondents' arguments merely describe the physical characteristics or price of auto-panel MTPs relative to the entire universe of MTPs. They do not demonstrate that other kinds of MTPs -- for example, those used in appliance manufacture -- do not share these physical characteristics or prices. As Respondents contend, there is, apparently, little interchangeability between auto panel MTPs and other MTPs. However, the fact that an auto panel MTP is generally not interchangeable for MTPs used to produce other items is not surprising, nor, for this particular industry, is it particularly probative evidence on the issue at hand. All MTPs are, to some

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30/ See, e.g., Operators for Jalousie and Awning Windows from El Salvador, USITC Pub. 1934, Inv. Nos 701-TA-272 and 731-TA-319 (Final) 4, n. 4 (Jan. 1985).

extent, custom-made for a specific end use. Taking Respondents' argument to its logical conclusion, all MTPs that are made for certain end uses are, by definition, not "like" MTPs made for a different end use.

On the issue of producer substitutability, I find, too, that the evidence does not clearly offer a great deal of support for Respondents' argument. The evidence on this point is not as well developed as it perhaps might be. But, given the evidence as it stands, it appears that auto-panel MTPs are, for the most part, produced with the same equipment and personnel used to make other MTPs.31/

For all of these reasons, I have determined that there is a single like product consisting of all MTPs. However, I would be willing to reconsider this decision in any final investigation if Respondents demonstrate, in a manner that they have not in this preliminary investigation, that there are, in fact, clear dividing lines between auto-panel MTPs and other MTPs.

On the basis of this like product finding, the domestic industry is comprised of all U.S. producers of MTPs. The one contested issue regarding this industry definition, apart from the like product issues, is whether Hitachi Zosen-Clearing, Inc. ("Clearing"), a wholly owned subsidiary of Hitachi Zosen, Ltd., of Japan, should be excluded from the domestic industry pursuant

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31/ Report at 9-10.

to the "ralated parties" provision of the Tariff Act of 1930.32/ I concur with the exclusion of Clearing from the domestic industry examined in this investigation for the reasons set out in the Views of the Commission.

III. REASONABLE INDICATION OF INJURY BY REASON OF LTFV IMPORTS

As I have explained in other opinions,33/ I believe that the statute that governs antidumping and countervailing investigations, Title VII of the Tariff Act of 1930 as amended, contemplates that, in evaluating whether there is a reasonable indication that a domestic industry has suffered material injury by reason of LTFV imports, the Commission will endeavor to determine how the condition of the relevant domestic industry(s) compares to the condition that would have existed had there been no unfairly traded imports.

The statute suggests that this analysis be carried out through a three-part inquiry as follows.34/ First, the volumes and prices of the subject imports must be compared to the volumes and prices that would have obtained had there been no unfair trade practices. Second, it is necessary to determine how the prices and sales of the domestic like product were affected as a

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32/ 19 U.S.C. §1677(4)(B).

33/ See, e.g., 3.5" Microdisks and Media Therefor from Japan, USITC Pub. 2076, Inv. No. 731-TA-389 (Preliminary) (Additional Views of Commissioner Cass) (April 1988); Phone Systems, supra.

34/ Phone Systems, supra, at 64-67.

result of changes in the market for the imported products consequent to the unfair trade practices. Finally, in light of the conclusions reached respecting the nature of the market for the subject imports and the effect of the unfair trade practices on domestic industry prices and sales, conclusions must be reached concerning the extent, if any, to which employment and investment returns were adversely affected. Ultimately, we must conclude whether the evidence of record contains a reasonable indication that the alleged LTFV imports under investigation materially injured the relevant domestic industry.35/

The recently enacted Omnibus Trade and Competitiveness Act of 1988 further has directed that the Commission explicitly consider and state its conclusions on the factors that define each of the three inquiries.36/ Moreover, the Act directs the Commission, in making these inquiries, to consider the particular

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35/ See Digital Readout Systems and Subassemblies Thereof from Japan, USITC Pub. 2081, Inv. No. 731-TA-390 (Preliminary) (May 1988) (Views of Chairman Liebeler, Vice Chairman Brunsdale and Commissioner Cass).

36/ See Pub. L. No. 100-418, § 1328(1), 102 Stat. 1107, 1205 (to be codified as 19 U.S.C. § 1677(7)(B)(ii)). I have explained in detail in other opinions how the three-part inquiry that I employ considers the specific factors listed in the statute as well as certain other economic factors relevant to an assessment of the impact of unfairly traded imports on the domestic industry producing the like product. See, e.g, New Steel Rails, supra; Cephalexin Capsules, supra.

dynamics of the industries and markets.37/ I examine each of the questions identified above in light of those directions.

A. Volumes and Prices of LTFV Imports

The record evidence before us in this preliminary investigation suggests at least a reasonable basis for inference that volumes of the subject imports increased substantially and prices of those imports declined substantially as a result of the dumping alleged by Petitioners. Initially, I note that [*] MTPs valued at nearly $[*] million were exported from Japan to the United States during the first nine months of 1988.38/ According to Petitioners, these imports were sold at prices reflecting dumping margins of as much as 97.68%.39/

These margin allegations have not yet been tested in proceedings before the Commerce Department. Nevertheless, in preliminary investigations such as this one, the alleged margins are the best evidence available to us and I believe that we are generally required to accept them as such. Indeed, the legislative history of the Trade Agreements Act of 1979 specifies that, in preliminary investigations in antidumping cases, the Commission "will be guided by the description of the allegation of the margin of dumping contained in the petition or as modified

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37/ See new Section 771(C)(iii)(IV) of the statute (to be codified at 19 U.S.C. § 1677(C)(iii)(IV)). See also S. Rep. No. 71, 100th Cong., 1st Sess. 117 (1987).

38/ Report at Table 7.

39/ Id. at A-13.

by . . . [Commerce]".40/ I do not discern any basis in the record upon which we might depart from that general rule. Accordingly, for purposes of this preliminary investigation, we must accept Petitioners' alleged margins.

In many cases, the actual decrease in the price of subject imports that occurs consequent to dumping will be less than the amount of the dumping margin.41/ However, I cannot conclude that this was the case here. The alleged margins were estimated on the basis of a constructed value calculation of the "fair" price for the subject imports and not on the basis of price comparisons. To date, no basis has been suggested for inferring that some smaller change in the price of the LTFV imports followed from dumping calculated in this manner.42/ For the purposes of my analysis of this preliminary investigation, I have therefore used the alleged margins as indicative of the effect of dumping on the prices of the subject imports. Although this may somewhat overstate that effect, I believe that this is appropriate in light of the evidentiary standard we apply in a preliminary investigation.43/

40/ Statements of Administrative Action, trade Agreements Act of 1979, at 415.

41/ See Phone Systems, supra, at 75.

42/ See USITC Memorandum EC-L-149 (May 10, 1988) from the Office of Economics.

43/ Accordingly, this does not mean that I believe that this treatment of margins based upon constructed value would necessarily be appropriate in all other contexts. Constructed value margins, and other margins not based upon actual foreign

For reasons discussed in more detail below, I must conclude that it is possible, although by no means certain, that the decreases in the price of the subject imports that occurred as a result of the alleged dumping also produced significant increases in volumes and sales of the subject imports. My conclusion in this regard is heavily qualified because, as explained more fully below, I believe that there are substantial questions concerning the extent to which the subject imported MTPs are substitutable for the domestically produced product.

2. Prices and Sales of the Domestic Like Product

The second inquiry builds on the first. It asks, in light of the changes in the volumes and prices of the subject imports that occurred as a result of the alleged dumping, what changes occurred in prices and sales of the domestic like product? In this investigation, the record evidence suggests that there is at least a reasonable possibility that these effects could have been significant. While the evidence presented in support of the Petition therefore is sufficient to satisfy the "reasonable indication" standard that governs this preliminary investigation, it is by no means clear that such evidence would satisfy the very different standards that would be applicable in any final investigation.

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market sales, may require elaboration of a more sophisticated means of deriving an inference from the available facts than I have employed in prior investigations. I need not address here the issues that such an extension of my analysis might raise.

The fact that points most strongly toward an inference of significant price and volume effects is the relatively large share of the domestic market that is held by the Japanese producers. In the first nine months of 1988, when dumping is alleged to have occurred, the subject imports accounted for [*]% of domestic consumption measured on a quantity basis, and [*]% of domestic consumption measured on a value basis.44/

However, the evidence concerning certain other important factors is mixed or incomplete. Most important, the record does not clearly establish that the subject imports are, in fact, close substitutes for domestically produced MTPs. Respondents argued that competition between the imports and the domestic product is sharply curtailed, if not eliminated, by the fact that Japanese auto-panel MTPs have mechanical feeds while those made by Petitioner Verson have electronic feeds. According to Respondents, purchasers of auto-panel MTPs have marked preferences for one or the other type of feed.45/ Some purchasers are said to prefer electronic feeds because they are seen as more flexible; others are said to prefer mechanical feeds because of their perceived greater reliability.46/ In any event, according to Respondents, the Japanese producers, for this reason, essentially do not compete with Verson. Respondents note

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44/ Report at Table 10.

45/ Komatsu Brief at 3; Hitachi Brief at 10-12; IHI Brief at 15-16.

46/ Komatsu Brief at 9-10; Hitachi Brief at 10-11; IHI Brief at 16.

that in every case where a request for bids has specified an electronic feed of the kind incorporated in Verson's MTPs, Verson has been awarded the contract; conversely, in every case where a mechanical feed has been requested, Verson has failed to obtain the contract.47/ Respondents also contend that Verson has not built or sold any mechanical feed auto-panel MTPs since 1983 or earlier.48/

Petitioners minimize the importance of the type of feed. They claim, inter alia, that even if this feature is significant to purchasing decisions it is not dispositive; price also is an important consideration in purchaser's decisions.49/ Petitioners further contend that Verson is capable of producing mechanical feed auto-panel MTPs, and has quoted such equipment when asked to do so.50/ The evidence that Respondents have received all the contracts for mechanical feed MTPs is not, in Petitioners' judgment, sufficient to demonstrate that there is no competition between Petitioners' and Respondents' products.

On the basis of the record now before us, I cannot draw any firm conclusions respecting the extent of competition in the domestic marketplace between mechanical feed MTPs and electronic feed MTPs. Respondents have, in my view, presented a compelling

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47/ Komatsu Brief at 3-4; Hitachi Brief at 9; IHI Brief at 16-17.

48/ Komatsu Brief at 11-12; Hitachi Brief at 11.

49/ Petitioner's Brief at 18-20.

50/ Id. at 21.

case that purchasers have a strong preference for one or the type of feed, a preference that is, to at least some extent, more important than price.51/ On the other hand, there is no basis in the record upon which I might conclude, for example, that even huge disparities in price between mechanical feed MTPs and electronic feed MTPs would not have any effect on purchases of the two types of MTPs. In short, as Respondents acknowledged, price may not be the most important factor, but it certainly is not entirely irrelevant.52/ Thus, even if purchasers have marked preferences for one or the other type of feed -- as it appears they do -- the record evidence nevertheless does not allow us to gauge the magnitude of this preference. If this case should return to us in final investigation, I would find it very helpful for the parties to attempt to supply the Commission with information that would enable us to make such an assessment, especially in light of the new trade law's command that the Commission evaluate evidence in Title VII investigations in light of the conditions of competition particular to the industry at issue.53/

51/ The information collected by the Commission demonstrates that there have been occasions where a purchaser, in choosing between bids, has accepted a bid that was not the low bid, but that offered a feed different from that offered in the selected bid. See Komatsu Comments on Confidential Data at 4-5.

52/ See Petitioner's Brief at 19-20.

53/ See new Section 771(C)(iii)(IV) of the statute (to be codifed at 19 U.S.C. § 1677(C)(iii)(IV)).

The evidence is similarly inconclusive with respect to a second important issue: the extent to which domestic demand for MTPs is responsive to changes in the price of that product. On the record as it now stands, the most that might be offered are intuitive judgments on this issue. In any final investigation, I would, therefore, be interested in any evidence and argument that the parties might present to us on this issue. As indicated above, I believe that this evidence is especially significant in light of the recently enacted amendments to Title VII.54/

In sum, then, the evidence in this investigation on certain critical issues is less than complete. The best available evidence, however, suggests at least the possibility that the alleged dumping might have had a significant effect on domestic prices and sales. This fact, along with the fact that there is, for the reasons previously stated, at least the reasonable chance that a final investigation might develop further evidence to support such an inference, leads me to the conclusion that there is the requisite indication that the subject imports have had a significant effect on prices and sales of the domestic like product.

3. Investment and Employment

The available data on employment and investment returns in the domestic industry are consistent with, but do not offer strong independent support for, the inference that there is a

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54/ Id.

reasonable indication that the alleged dumping has caused material injury to the domestic industry. Our ability to analyze this question in this preliminary investigation is substantially impaired because [* * * * * * * * * * *] not supplied usable employment and financial data to the Commission, and [* *], Clearing, has been excluded from the domestic industry.55/

We do, however, have information respecting [* * * * *]. [* *] operated at a loss during the first nine months of 1988, when dumping is alleged to have occurred.56/ As suggested in the Views of the Commission, this relatively poor performance is noteworthy, given the fact that the industry in question is one that requires high investment outlays.57/

The available employment data present a more ambiguous picture. For example, employment of production and related workers [* *] declined dramatically from 1986 to 1987, but increased somewhat in the first nine months of 1988 when the alleged dumping occurred.58/ Hourly compensation of these workers, however, rose to an all-time high during that period.59/

55/ Report at A-19-20, A-21.

56/ Id. at A-21.

57/ See Views of the Commission at 9.

58/ Id. at Table 5. The Commission, as is usually the case, does not have any information as to whether dumping was or was not occurring during the preceding portion of the period covered by our investigation.

59/ Id.

On balance, though, these data are consistent with other, previously-discussed record evidence that suggests that there is a reasonable indication that the alleged dumping had a material adverse impact on the domestic industry. Given the paucity of data on investment and employment in the domestic industry relevant to this investigation, however, no stronger statement can be made about the employment and financial data before us.

CONCLUSION

For these reasons and the reasons stated in the Views of the Commission, I find that there is a reasonable indication that the domestic industry has been materially injured by reason of the alleged dumped imports that are the subject of this investigation.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On January 12, 1989, Verson Division of Allied Products Corp., the United Auto Workers, and the United Steelworkers of America (AFL-CIO-CLC) filed a petition with the United States International Trade Commission (the Commission) and the United States Department of Commerce (Commerce). The petition alleges that an industry in the United States is materially injured or is threatened with material injury by reason of imports from Japan of mechanical transfer presses which are being sold at less than fair value (LTFV). Accordingly, the Commission instituted a preliminary antidumping investigation under the provisions of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States. As provided in section 733(a), the Commission must make its determination within 45 days after the receipt of the petition, or in this case, by February 27, 1989.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of January 25, 1989 (54 F.R. 3693). 1/ The conference was held in Washington, DC, on February 3, 1989. 2/ The briefing and vote was held on February 22, 1989.

Commerce published a notice of initiation of an antidumping duty investigation in the Federal Register of February 7, 1989 (54 F.R. 5993). If the Commission's determination in this preliminary investigation is affirmative, Commerce will proceed according to statutory and regulatory procedures. Commerce is scheduled to make its preliminary antidumping determination on or before June 21, 1989.

The Product 3/

Description and uses

Mechanical transfer presses are part of a larger family of metal-forming machine tools, mechanical presses. Mechanical presses form a metal workpiece by forcing a slide mechanism against the workpiece and press bed, forcing the metal to conform to a desired shape. The term "mechanical" refers to the method used to create the force that causes the slide to move. Mechanical presses use cranks, cams, or gears to create the force. 4/

1/ Copies of the Commission's and Commerce's Federal Register notices are presented in app. A.
2/ A list of witnesses appearing at the Commission's conference is presented in app. B.
3/ Much of the information presented in following section was taken from the petition in investigation No. 731-TA-429 (Preliminary), hereinafter "petition."
4/ Other types of presses may use hydraulic or pneumatic methods to create the force that causes the slide to move. Hydraulic presses use liquid, and pneumatic presses use air.

Mechanical transfer presses, hereinafter called "transfer presses," are automatic metal-forming machine tools with multiple die stations in which the workpiece is moved from station to station by a transfer mechanism synchronized with the press action. For purposes of this investigation, these articles may be imported as machines or as parts suitable for use solely or principally with these machines and may be assembled or unassembled.

Transfer presses function as self-contained production lines that fabricate a high volume of identical parts requiring two or more production operations or a family of parts that are similar in size, shape, and thickness. Depending upon the dies used in the press, a wide variety of metal-forming operations can be performed, including stamping, drawing, extruding, shearing and punching, 1/ bending, folding, straightening, flattening, notching, forging, and hammering. Transfer presses are used in many industries, including the automotive, appliance, electric machining, and furniture industries.

Although all mechanical presses technically have a crown assembly, slide assembly, bed assembly, and column assembly (see fig. 1), only transfer presses have an integral transfer feed. The transfer feed automatically moves a workpiece from one work station to another with the action of the press. Auxiliary equipment, including destackers and scrap conveyors, are frequently offered by producers of transfer presses.

The following definitions describe the major components of transfer presses:

> Bed assembly.--The bed assembly functions as a frame to support the press. The bed assembly houses the bolsters, cushion, and lower dies, but its design may vary to accommodate scrap chutes and a conveyor system for gathering scrap generated during the forming process. The bed is in the shape of a hollow rectangle, having reinforcing webs and flanges of thick steel plate. Generally, the ends of the bed are reinforced with tie-rods of forged steel that run the length of the bed and are secured by nuts, typically hydraulic nuts.
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> The lower dies rest on the bolster, to which the dies are clamped. The bolster is solid metal with scrap chutes or die bays cut into it. The bolster in turn rests on the cushion, which applies an upward pressure on the bolster and lower dies to absorb shock. The cushion is pneumatically or hydraulically powered. Much of the bed, the conveyor system for gathering and removing scrap, and the cushion reside below the factory floor in a pit. The bolster is at floor level.
>
> On many transfer presses, the bed is designed to allow the bolster to move in and out of the press on rails so that dies can be changed rapidly. An extra bolster with new dies is generally exchanged in the press replacing the bolster and dies currently in use. Such die changes can usually be accomplished in under five minutes. Transfer presses designed for a rapid

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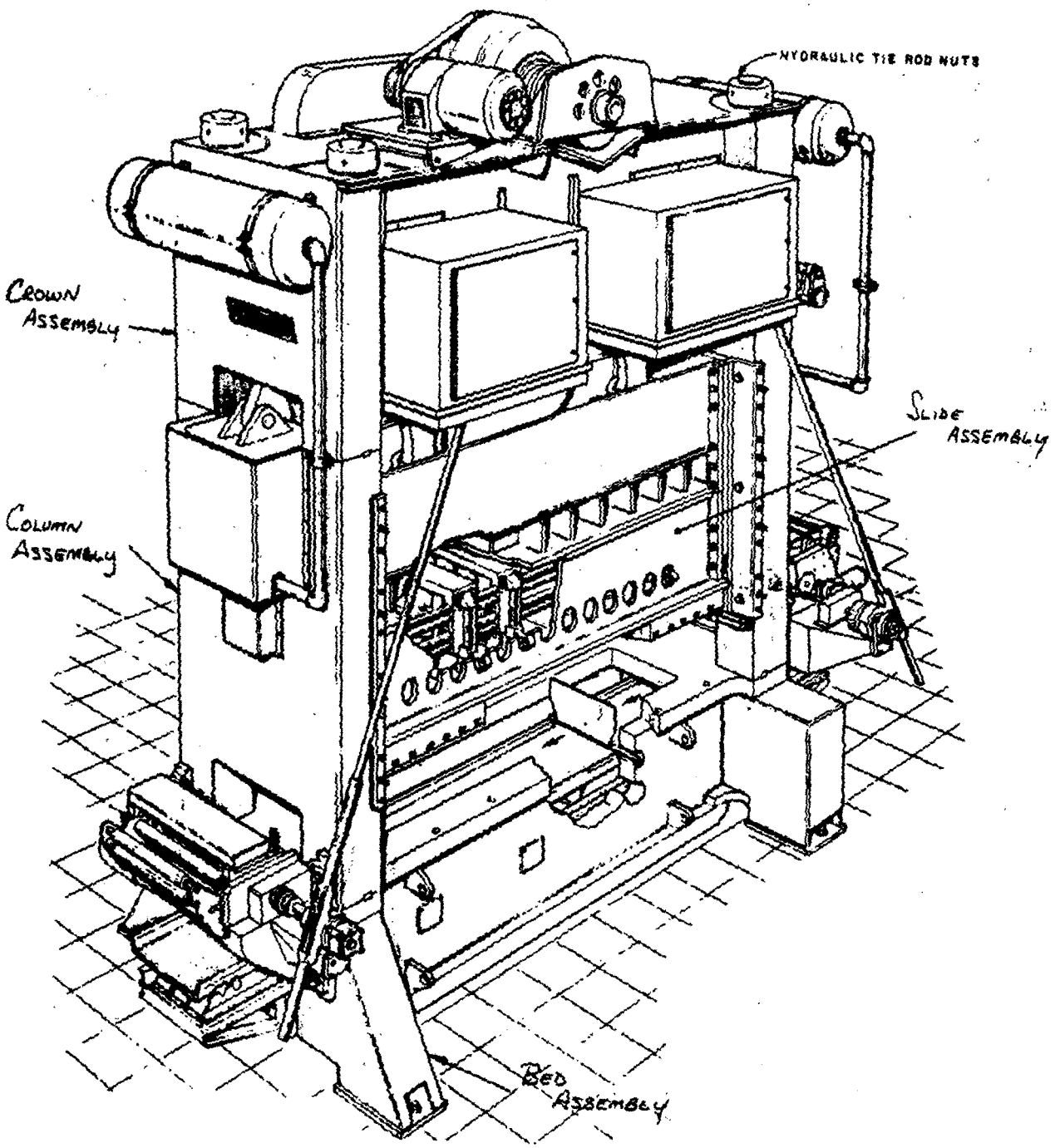
1/ Metal-forming operations, including punching and shearing, are differentiated from metal-cutting operations, in which metal is removed in the form of chips.

Figure 1.
Basic configuration of a mechanical press



Source: Verson Division of Allied Products Corp.

change of dies result in less machine downtime and increased flexibility. Consequently, the production of smaller lot sizes of parts which fit into just-in-time inventory systems becomes more physically feasible and less costly. 1/

Crown assembly.--The crown assembly houses the drive or drives which transmit power to the slide assembly. The crown is a box-type shape constructed of heavy-gauge steel plates, and is designed to provide rigidity which minimizes deflection (bending of the bed under impact of the slide), to absorb stress from the operation of the press, and disperse the weight load of the drive mechanism. The links, also called pitmans, that connect the drive mechanism to the slide assembly are also housed in the crown. The crown houses the drive motor, the drive shaft, brakes, gears, and flywheel. The crown may house more than one drive motor, depending on the number of slides in the transfer press and their respective power requirements. The motors are electric and range from 50 to 800 horsepower. The crown may also have catwalks and railings, which allow for monitoring and maintenance of the equipment.

Slide assembly.--The slide assembly moves up and down in the press and imparts force to the workpiece being formed. Attached to the slide are the upper dies. The slide has the shape of a hollow rectangle and is constructed of heavy steel plate with reinforcing steel plate ribs. The slide is designed to absorb shock occurring from hitting the workpiece and to minimize deflection. The slide is connected to the drive in the crown by a link or series of links that screw into the slide. There are either one, two, or four connections, or points of suspension, between the crown and the slide. The number of suspension points is determined by the application, which in turn dictates the length of the slide and the front-to-back distance of the bolster; the greater those distances, the more points of suspension are required.

The movement of the slide in forming metal is complex, requiring precision and control of the speed of the slide as it pushes the dies into the metal. A press that uses only the stroke of the upper slide to form the metal is known as a "single action" press. In deeper drawing operations, an outer slide comes down to hold the workpiece outside the die area, then an inner slide comes down with the dies and forms the workpiece. This is known as a "double action" press. A "triple action" press has double action from the upper slides, but also includes an upward

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1/ See Donald N. Smith and Peter G. Heytler, An Emerging Model for Future Automotive Stamping Plants, SAE, SAE Technical Papers Series No. 880211, Mar. 4, 1988, p. 7, and John McElroy, "Die Change Challenge '88," Automotive Industries, November 1988, p. 54. According to * * *, the development of exchangeable dies and moveable bolsters allows the end user to use a larger sized transfer press to stamp workpieces originally stamped on a smaller transfer press (telephone interview Feb. 10, 1989).

movement of the lower dies attached to the bolster or "lower slide."

Multiple slides may be required in operations where deeper draws or extensive forming of the metal are needed, and where more die stations are used. The slides are sequential, and are separated by column assemblies. The first slide in the press may have larger tonnage capacity than the remaining slides, as more force might be required to form the metal initially. The main components of the slide are gib blocks, links or suspension points, elevating parts, slide face drilling, slide clamps, counterbalance assemblies, and the slide motor. The upper dies are attached to the slide by clamps that allow for rapid mounting and dismounting.

Column assembly.--The column assemblies support the crown and slide assemblies and are designed to give the press stability against lateral forces. Piping, controls, die lights, die safety lights, and monitoring equipment are housed in the column assemblies. Steel plate is welded into square column-like structures. On the larger transfer presses tie-rods are used to connect the crown to the bed through the column assemblies.

Feeds.--Transfer presses are designed with either a mechanical feed or an electronic feed system. Generally, there are two methods of feeding the workpiece through the press: dual-axial feed, and tri-axial feed. In both mechanical and electronic feed systems, two feed bars run the length of the press above the lower dies near the outer edges of the bolster. Fingers are attached to the feed bars to grab the workpiece and move it from work station to work station. In a dual-axial feed system, the feed bars' motion is clamp and feed (move forward). The feed bars move inward toward the workpiece, fingers clamp the workpiece, the feed bars feed to the next station, unclamp the fingers by moving away from the workpiece, and return to the previous station. In a tri-axial feed system, the feed bars' motion is clamp, lift, and feed. The feed bar moves inward toward the workpiece, fingers clamp the workpiece, the feed bars lift, and the workpiece comes out of the die. Then the workpiece is fed to the next station, lowered, unclamped from the fingers by moving away from the workpiece, and the feed bars return to the previous station. In both the dual-axial and tri-axial feeds, as the slide descends, the workpiece is unclamped, the feed bar moves away; the feed bars return to the previous station as the slide hits the bottom of its stroke, the dies close, and the workpiece is formed. This cycle is repeated over and over.

In a mechanical feed system, the presses' main gear assembly in the crown drives a power-take-off (PTO) shaft that powers the cams driving the feed bars. The cams are located underneath feed bars at one end of the press. The press- and feed-operations are synchronized by the cams, which are mounted on a shaft so they are locked into synchronous movement.

In an electronic feed system, separate electric DC servo motors drive the motions of the feed bar and are synchronized by electronic control. The motors are controlled by microprocessors that send electronic signals to encoders which in turn control the motors in duplicating the motion profile of a mechanical cam in clamping, lifting, and feeding. Feedback devices, such as transducers or resolvers, verify that the feed bars are in the proper time and space coordinates.

Manufacturers and users of mechanical and electronic feeds offer differing views on the reliability, safety, and efficiency of these feeds. A mechanical feed is cited as being highly developed in the industry and a proven successful system. The cams and linkages of the transfer feed are mechanically linked to the drive system of the slide so the down stroke of the slide is physically synchronized with the transfer feed stroke. The longer the transfer feed stroke, the more pressure is put on the cams, which over time will begin to wear. If the user desires to change the transfer feed stroke length, the cams and linkages must be adjusted. Electronic systems have an independent power source from the press. As press speed is increased and transfer stroke distance is increased, more power is demanded by the electric motors. These motors can overload, or "trip out," and an emergency shut-down of the press can result. Also, the electronic feed is susceptible to slight variations in synchronization, leading to a degradation in the precision of the forming process. However, the electronic feed system is believed to offer the user great flexibility, as the electronic feed control system is programmable and individual components of the system can be easily replaced when necessary. 1/

Controls.--The type of controls for the press and the feed are usually specified by the customer, and then purchased by the press builder and installed in the press and/or in a panel control box located on the factory floor next to the press. Generally, the U.S. automobile manufacturers have specified either UNICO, Square D, or Allen-Bradley controls. Such controls are compatible with other industrial controls the customer is already using in the plant, which reduces the need for training on a different brand of controls. Japanese producers will meet the specifications of U.S. automobile producers for U.S. controls and will purchase those electronics

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1/ Respondents allege that "every request for bid from the U.S. automobile industry has specified either the mechanical transfer feed or the electronic transfer feed system. Where the electronic transfer feed system has been specified, Verson has been awarded the contract, and when the mechanical transfer feed system has been specified, another company has been awarded the contract" (transcript of conference held in connection with investigation No. 731-TA-429 (Preliminary), hereinafter "transcript," p. 65). They allege that Verson does not offer mechanical transfer feeds for transfer presses designed to make auto body panels. For information on requests for bids, see section of the report entitled "Prices." For information on domestic shipments of transfer presses by types of transfer feeds and applications/uses and by tonnage capacity, see section of the report entitled "The U.S. Market."

in the United States and ship them to Japan where they will be integrated with the press during its production. Japanese press builders are known to use controls from Mitsubishi, Yaskawa, and Fuji Electric for Japanese and other purchasers.

Transfer presses are generally described by a number of different specifications, including tonnage capacity, 1/ dimensions of the front-to-back distance of the bolster, the distance of the feed stroke, and the number of suspension points. 2/ Presses can also be categorized by type of construction; solid frame or tie-rod construction. Solid frame presses are constructed from a solid frame. That is, all the assemblies are built together in a solid frame. Tie-rod presses are constructed by connecting the individual assemblies with tie rods (prestressed forged rods threaded on the ends) that hold the press assemblies together. Although small transfer presses may use solid frame construction, most transfer presses are of tie-rod construction.

Substitute products

There are other types of mechanical presses that are capable of performing the same metal-forming operations as transfer presses. These include, but are not limited to, open-back inclinable; vertical; straight-side; archframe; knuckle-joint; gap-and-horn type; and single-, double- and triple-action mechanical presses. The type of metal-forming application and its costs frequently determine the type of press selected by the user.

Straight-side presses are perhaps most like transfer presses; both can contain one or more die stations and may include one or more slides. Straight-side presses may be grouped together in a production line, also known as a tandem press line. Workpieces are then transferred from press to press either manually, semiautomatically, or by automated material-handling machinery. Lines of straight-side presses or a mechanical transfer press are usually employed in high-volume production runs. However, because a single transfer press is capable of performing as many operations as numerous straight-side presses, it may reduce overall press investment expenditures, conserve floor space, eliminate in-process parts storage and handling, and reduce maintenance, energy consumption, and required labor. In addition, compared to a line of straight-side presses, a transfer press has greater flexibility to move between variable lot sizes because of automated die-change capabilities, and typically produces more parts per minute. Transfer presses are recommended when there is a daily need for 4,000 or more identical stampings requiring three or more operations. Most transfer presses are designed to make more than one part. Runs of 30,000 to 50,000 pieces of any one part are generally economical between tooling changes. Transfer presses produce stampings from coil stock, blanks, or slugs.

1/ Tonnage capacity is the number of tons of pressure exerted by the press.
2/ According to petitioners, other specifications may include: "stroke; strokes per minute; slide adjustment; unobstructed distance between rail connections; number of working stations; transfer strokes including feed (transfer) stroke, clamp (grip) stroke, and lift stroke; inner distance between bars at clamp; top of bars to bolster; bolster thickness; air cushion travel; length and width of blank sizes; number of columns; type of gear; number of drives; and number of slides" (petition, p. 8).

Small- and medium-sized transfer presses typically employ a mechanical or electronic feed system, which moves the workpiece from die station to die station within the press, whereas large transfer presses generally use a mechanical feed system. Small- and medium-sized transfer presses are generally used in the appliance industry or in the automotive accessory or component industries to form small parts, such as compressor housings and oil pans. Large transfer presses are used primarily in the appliance and automotive industries for stamping large body panels.

The following is an excerpt from a recent trade publication describing the benefits of transfer presses:

> Corresponding to the increasing investment for the plant modernization in the automobile industry, the press machine has been automatized rapidly and progressed outstandingly during the last decade. First conventional tandem lines have been completely replaced with the large transfer presses. Those companies that do not have a transfer press are now considered as out-of-date manufacturers. The transfer press has been employed since 1980 with its advantages; high production capacity, labor-saving function, and space-saving design. Mr. Yamaguchi [managing director of press business department, Komatsu, Ltd.] further said, 'for productivity, the stroke of a transfer press has been doubled (20 spm [strokes per minute]) even for 2,700- or 3,000-ton presses as compared with that of 8 to 10 spm in a tandem line. Also the transfer press is so compact that it requires about half the space of a tandem line.' Therefore, two large transfer presses can be installed in a space for one tandem line.
>
> Only about 5 persons, including operators, are required to take care of a line of the transfer presses. Thus more than half of the personnel can be reduced as compared with conventional tandem lines. 1/

1/ "Full Automation with Transfer Presses," METALWORKING Engineering and Marketing, March 1987, pp. 49-50.

Manufacturing processes

Both U.S. and foreign producers of transfer presses fabricate and machine components and assemble the finished product by job-shop production processes. 1/ Since both U.S. and foreign producers also manufacture other types of presses, engineers and workers may work on different product lines. In some cases, contract engineering may be employed. 2/

Generally, because of the degree that transfer presses are custom built, value added by the producer and press project will vary. Certain producers, due to their small size and physical plant, will not produce large presses or will purchase or subcontract some components as compared to larger firms which will tend to produce more components in house. Value added will also vary because of the extent of engineering required for a particular press project.

Transfer presses are custom-built machines. Small transfer presses are designed from almost standardized engineering designs and are customized to the purchaser's specifications. Large transfer presses, such as those used for body panel stamping by the automobile manufacturers, are designed to the customer's precise specifications. The buyer gives a purchase order to the press builder, who in turn generates a production order. An engineering design is created on the basis of the production order, and a bill of materials is drawn up specifying the components to be manufactured in house and to be purchased or subcontracted from outside suppliers. Engineering drawings are frequently constructed on computer-aided-design (CAD) systems.

Economies of scale in the production of presses and experience derived from working with the customer during the installation and subsequent production process add significantly to the ability of the manufacturer to design, build, and install these presses. Technological development in this industry is directly related to the installed base of machines of a particular producer.

The major assemblies of a mechanical transfer press--crown, slide, column, and bed assemblies--are all boxlike structures of welded steel plate and sheet, with reinforcing steel plate ribs, webs, and flanges. The steel plate used is generally mild- or low-grade carbon steel. Steel plate is generally cut by the press builder using burning machines controlled by X-Y coordinate tracing machines or numerical controls (NC). Steel plate in varying degrees of thickness is cut by this process in the desired shapes for plate structures and other press components that are later machined. In the cutting process, the steel lies on a studded bed. This bed is flooded with water until the water and the steel contact. During the cutting process, the water cools the workpiece as it is cut, so that the steel retains its physical characteristics. Blanks for gears, pitmans, flywheels, pinions, cams, and component plate parts are cut in this fashion.

1/ "Due to the wide divergence in size and complexity of these made-to-order items," petitioners measure production and capacity on the basis of direct labor hours. They add that using units as the basis for measuring capacity and capacity utilization "would not account for the fact that units may be produced during several accounting periods and then shipped in one accounting period" (petition, p. 25). For additional information, see section of the report entitled "U.S. production, capacity, and capacity utilization."

2/ Postconference statement on behalf of Hitachi Zosen Corp. and Hitachi Zosen-Clearing, Inc., Feb. 7, 1989, p. 7.

Large, boxlike constructions for the crown, slide, column, and bed assemblies are formed from steel plate and are manually welded together. Such constructions are then baked in a temperature-controlled furnace to relieve the stresses in the steel created during welding. After this baking process, weld spatter and scale generated in stress relief furnaces are cleaned off using steel shot-blasting. Once cleaned, such structures, as well as other components, are machined to desired shapes.

The machine tools used in machining operations include horizontal and vertical boring machines, radial drills, jig borers, and grinding machines. Many of these machines are large, costing upwards of $6 million, and are controlled by digital readout systems, numerical controls, or computer numerical control devices. Smaller components are machined on smaller machine tools, such as machining centers. Gears are cut and finished on a variety of special gear cutting machines. The gear teeth are hardened by special heat-treating methods to improve wear life. Gears must be ground precisely, in order to prevent "noise" from developing as the teeth from one gear mesh with those of another.

Since many of the steel plate structures and components weigh several tons or more, large, cab-operated overhead cranes running at the ceiling of the plant move components from station to station. Since a press can stand 25 feet below the factory floor and have a height of 35 feet above the factory floor when in operation, the manufacturer must have an assembly building that is quite high, or the assembly area can also have a pit in which the bed rests, simulating an actual installation site.

Due to the heavy investments in capital assets required in this industry, certain components are purchased from outside suppliers. Some of the press components are off-the-shelf or standardized products, such as air cylinders, surge tanks or other pressure vessels, and certain electronics, electric motors, and controls. Other components, such as gears, forgings, forged tie-rods, steel plate, and castings, are subcontracted for and are then machined and turned into finished components in house.

The feed bars used in either the mechanical or electronic feed system are machined in house by the press builder. Other components used in a mechanical feed, such as gearing, cams, cam shafts, and linkages, are machined in house and assembled into the press as appropriate. For electronic feed systems, programmable controllers, other electronics, and DC servo motors are purchased from outside suppliers. Much of the assembly of the feed systems occurs after the major assemblies of the press have been fitted together.

Major modules of the press are then completed, with internal components and assemblies added. Overhead cranes stack up the modules of the press from the ground up--bed, column, slide, and crown assemblies. Tie-rods are inserted and capped with nuts as appropriate. Other components are then added, such as electronic controls. The entire production process, start to finish, can take several months to several years.

The press is then run and tested. In some cases, actual dies from the customer will be used to simulate production runs in the testing phase. Finally, the press is tested in the presence of the customer's engineering and purchasing personnel. After customer approval, the press is disassembled and its major modules are cleaned and painted manually. The press modules are then prepared for shipment. Most assemblies and components of transfer presses are

shipped by extra-large trucks. Certain large components are shipped by railroad. Most manufacturers have rail spurs coming into their factories, both for receiving steel and shipping the final product.

At the customer's plant, independent "riggers" that specialize in moving heavy machinery in plants are employed to drop the bed into the press pit in the factory floor and assemble the other modules. Assembly is usually done under the supervision of the press builder. Other material-handling devices, such as a destacker, are connected with the press. The press builder then begins training the customer's staff in press maintenance. The manufacturer of the controls will train the press buyer's staff in the operations of the controls.

U.S. tariff treatment

As mentioned above, transfer presses, whether imported or domestically produced, are disassembled and shipped unassembled to the customer/end user. When shipped from an overseas location and when all unassembled parts for a transfer press are imported in one shipment, they are classified in subheadings 8462.29.00, 8462.39.00, 8462.49.00, 8462.99.00 of the Harmonized Tariff Schedules of the United States (HTS). 1/ The applicable column 1 (most-favored-nation) rate of duty is 4.4 percent ad valorem. When unassembled parts for a transfer press are imported in more than one shipment, they are provided for in subheading 8466.94.50 of the HTS. 2/ The applicable column 1 (most-favored-nation) rate of duty is 4.7 percent ad valorem.

Nature and Extent of Alleged Sales at LTFV

Petitioners made allegations of sales at LTFV on imports from Japan on the basis of comparisons using constructed foreign-market value and the U.S. price. The U.S. price used by petitioners was based on actual sales prices or offers to sell. Three transfer press projects were chosen for comparison. The resulting alleged dumping margins ranged from 8.19 percent to 97.68 percent. 3/

1/ These items were formerly provided for in item 674.35 of the Tariff Schedules of the United States (TSUS).
2/ These items were formerly provided for in item 674.53 of the TSUS.
3/ For additional information regarding petitioner's allegations of sales at LTFV, see petition, p. 20, and appendixes I-A, I-B, and I-C.

The U.S. Industry

U.S. producers

In addition to the petitioner, the petition named five companies believed to be producers of transfer presses: E. W. Bliss Co.; Danly Machine Division Connell Limited Partnership; Hitachi Zosen-Clearing, Inc.; Minster Machine Co.; and Niagara Machine & Tool Works. 1/ In addition to these companies, the Commission sent producers' questionnaires to seven other companies that were believed to produce mechanical presses and, possibly, transfer presses.

One company responded to the questionnaire by indicating that it did not produce mechanical presses during the period of investigation. Three companies, including E. W. Bliss and Niagara Machine & Tool, responded that they produced mechanical presses other than transfer presses during the period of investigation. Four companies returned a completed, or partially completed, questionnaire. These four companies are believed to account for virtually all of U.S. producers' domestic shipments of the subject presses. 2/ Five companies did not respond.

Current U.S. producers of transfer presses and their share of the cumulative reported value of U.S. producers' domestic shipments of the subject presses during the period of investigation are presented in the following tabulation (in percent):

U.S. producer	Share of cumulative reported value of U.S. producers' domestic shipments of transfer presses between January 1985 and September 1988
Danly Machine Division Connell Limited Partnership	***
Hitachi Zosen-Clearing, Inc.	***
Minster Machine Co	***
Verson Division of Allied Products Corp.	***

Background information on U.S. producers of transfer presses is presented below.

Danly Machine Division Connell Limited Partnership (Danly) produces transfer presses at its plant in Chicago, IL. * * *. According to petitioner, "Danly is no longer actively bidding on transfer press business." 3/

Hitachi Zosen-Clearing, Inc. (Clearing) produces transfer presses in its facilities in Chicago, IL, and Houston, TX. * * *. Originally, Hitachi was a

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1/ Petition, p. 3.
2/ All four U.S. producers of transfer presses also produce other types of mechanical presses using the same machinery, equipment, and production workers.
3/ Transcript, p. 16. For additional information regarding the bidding process, see section of the report entitled "Bid process."

licensee of Clearing. * * *. In 1986, Hitachi purchased Clearing. Petitioners request that because of Clearing's ownership by Hitachi, a Japanese producer and exporter of transfer presses, it should be excluded from the domestic industry under the related parties provision of the statute. 1/ Counsel for Clearing argues that its client is not "substituting its interest as an importer for that as a domestic manufacturer," and that, therefore, it would be "inappropriate to exclude this company from the scope of the domestic industry." 2/

During the period of investigation, Clearing * * *.

The Minster Machine Co. (Minster) is located in Minster, OH. Minster * * *.

Verson Division of Allied Products Corp. (Verson) produces transfer presses at its plant in Chicago, IL. Verson Allsteel Press was founded in 1920 and operated as a family-owned business until 1986 when it was purchased by Allied Products Corp. Verson is the largest U.S. producer of transfer presses. In addition to transfer presses, Verson produces a wide variety of other mechanical presses and hydraulic presses. Until December 1986, Verson also operated a facility in Dallas, TX. * * *.

U.S. importers

The U.S. sales subsidiaries of the major Japanese producers of transfer presses named in the petition were named as possible importers of the subject merchandise: AIDA Engineering, Inc.; Ishikawajima-Harima Heavy Industries Co., Ltd. (IHI); Hitachi Zosen USA, Ltd.; and Komatsu America Industries Corp. 3/ In addition to these companies, the Commission sent importers' questionnaires to 12 other companies that were believed to import mechanical presses and, possibly, transfer presses.

Five companies responded to the questionnaire by indicating that they did not import mechanical presses during the period of investigation. 4/ Two companies imported mechanical presses other than transfer presses. Seven companies returned a completed importers' questionnaire with data on their imports of transfer presses. * * *. Two companies did not respond to the Commission's importers' questionnaire.

U.S. importers of transfer presses from Japan and their share of the cumulative reported value of domestic shipments of the subject presses imported from Japan during the period of investigation are presented in the following tabulation (in percent): 5/

1/ 19 U.S.C. § 1677 (4)(B). Transcript, p. 36.
2/ Ibid., pp. 111-112.
3/ Petition, p. 7. For information on Japanese producers of transfer presses, see section of the report entitled "The producers in Japan."
4/ * * *.
5/ For additional information regarding U.S. importers' domestic shipments, see section of the report entitled "U.S. importers' domestic shipments."

U.S. importer	Share of cumulative reported value of domestic shipments of transfer presses imported from Japan between January 1985 and September 1988
*	*
*	*
*	*
*	*
*	*
*	*
*	*

Background information on the U.S. importers of transfer presses responding to the Commission's importers' questionnaire is presented below.

* * * * * * *

The U.S. market

The U.S. market for transfer presses is characterized by infrequent sales. Transfer presses are purchased for use in many industries, including the automotive, appliance, electric machining, and furniture industries. Most of the transfer presses shipped in the United States during the period of investigation, however, went to the automotive and automotive-related industries.

According to a recent trade publication, "the development of automobile body pressing lines have been affected by the changing investment plan in the automobile industry. These investments have not been constant every year. When an automobile company constructed a new plant, other competitive manufacturers followed one after another, therefore the sum of such investments varied considerably in each year. Naturally, press manufacturers have had to keep up with changing circumstances." 1/ There is evidence that U.S. automakers will continue to purchase significant numbers of transfer presses in the coming years. Another trade publication reports--

> The Big Three have launched major capital spending programs to refurbish their stamping plants. GM is spending $2.5 billion on 100 new presses. The CPC [Chevrolet-Pontiac-Canada] plant at Mansfield [OH.] will get 19 new transfer presses. Two transfer presses each will go to the BOC [Buick-Oldsmobile-Cadillac] plants at Lansing, Grand Blanc, Mich., and Lordstown, Ohio. Ford has earmarked $75-80 million per year from 1985 to 1990 for major stamping equipment plus $20 million a year on normal maintenance. The capital spending will be mainly for transfer presses, automation, and loading and destacking devices. Chrysler will spend $313 million on stamping equipment between 1986 and 1990 and about $50 million a year after then. The Sterling Heights plant is buying three Danly and one Komatsu transfer press plus three Schuler synchromatic lines. 2/

1/ "Full Automation with Transfer Presses," METALWORKING Engineering and Marketing, March 1987, p. 49.
2/ Byron H. Berry, "U.S. Automakers Overhaul Stamping," Iron Age, April 1987, p. 33.

Transfer presses have been very important in the revitalization of the automotive and automotive-related industries in the United States. 1/ General Motors has even developed a classification system for the transfer presses it uses. 2/ Many of the transfer presses used by the automakers are used to stamp auto-body parts, e.g., hoods, fenders, door panels, etc. Respondents argue that there are two different like products--transfer presses for large auto-body panels and all other transfer presses. Further, respondents argue that the type of transfer feed specified by purchasers of transfer presses for stamping large auto-body panels in their requests for bids may determine which supplier is awarded a contract. 3/ The following tabulation of producers' and importers' questionnaire responses presents a summary of domestic shipments during the period January 1985 through September 1988 of transfer presses used for stamping large auto-body panels and those used in all other applications:

Type of transfer feed and application/use	Cumulative domestic shipments-- Quantity (number of presses)	Value (1,000 dollars)
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*

As mentioned above, transfer presses may also be described by their tonnage capacity. The following tabulation of producers' and importers' questionnaire responses presents a summary of domestic shipments during the period January 1985 through September 1988 of transfer presses by tonnage capacity:

Tonnage capacity	Cumulative domestic shipments-- Quantity (number of presses)	Value (1,000 dollars)
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*

Table 1 presents data on domestic shipments of transfer presses by types of transfer feeds and applications/uses, and by tonnage capacities, by firms.

1/ For additional information on the use of transfer presses in the U.S. automotive industry, see Donald N. Smith and Peter G. Heytler, An Emerging Model for Future Automotive Stamping Plants, SAE, SAE Technical Papers Series No. 880211, Mar. 4, 1988.

2/ There are A-, B-, C-, and D-type transfer presses under the General Motors classification system. An A-type transfer press has two or three slides and is 132 inches front to back; a B-type press has two slides and is 108 inches front to back; a C-type press has one or two slides and is 108 inches front to back; and a D-type press has one slide and is 54 inches front to back.

3/ Transcript, pp. 65 and 69.

Table 1
Transfer presses: U.S. producers' domestic shipments 1/ and U.S. importers' domestic shipments, by types of transfer feeds and applications/uses, by tonnage capacities, and by firms, January 1985-September 1988

Item	Cumulative domestic shipments from January 1985 to September 1988	
	Value (1,000 dollars)	Quantity (number of presses)
* * * * * * *		

1/ Four U.S. producers, believed to account for virtually all of U.S. producers' domestic shipments of transfer presses during the period of investigation, returned a completed questionnaire. All four firms provided data on shipments.

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

Because transfer presses are complex, made-to-order products that take anywhere from several months to several years to manufacture, shipments tend to vary greatly from year to year.

Because of less-than-full coverage of U.S. importers of transfer presses from Japan and apparently full coverage of Japanese producers' export shipments of transfer presses to the United States, apparent consumption has been calculated using U.S. producers' domestic shipments, Japanese producers' export shipments to the United States, and U.S. importers' domestic shipments of transfer presses imported from countries other than Japan. 1/ The following tabulation presents the cumulative quantity and value of such shipments of transfer presses during the period January 1985 through September 1988:

1/ Because Japanese producers' export shipments to the United States exclude such charges as U.S. import duties and inland freight, apparent U.S. consumption on the basis of value is still likely to be understated. Furthermore, because of the time involved in ocean transport to the United States, the calendar year in which a Japanese transfer press was exported to the United States and the calendar year in which it was imported/shipped in the United States may be different. For additional information, see section of the report entitled "The producers in Japan."

Source	Cumulative shipments-- Quantity (number of presses)	Value (1,000 dollars)
U.S. producers' domestic shipments...	***	***
U.S. importers' domestic shipments of imports from countries other than Japan.....	***	***
Japanese producers' export shipments to the United States.....	***	***
Total.....	181	801,488

Table 2 presents apparent U.S. consumption of transfer presses for 1985-87, January-September 1987, and January-September 1988.

Table 2
Transfer presses: U.S. producers' domestic shipments, 1/ U.S. importers' domestic shipments of imports from countries other than Japan, Japanese producers' exports to the United States, and apparent U.S. consumption, 2/ 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September-- 1987	1988
*	*	*	*	*	*	*

1/ Four U.S. producers, believed to account for virtually all of U.S. producers' domestic shipments of transfer presses during the period of investigation, returned a completed questionnaire. All four firms provided data on shipments.
2/ As mentioned above, because of less-than-full coverage of U.S. importers of transfer presses from Japan and apparently full coverage of Japanese producers' export shipments of transfer presses to the United States, apparent consumption has been calculated using U.S. producers' domestic shipments, Japanese producers' export shipments to the United States, and U.S. importers' domestic shipments of transfer presses imported from countries other than Japan.

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

Consideration of Alleged Material Injury
to an Industry in the United States 1/

U.S. production, capacity, and capacity utilization

Verson measures production and capacity on the basis of direct labor-hours because "direct labor hours more accurately reflect the actual resources expended in the manufacturing process due to the wide divergence in size and complexity of these made-to-order items." 2/ Verson adds that using units as the basis for measuring capacity and capacity utilization "would not account for the fact that units may be produced during several accounting periods and then shipped in one accounting period." 3/ As a result of these concerns, the Commission's producers' questionnaire requested capacity and production on the basis of available labor-hours and labor-hours worked. In addition, the questionnaire requested that each U.S. producer specify the calendar year in which it attained the highest level of available capacity, as measured by labor-hours, and the corresponding level of available capacity. Also, production was requested on a press-project basis, which allowed the Commission to follow the production of a transfer press from start to finish even if its production spanned several years.

Although measuring capacity on the basis of available labor-hours appears to accurately reflect the nature of the production process involved in making a transfer press, several problems did arise. For example, * * *.

Table 3 presents data on production, capacity, and capacity utilization by firms for 1985-87, January-September 1987, and January-September 1988.

Table 3
Transfer presses: U.S. production, capacity, and capacity utilization, by firms, 1985-87, January-September 1987, and January-September 1988 1/

Item	1985	1986	1987	January-September-- 1987	1988
*	*	*	*	*	*	*

1/ Some "production" may occur after the transfer press is shipped to the purchaser. This may result from needed repairs or remachining of component parts. Two U.S. producers, accounting for * * * percent of the cumulative value of U.S. producers' domestic shipments of transfer presses between January 1985 and September 1988, provided data on production and capacity. * * *.

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

1/ Four U.S. producers, believed to account for virtually all of U.S. producers' domestic shipments of transfer presses during the period under investigation, returned a completed or partially completed producers' questionnai
2/ Petition, p. 25.
3/ Ibid.

U.S. producers' domestic shipments

No U.S. producer reported company transfer shipments of transfer presses. U.S. producers shipped a total of * * * transfer presses, valued at $* * * million during the period of investigation. Table 4 presents data on domestic shipments of transfer presses, by firms, for 1985-87, January-September 1987, and January-September 1988.

Table 4
Transfer presses: U.S. producers' domestic shipments, by firms, 1985-87, January-September 1987, and January-September 1988 1/

Item	1985	1986	1987	January-September-- 1987	1988
	*	*	*	*	*

1/ Four U.S. producers, believed to account for virtually all of U.S. producers' domestic shipments of transfer presses during the period of investigation, returned a completed questionnaire. All four firms provided data on shipments.

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

U.S. producers' export shipments

* * * * * * *

U.S. producers' inventories

Because transfer presses are usually custom-made products, they are not inventoried. 1/

Employment and wages

Production and related workers at Verson and Niagara are represented by the United Auto Workers of America. The United Steel Workers of America (AFL-CIO-CLC) represents the production and related workers at Danly and Minster. These two unions are copetitioners with Verson. * * *.

In its producers' questionnaire, the Commission requested U.S. producers to provide detailed information concerning reductions in the number of

1/ * * *.

production and related workers producing transfer presses occurring between January 1985 and September 30, 1988. * * * producers responded. 1/

* * * * * * *

Available information on employment by U.S. producers of transfer presses is presented in table 5. Because of the enormous differences in the types of transfer presses produced, productivity and unit labor costs are difficult, if not impossible, to calculate on the basis of information collected in the producers' questionnaires.

Table 5
Transfer presses: Average number of production and related workers, hours worked, 1/ wages and total compensation 2/ paid to employees producing such presses, and hourly compensation, by firms, 1985-87, January-September 1987, and January-September 1988 3/

Item	1985	1986	1987	January-September-- 1987	1988
* * * * * * *					

1/ Includes hours worked plus paid leave time.
2/ Includes wages and contributions to Social Security and other employee benefits.
3/ * * * U.S. producers, accounting for * * * percent of the cumulative value of U.S. producers' domestic shipments of transfer presses during the period of investigation, provided data on employment.

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

1/ * * *.

Financial experience of U.S. producers

Two U.S. producers, * * *, accounting for * * * and * * * percent, respectively, of cumulative reported U.S. producers' domestic shipments of transfer presses during the period of investigation, supplied usable income-and-loss data on their transfer press operations as well as on their operations producing all mechanical presses. * * *.

The revenue created by completing a long-term press project can be recognized under two methods: (1) the completed-contract method; or (2) the percentage-of-completion method. Under the completed-contract method, no revenue is recognized until the period in which the project is completed or shipped. The costs incurred on the project are accumulated and are charged to expense in the period in which the revenue is recognized. Under the percentage-of-completion method, revenue and net income are recognized periodically on the basis of the estimated stage of completion of the project.

* * * * * * *

Transfer press operations.--The income-and-loss data on the transfer press operations of each individual company are presented in table 6.

* * * * * * *

Table 6
Income-and-loss experience of U.S. producers on their operations producing transfer presses, by firms, accounting years 1985-87 and interim periods ended September 30, 1987, and September 30, 1988 1/

Item	1985	1986	1987	Interim period ended September 30-- 1987	1988
* * * * * * *					

1/ * * *.

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

* * * * * * *

Overall establishment operations.--* * *.

Investment in productive facilities.-- * * *.

Operating rate of return.--The ratios of operating income or loss to the total assets and to the book value of property, plant, and equipment employed in the production of all establishment products and for transfer presses, by firms, are shown in the following tabulation (in percent):

* * * * * * *

Capital expenditures.--* * *.

Research and development expenses.--* * *.

Impact of imports on capital and investment.--Firms were asked whether they had experienced any actual, or anticipated any, negative impact on their growth, investment, ability to raise capital, or existing development and production efforts as a result of imports of transfer presses from Japan. * * *.

Consideration of the Threat of Material Injury

Consideration factors

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

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors 1/--
>
> > (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
> >
> > (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
> >
> > (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

---

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

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

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

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

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

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

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product-shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 1/

The available information on the quantity and value of U.S. imports, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented below in the section of the report entitled "Consideration of the Causal Relationship Between Alleged Material Injury or Threat Thereof and LTFV Imports." Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented above in the section of the report entitled

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

"Consideration of Alleged Material Injury to an Industry in the United States." Available information on Japanese producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, is presented below in the section of the report entitled "The producers in Japan." As mentioned above, transfer presses are generally made-to-order products and are not inventoried. Therefore, item V, U.S. inventories of the subject merchandise, is not applicable in this investigation. 1/ Items (I) and (IX) are also not applicable.

The producers in Japan 2/

Petitioners believe there are four Japanese companies that manufacture, produce, and/or export transfer presses to the United States; AIDA Engineering, Ltd; Hitachi Zosen, Ltd; Ishikawajima-Harima Heavy Industries Co., Ltd.; and Komatsu Ltd. All of these companies have U.S. sales subsidiaries which petitioners believe may be importing transfer presses into the United States. 3/

In order to obtain information regarding the producers of transfer presses in Japan, the Commission requested information of the U.S. Embassy in Tokyo. 4/ In addition, requests were made of counsel representing the foreign producers that filed entries of appearance with the Commission. Data compiled in response to the requests are presented in table 7.

Table 7
Transfer presses: Japanese production, capacity, capacity utilization, domestic shipments, exports to the United States, and exports to third countries, by firms, 1985-87, January-September 1987, January-September 1988, and projected 1989

Item	1985	1986	1987	January-September-- 1987	1988	Projected-- 1989
	*	*	*	*	*	*	*

Source: Compiled from data submitted by counsel for AIDA Engineering, Ltd., Hitachi Zosen, Ltd., Ishikawajima-Harima Heavy Industries Co., Ltd. (IHI), and Komatsu, Ltd., in response to requests for information by the Commission.

1/ * * *.
2/ Other foreign producers of transfer presses include Maschinenfabrik Mueller-Weingarten AG, West Germany; MECFOND, Italy; Prensas Schuler S.A., Brazil; and Schuler Pressen GmbH, West Germany.
3/ Petition, pp. 6 and 8. For additional information regarding these firms' import operations, see section of the report entitled "U.S. importers."
4/ The embassy responded that the information requested is either not available or not readily available. It added that the four Japanese producers named in the Commission's request for information would be providing data through their respective Washington counsels.

Respondents argue that in the 1970s Japanese producers developed and perfected transfer presses for stamping large auto-body panels. When the U.S. automakers pushed to modernize their production facilities and lower costs they went to the Japanese, who had "honed and improved that product enhancing its quality and reliability through their work with the Japanese car industry." 1/ Respondents conclude that it is natural for the Japanese to have dominated the market for a product which they had developed, and that "what is significant is that the U.S. press producers, starting basically from scratch, have made such a substantial inroad into this market [for transfer presses for large auto body panels]."

AIDA Engineering, Ltd. (AIDA Ltd.), founded in 1917, as AIDA Ironworks, Ltd., has been producing transfer presses since 1960. In its submission to the Commission, counsel for AIDA Ltd. indicated that its client "faces certain size limitations in the presses that it can produce, and it does not produce the very large mechanical transfer presses that are used by the automobile industry for stamping large auto body panels." Currently AIDA Ltd. does not have any production capabilities to produce transfer presses in the United States. It does, however, own property in Columbus, IN, which was purchased in 1979 for "possible production" of "presses and related equipment." * * *.

According to information in the Japanese press regarding Komatsu:

> Production capacity was doubled during the last year [1986], reaching a level of 60 billion yen. This production increase partly owes to the fact that the production target of the nonconstruction machine department is set to 25% of the company's whole production, and also partly derives from the circumstance in which Japanese automobile manufacturers have been emphasizing on the overseas sales and, on the other hand, orders from 'Big Three' automobile manufacturers in the U.S. including GM and other European and Chinese automobile manufacturers have been increasing. The company estimates that the percentage of exports to its total sales will be 50% or more in 1986 as compared with 30% in 1985. From now on, it seems the orders from the overseas markets, including those from Japanese auto makers in abroad, will continue to increase. 2/

As mentioned above, both U.S. and foreign producers of transfer presses fabricate and machine components and assemble the finished product by job-shop production processes. Furthermore, both U.S. and foreign producers also produce other types of presses/machine tools. Although none of these other products are subject to investigation(s) under section 701 or 731 or to final orders under section 736, some are covered by the voluntary restraint agreement (VRA) between the governments of Japan and the United States. 3/

1/ Transcript, p. 61.
2/ "Full Automation with Transfer Presses," METALWORKING Engineering and Marketing, March 1987, p. 51.
3/ See letter from Commerce Secretary Baldridge to His Excellency Nobuo Matsunaga regarding trade in certain machine tools between Japan and the United States of America, Dec. 16, 1986.

At the Commission's conference held in connection with this investigation, counsel for Komatsu, Hitachi, and AIDA indicated that they are unaware of any outstanding dumping findings or antidumping orders against their Japanese clients in third-country markets. 1/

Consideration of the Causal Relationship Between Alleged Material Injury or the Threat Thereof and LTFV Imports

U.S. imports

Data on U.S. imports of transfer presses, by principal sources, are presented in table 8.

Table 8
Transfer presses: U.S. imports, by principal sources, 1985-87, January-September 1987, and January-September 1988 1/

Source	1985	1986	1987	January-September-- 1987	1988
*	*	*	*	*	*	*

1/ Because of less-than-full coverage of U.S. importers, data on U.S. imports is understated. Furthermore, because of apparently full coverage of Japanese producers' export shipments of transfer presses to the United States, apparent consumption has been calculated using U.S. producers' domestic shipments, Japanese producers' export shipments to the United States, and U.S. importers' domestic shipments of transfer presses imported from countries other than Japan.

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

U.S. importers' domestic shipments

Data on U.S. importers' domestic shipments of transfer presses are presented in table 9.

1/ Transcript, pp. 55, 95, 115, and 120. * * *.

Table 9
Transfer presses: U.S. importers' domestic shipments, by principal sources, 1985-87, January-September 1987, and January-September 1988 1/

Source	1985	1986	1987	January-September-- 1987	1988
*	*	*	*	*	*

1/ Because of less-than-full coverage of U.S. importers, data on domestic shipments of U.S. imports is understated.

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

Market penetration

Petitioners estimate that since January 1, 1985, * * * contracts for transfer presses worth * * * have been awarded in the United States. Of these, U.S. companies were awarded * * * contracts worth an estimated * * *. During the same period, petitioners estimate that Japanese companies were awarded * * * contracts worth an estimated * * *. Therefore, according to petitioner's estimates, the Japanese have accounted for * * * percent of the volume of contracts awarded in the United States and * * * percent of the value of such contracts. 1/

As mentioned above, because of less-than-full coverage of U.S. importers of transfer presses from Japan and apparently full coverage of Japanese producers' export shipments of transfer presses to the United States, apparent consumption has been calculated using U.S. producers' domestic shipments, Japanese producers' export shipments to the United States, and U.S. importers' domestic shipments of transfer presses imported from countries other than Japan. 2/ The following tabulation presents the cumulative quantity and value of such shipments of transfer presses during the period January 1985 through September 1988:

1/ Petition, pp. 22-23. For additional information regarding contracts awarded during the period of investigation, see section of the report entitled "Bid information."
2/ Because Japanese producers' export shipments to the United States exclude such charges as U.S. import duties and inland freight, apparent U.S. consumption on the basis of value is still likely to be understated. Furthermore, because of the time involved in ocean transport to the United States, the calendar year in which a Japanese transfer press was exported to the United States and the calendar year in which it was imported/shipped in the United States may be different.

Source	Cumulative shipments-- Quantity (number of presses)	Value (1,000 dollars)
U.S. producers' domestic shipments...	***	***
U.S. importers' domestic shipments of imports from countries other than Japan.....	***	***
Japanese producers' export shipments to the United States.....	***	***
Total.....	181	801,488

Based on the data presented above, shipments of transfer presses from Japan accounted for * * * percent of the cumulative value and * * * percent of the cumulative quantity of transfer presses shipped in, or to, the United States during January 1985 through September 1988. Table 10 presents data on U.S. producers' domestic shipments, U.S. importers' domestic shipments of imports from countries other than Japan, Japanese producers' exports to the United States, apparent U.S. consumption, and market penetration, for 1985-87, January-September 1987, and January-September 1988.

Table 10
Transfer presses: U.S. producers' domestic shipments, 1/ U.S. importers' domestic shipments of imports from countries other than Japan, Japanese producers' exports to the United States, apparent U.S. consumption, 2/ and market penetration, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September-- 1987	1988
	*	*	*	*	*	*	*

1/ Four U.S. producers, believed to account for virtually all of U.S. producers' domestic shipments of transfer presses during the period of investigation, returned a completed questionnaire. All four firms provided data on shipments.
2/ As mentioned above, apparent consumption has been calculated using U.S. producers' domestic shipments, Japanese producers' export shipments to the United States, and U.S. importers' domestic shipments of transfer presses imported from countries other than Japan.

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

Prices

Most transfer presses are sold through bid competition directly to end users. In most cases the bidding is closed, although firms usually know who their competitors are. Leadtimes vary greatly, depending on the size and complexity of the transfer press. For example, * * *.

Bid process.--Customers generally initiate the bid process by issuing a request for quotation (RFQ) to approved transfer press suppliers. The RFQ generally contains a project description, procedures to be used in bidding, contract terms and conditions, and technical specifications and requirements. The RFQ may request that the total transfer press price be segmented with separate prices for major items such as the following: (1) base machine; (2) engineering and design; (3) press, die set, and automation controls; (4) motors; (5) installation supervision; (6) training; and (7) optional equipment. In most cases, the purchaser sends identical RFQs to all approved firms.

The suppliers generally have from 4 to 6 weeks to submit a bid. Firms prepare bids on the basis of the technical specifications of the press, the costs involved, and knowledge of competitors' recent bids. Producers' and importers' bid specifications generally are very close to the specifications outlined in the RFQ.

The purchaser reviews the bids and selects a firm. Generally, firms are allowed only one bid, although * * * has, in some instances, changed specifications during the bidding process and then asked for rebids. Since transfer presses are highly complex products, the different bids are difficult to evaluate. Even though firms are usually responding to the same RFQs, bids are differentiated by variations in prices for the segments and different option packages.

In general it is a prerequisite that firms meet the purchasers' technical specifications. After reviewing the bids, if the engineers determine that a firm does not adequately meet their specifications, then that firm is usually dropped from the list of bidders. Some of the other major factors that purchasers consider are price, the ability to deliver on time, and previous experience with the suppliers' transfer presses.

* * * * * * *

Bid information.--The Commission received bid information from * * * domestic producers and * * * importers of transfer presses. * * *. Questionnaires indicated that * * * contracts involving a total of * * * transfer presses have been awarded for bids that were initiated since 1985. 1/ These * * * purchases are presented in table 11, which lists the customer, the number of transfer presses purchased, the bidding firm, the bidding firm's country of origin, the total final bid, and the winning bidder. The purchases are presented in chronological order, and the competing bids are listed in ascending order.

1/ * * *.

Table 11
Transfer presses: Bid information on contracts initiated and awarded during January 1985-July 1988

Customer	Number of presses	Bidding firm	Country of origin	Total final bid (1,000 dollars)	Winner
*	*	*	*	*	*	*

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

Of the * * * contracts awarded for bids initiated since 1985, * * *.

Information was available for * * * instances in which domestic and foreign companies submitted competing bids. In * * * of these cases the importers submitted the low bid.

The following section summarizes the * * * instances in which domestic and foreign companies submitted competing bids. These contracts accounted for roughly * * * percent of the number of transfer presses sold, and approximately * * * percent of the value of transfer presses sold. The purchases are presented in chronological order, and the tabulations list the bids in ascending order. Purchases involving lost sales allegations are indicated.

* * * * * * *

Lost sales and lost revenues

* * *. The * * * lost sales allegations and * * * of the lost revenue allegations are discussed in the section of the report entitled "Bid Information", where they are identified.

In addition, the petition specified a number of sales on which U.S. producers' were not invited to bid. Many of the transfer presses in question were purchased for use in the U.S. operations of Japanese-owned companies, many of which are automakers and/or auto parts makers. The petition alleges that * * * transfer presses with an unspecified value were purchased for use by these Japanese "transplants" and should be considered "lost sales." 1/ The Commission attempted to contact the firms listed in the petition but were unable to gather any specifics on the actual purchase of transfer presses. According to company officials, * * *.

1/ See petition, pp. 23-24, and app. III-C.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1985-September 1988 the nominal value of the Japanese yen appreciated by 92.7 percent against the value of the U.S. dollar (table 12). 1/ Adjusted for relative movements in producer price indexes, the real value of the Japanese yen appreciated by 57.0 percent against the value of the U.S. dollar.

Table 12
Nominal exchange rate of the Japanese yen in U.S. dollars, real exchange-rate equivalents, 1/ and producer price indexes in the United States and Japan, 2/ by quarters, January 1985-September 1988

Period	Nominal exchange-rate index	Real exchange-rate index 3/	U.S. producer price index	Japanese producer price index
1985:				
Jan.-Mar.....	100.0	100.0	100.0	100.0
Apr.-June....	102.8	101.5	100.1	98.8
July-Sept....	108.0	106.0	99.4	97.5
Oct.-Dec.....	124.4	117.8	100.0	94.7
1986:				
Jan.-Mar.....	137.2	129.2	98.5	92.8
Apr.-June....	151.5	140.1	96.6	89.4
July-Sept....	165.4	149.7	96.2	87.0
Oct.-Dec.....	160.8	143.5	96.5	86.1
1987:				
Jan.-Mar.....	168.2	147.4	97.7	85.6
Apr.-June....	180.6	154.5	99.2	84.9
July-Sept....	175.4	150.2	100.3	86.0
Oct.-Dec.....	189.8	161.3	100.8	85.7
1988:				
Jan.-Mar.....	201.3	168.3	101.3	84.7
Apr.-June....	205.1	167.8	103.1	84.4
July-Sept....	192.7	157.0	104.5	85.2

1/ Exchange rates expressed in U.S. dollars per unit of foreign currency.
2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indices presented in line 63 of the International Financial Statistics.
3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative movements in Producer Price Indexes in the United States and the respective foreign country. Producer prices in the United States increased 4.5 percent between January 1985 and September 1988 compared with a 14.8 percent decrease in Japan during the same period.

Source: International Monetary Fund, International Financial Statistics, December 1988.

1/ International Financial Statistics, December 1988.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-429 (Preliminary)]

Mechanical Transfer Presses From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary

antidumping investigation No. 731-TA-429 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of mechanical transfer presses,[1] provided for in subheadings 8462.29.00, 8462.39.00, 8462.49.00, 8462.99.00 and 8466.94.50 of the Harmonized Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by February 27, 1989.

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

EFFECTIVE DATE: January 12, 1989.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-252-1198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Room 615-M, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on January 12, 1989, by Verson Division of Allied Products Corporation, Chicago, IL, the United Auto Workers of America, and the United Steelworkers of America (AFL-CIO-CLC).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended by 53 FR 33041 (August 29, 1988)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on Friday, February 3, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202-252-1198) not later than Wednesday, February 1, 1989, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before February 7, 1989, a written brief containing information and arguments pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than February 10, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: January 19, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-1670 Filed 1-24-89; 8:45 am]

BILLING CODE 7020-02-M

[1] For purposes of this investigation, the term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the workpiece is moved from station to station by a transfer mechanism synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be assembled or unassembled.

International Trade Administration

[A-588-810]

Initiation of Antidumping Duty Investigation: Mechanical Transfer Presses From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of mechanical transfer presses from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of mechanical transfer presses materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before February 26, 1989. If that determination is affirmative, we will make a preliminary determination on or before June 21, 1989.

EFFECTIVE DATE: February 7, 1989.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, Jr. or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4929 or (202) 377-3965, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 12, 1989, we received a petition filed in proper form by the Verson Division of Allied Products Corporation, the United Auto Workers, and the United Steelworkers of America (AFL-CIO-CLC) on behalf of the domestic mechanical transfer press industry. In compliance with the filing requirements of 19 CFR 353.36, petitioners allege that imports of mechanical transfer presses from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

United States Price and Foreign Market Value

Petitioners' estimate of United States price is based on Verson's bid price less the estimated amount by which the winning company underbid it. U.S. duty, movement charges, U.S. Customs merchandise processing fee, and U.S. Customs harbor maintenance fee were deducted. Petitioners' estimate of foreign market value (FMV) is based on a constructed value, calculated on the basis of Verson's actual cost of manufacture, adjusted for known differences between Japanese and U.S. costs.

Based on a comparison of FMV to the United States price, petitioners allege dumping margins ranging from 8.19 to 97.68 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on mechanical transfer presses from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of mechanical transfer presses from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 21, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Imports covered by this investigation are shipments of mechanical transfer presses from Japan. For purposes of this investigation, the term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the workpiece is move from station to station by a transfer mechanism synchronized with the press action, whether imported as machines or part suitable for use solely or principally with these machines. These presses be assembled or unassembled. During most of the review period, such merchandise was classifiable under items 674.3583, 674.3586, 674.3587, 674.3592, 674.3594, 674.3596, 674.5315, and 674.5320 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under HTS items 8462.29.00, 8462.39.00, 8462.49.00, 8462.99.00, 8466.94.50.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 26, 1989, whether there is a reasonable indication that imports of mechanical transfer presses from Japan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Jan W. Mares,

Assistant Secretary for Import Administration.

February 1, 1989.

[FR Doc. 89-2866 Filed 2-6-89; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES
APPEARING AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE
Investigation No. 731-TA-429 (Preliminary)

MECHANICAL TRANSFER PRESSES FROM JAPAN

Those listed below appeared at the United States International Trade Commission conference in connection with the subject investigation on February 3, 1989, in the main Hearing Room 101 of the USITC Building, 500 E Street SW., Washington, DC.

In support of the imposition of antidumping duties

Collier, Shannon, Rill & Scott--Counsel
Washington, DC
on behalf of

Verson Division of Allied Products Corp., the United Auto Workers and the United Steelworkers of America (AFL-CIO-CLC)

Martin A. German, Corporate Vice President,
Allied Products Corp.
Vincent D. Pisciotta, Vice President,
Verson/Litteli Division of Allied Products Corp.
Steven Beckman, International Economist,
United Autoworkers of America
David J. Nelson, Coordinator, Advertising & Marketing Support,
Verson Division of Allied Products Corp.

Paul C. Rosenthal)
Carol A. Mitchell) --OF COUNSEL
Nicholas D. Giordano)

In opposition to the imposition of antidumping duties

Arnold & Porter--Counsel
Washington, DC
on behalf of

Komatsu Ltd., and Komatsu America Industries Corp.

Mr. Goro Yamaguchi, Manager, Large Size Press Sales,
Komatsu Ltd.
Mr. Yasuo Kaiho, Manager,
Komatsu Ltd.
Mr. Hiroshi Iwata, Manager,
Komatsu Ltd.
Mr. Hirofumi Matsumoto, Manager, Large Size Press Sales,
Komatsu America Industries Corp.
Mr. Jack Weber, Technical Coordinator,
Komatsu America Industries Corp.

Robert Herzstein)
Thomas B. Wilner) --OF COUNSEL
Douglas A. Dworkin)
Jeffrey M. Winton)

CALENDAR OF PUBLIC CONFERENCE--Continued

In opposition to the imposition of antidumping duties--Continued

Graham & James--Counsel
Washington, DC
on behalf of

Hitachi Zosen Ltd. and Hitachi Zosen-Clearing, Inc.

Mr. Eilert F. Bruns, Engineering Manager,
Hitachi Zosen-Clearing, Inc.

Lawrence R. Walders)
Yoshihiro Saito)--OF COUNSEL
Brian E. McGill)

Arent, Fox, Kitner, Plotkin & Kahn--Counsel
Washington, DC
on behalf of

Ishikawajima-Harima Heavy Industries Co., Ltd. (IHI)

Robert H. Huey)
Evan R. Berlack)--OF COUNSEL
Maryanne Courtney)

Arent, Fox, Kitner, Plotkin & Kahn--Counsel
Washington, DC
on behalf of

AIDA Engineering, Ltd., and AIDA Engineering, Inc.

Mr. Koji Nakano, Vice President, Engineering and Service,
AIDA Engineering, Inc.

Stephen L. Gibson)
Callie Georgeann Papas) --OF COUNSEL