

CERTAIN ALL-TERRAIN VEHICLES FROM JAPAN

Determination of the Commission in
Investigation No. 731-TA-388
(Final) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigation No. 731-TA-388 (Final)

CERTAIN ALL-TERRAIN VEHICLES FROM JAPAN

Determination

On the basis of the record ^{1/} developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of all-terrain vehicles (ATVs), provided for in subheading 8703.21.00 of the Harmonized Tariff Schedule of the United States (these products were previously provided for in item 692.10 of the Tariff Schedules of the United States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective September 12, 1988, following a preliminary determination by the Department of Commerce that imports of ATVs from Japan were being sold at LTFV within the meaning of section 731 of the act (19 U.S.C. § 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 26, 1988 (53 F.R. 43275). The hearing was held in Washington, DC, on January 26, 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, 53 F.R. 33041 (August 29, 1988).

VIEWS OF THE COMMISSION

We unanimously determine that a domestic industry in the United States is not materially injured or threatened with material injury by reason of imports of all-terrain vehicles (ATVs), assembled or unassembled, from Japan that are sold at less than fair value (LTFV). 1/

Like Product

To make its determinations under the statute, the Commission must first define the relevant domestic industry producing the relevant domestic like product. An industry in the United States 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 portion of the total domestic production of that product." 2/ The term "like product" is in turn defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation" 3/

The article subject to investigation is defined by the

1/ As discussed more fully below, we determine that the domestic industry in this investigation is established and that material retardation of the establishment of an industry therefore is not an issue.

2/ 19 U.S.C. § 1677(4).

3/ 19 U.S.C. § 1677(10).

Commerce Department, which in this case made a final determination of sales at LTFV with respect to--

certain all-terrain vehicles, assembled or unassembled, provided for in item 692.1090 of the Tariff Schedules of the United States Annotated (TSUSA) and classifiable under sub-heading 8703.21.0000 of the Harmonized Tariff Schedule. 4/

In determining which domestically produced products are like the subject imports, the Commission examines a number of factors, including: (1) physical characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) common manufacturing facilities and production employees, (5) customer or producer perceptions, and (6) price. 5/ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation. The Commission looks for clear dividing lines between like products; minor distinctions are an insufficient basis for finding separate

4/ Certain all-terrain vehicles are motor vehicles designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are non-amphibious, have three or four wheels, and weigh less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control.

54 Fed. Reg. 4864 (January 31, 1989).

5/ See, e.g., *Asociacion Colombiana de Exportadores de Flores v. United States* ("ASCOFLORES"), 12 CIT---, 693 F.Supp. 1165, 1168 n.4 (1988)

like products. 6/

In its preliminary determination, the Commission found a single like product, consisting of all ATVs, basing that determination on evidence that the characteristics and uses of the various types of ATVs were more similar than dissimilar, that they performed the same general function, were sold through the same channels of distribution, and were produced with the same equipment, employees, production facilities and essential materials, and were produced by similar manufacturing processes. 7/

We find no reason in the record of this final investigation to — change our definition of the like product as all ATVs.

In the final investigation, no party argued for broadening the like product to include products other than ATVs. 8/ The sole issue raised by the parties is whether the Commission should find that several like products exist, consisting of different types of ATVs. Petitioner, Polaris Industries L.P., argued that

6/ See, e.g., ASCOFLORES, 693 F.Supp. at 1168-69; S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Operators for Jalousie and Awning Windows from El Salvador, Inv. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. No. 1934 (January 1987) at 4, n.4.

7/ See Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071 (March 1988) at 6-7.

8/ In fact, the respondents affirmatively state that "[t]here are no non-ATV like products." Respondents' Prehearing Brief at 71-72. See also, Respondents' Prehearing Brief at 75. We also note that no party has suggested that the Commission consider 5- or 6-wheel ATV-type vehicles in the like product.

the like product should not be subdivided into two or more distinct like products, and that the Commission thus should maintain the single like product definition found in the preliminary determination. 9/ Respondents argued that the Commission find up to four like products, even though their submissions indicated that three of them may not now be produced by any domestic industry. 10/ Their proposed like products are "performance ATVs," 11/ "small displacement ATVs," 12/ "youth ATVs," 13/ and "multi-purpose ATVs." 14/ Respondents generally based their proposed like product definitions on specialized characteristics and uses for the different types of ATVs, lack of

9/ See, e.g., Petitioner's Posthearing Brief at Attachment B.

10/ See Respondents' Prehearing Brief at 49, 73; Transcript of January 26, 1989 Hearing (Tr.) at 146.

11/ "ATVs intended and used for competitive racing and high performance sports applications" Respondents' Prehearing Brief at 63.

12/ "Small displacement ATVs are those with engine displacement below 196cc." Respondents' Prehearing Brief at 68.

13/ In one sentence of their Prehearing Brief, respondents assert that "indisputably" "youth" ATVs, evidently ATVs with engine displacement of 90cc or less, are a separate like product, although this statement appears to be made as an alternative if the Commission rejects respondents proposed "small displacement" ATVs like product. Respondents' Prehearing Brief at 71. No U.S. producer has manufactured an ATV of this description.

14/ This "covers the bulk of ATV models, those other than performance and youth models, which are multi-purpose general recreation or utility ATVs." Respondents' Prehearing Brief at 71.

interchangeability between types, customer perceptions, and, to at least some degree, categories of ATVs specified by the Consumer Product Safety Commission (CPSC) in its ATVs safety proceedings and litigation. ^{15/} Respondents, however, provided no information contradicting the Commission's finding in the preliminary determination that ATVs are "produced with the same equipment, employees, production facilities, and essential materials, and are produced by similar manufacturing processes." ^{16/}

The thrust of respondents' arguments pertained to alleged distinctions among imported ATVs, rather than to whether there are discrete categories of domestically produced ATVs that correspond to like or similar categories of imports. ^{17/} As we did in the preliminary determination, we reject the notion that a like product could be defined as a product not produced by a U.S.

^{15/} See Respondents Prehearing Brief at 62-72. While respondents note that all the imported types of ATVs are sold through the same channels of distribution, see Respondents' Prehearing Brief at 65-66, 70, this is not relevant as to whether the domestically produced product is sold through the same channels of distribution. There is no difference in the manner of distribution of domestically produced ATVs on a model-by-model basis.

^{16/} USITC Pub. 2071 at 7.

^{17/} In the preliminary investigation, respondent had argued for different subdivisions of the like product. See USITC Pub. 2071 at 5. In this final investigation, respondents have effectively abandoned those proposed like product definitions.

industry. 18/ The statute directs the Commission to assess the effect of subsidized or dumped imports "in relation to the United States production of a like product. . . ." 19/ Accordingly, to the extent that there is no domestic production of youth ATVs, small displacement ATVs or high performance ATVs, we would not define those products to be separate "like products." 20/ 21/ 22/

18/ See USITC Pub. 2071 at 7-8. See also, Internal Combustion Engine Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988) at 9-11 (the extent of U.S. production a necessary inquiry to the like product analysis).

19/ See 19 U.S.C. § 1677(4)(D) (emphasis added). See also S. Rep. No. 249, 96th Cong., 1st Sess. at 90 (1979):

The ITC will examine an industry producing the product like the imported article being investigated, but if such industry does not exist and the question of the material retardation of establishment of such an industry is not an issue before the ITC, then the ITC will examine an industry producing a product most similar in characteristics and uses with the imported article.

20/ Despite Respondents' allegations, we found that there was U.S. production during our period of investigation of ATVs that could fit the "small displacement" or "performance" categories; there was not, however, any U.S. production of a "youth" ATV.

21/ Acting Chairman Brunsdale notes that the appropriate place for consideration of the extent to which there is no domestic production of certain types of ATVs is in consideration of whether there is material injury "by reason of" the imports under investigation.

22/ Commissioner Cass does not join in this paragraph of the Commission's views. For the reasons stated, *infra*, he finds that all ATVs constitute a single domestic like product. He does not reach the question whether the Commission might, in circumstances other than where material retardation is at issue, define as a
(continued...)

We also find that the boundaries between the proffered categories of ATVs are not clear. For example, although respondents argued that one of the key different physical characteristics of a performance versus a nonperformance ATV is that a performance ATV uses a two-stroke as opposed to a four-stroke engine, all of Polaris' ATVs use a two-stroke engine even though respondents argue that Polaris' ATVs should not be considered "performance ATVs." 23/ As another example, although respondents indicated (at least in this final investigation) that engine displacement below 196cc is the touchstone for defining "small displacement" novice/youth ATVs, they have included one model, the YFS200, described as having a displacement of 195cc, as a "performance" and not a "small displacement" ATV. 24/

Finally, although certain product segments may have been

22/ (...continued)

domestic like product a product not currently produced in the United States. For discussion of his views on some of the issues implicated in distinctions between subject imports and domestic products such as described above, see Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (January 1989) at 89-95 (Concurring and Dissenting Views of Commissioner Cass).

23/ Respondents' Prehearing Brief at 63-64. We also note that respondents hedge a number of other allegedly distinguishing characteristics by stating, for example, that performance ATVs are "usually" equipped with manual starters while "most" non-competition ATVs rely on electric starters, and that performance ATVs "tend" to have a higher displacement to dry weight ratio. See Respondents' Prehearing Brief at 63.

24/ See Respondents' Posthearing Brief at Exhibit 7.

specified by the "United States Government" in the CPSC litigation, 25/ those product segments do not govern the Commission's like product determinations. The actions of other government agencies under other statutes do not affect the Commission's authority and responsibility to define like products in accordance with the specific statutory direction of the antidumping and countervailing duty laws. 26/ While we may consider other agency actions in making our like product determination, we are mindful that such actions may be based on different criteria than those required by the antidumping and countervailing duty laws.

Accordingly, we find all domestically produced ATVs to be "like" the imported products under investigation, due to the fact that the various types of ATVs have characteristics and uses that are more similar than dissimilar, perform the same general function, are sold through the same channels of distribution, and

25/ Respondents' Prehearing Brief at 67.

26/ See generally, e.g., Royal Business Machines, Inc. v. United States, 507 F.Supp. 1007, 1014, n. 18 (Ct. Int'l Trade 1980), aff'd, 669 F.2d 692 (CCPA 1982); Generic Cephalixin Capsules from Canada, Inv. No. 731-TA-423 (Preliminary), USITC Pub. 2143 (December 1988) at 3, n.4 (refusing to rely on antitrust cases in defining the like product) (Eckes, Lodwick, Rohr, Newquist), Certain Stainless Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-376 (Final), USITC Pub. 2067 (Mar. 1988) at 6, n.15 ("The Commission is not bound by the treatment of imports for Customs purposes in making like product determinations in antidumping or countervailing duty investigations.").

are produced with the same equipment, employees, production facilities and essential materials, and by similar manufacturing processes. 27/ 28/

B. Domestic industry

The statute defines the domestic industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 29/ As in the preliminary investigation, the main industry issue in this investigation is whether Kawasaki Motors Manufacturing Corp. (KMM) should be considered part of the domestic industry. KMM, a firm producing ATVs in the United States, is a subsidiary of Kawasaki Heavy Industries, Ltd. (KHI) of Japan, a foreign exporter. The importer of Kawasaki ATVs from Japan, Kawasaki Motor Corp., U.S.A. (KMC), is also a subsidiary

27/ See, e.g., Tr. at 46.

28/ To the extent that respondents also suggest that the Commission "exclude" certain imports from any affirmative determination, the Commission rejected this proposition in the preliminary determination, see USITC 2071 at 9, n. 30, and has subsequently reaffirmed its conclusion that the Commission has no authority to exclude products from the scope of the investigation. See Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 at 5, n.10 (Eckes, Lodwick, Rohr, Newquist); Brass Sheet and Strip from Japan and the Netherlands, Invs. Nos. 731-TA-379-80 (Final), USITC Pub. 2099 (July 1988) at 6., n.9.

29/ See 19 U.S.C. § 1677(4)(A).

of KHI. 30/ KMM is the only candidate, other than the petitioner, for inclusion in the domestic industry. Petitioner argued, as it did in the preliminary investigation, that KMM should not be considered a domestic producer, because KMM is really an importer in light of the nature of its production activity and its location in a foreign trade zone. The petitioner also argued that KMM should be excluded as a "related party from the domestic industry. 31/ Respondents took an ambiguous position with respect to whether KMM may appropriately be considered a U.S. producer. 32/

1. Nature of production-related activity

In deciding whether a given firm is a domestic producer (as opposed to an importer), the Commission has looked to the overall nature of production-related activities, including the source and extent of a firm's capital investment, the technical expertise involved in the U.S. production activities, the value added to the product in the United States, employment levels, the quantities and types of parts sourced in the United States, and any other costs and activities in the United States directly

30/ See Report at A-8; A-9.

31/ E.g., Tr. at 42.

32/ E.g., see Tr. at 97 ("There are two producers of ATVs in the United States, Polaris and Kawasaki Motor Manufacturing."). But see Tr. at 139 ("We do not contend that Kawasaki's in the domestic industry.").

leading to production of the like product. No single factor is determinative, and the determination rests on the facts of each case. 33/

Consideration of these factors indicates that KMM is engaged in sufficient production-related activity to be considered a domestic producer. KMM has invested a considerable sum of money in its Lincoln, Nebraska plant and the equipment on which ATVs are produced, 34/ and it employs a significant number of workers. 35/

KMM engages in more than simple assembly activities. 36/ While it does appear to utilize more foreign components than Polaris, 37/ as measured by percentage of total cost, a modest percentage of domestically sourced parts or raw materials as a percentage of cost does not necessarily mean that a firm is not a

33/ See, e.g., Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Preliminary), USITC Pub. 2143 (December 1988) at 26; Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (December 1986) at 11 & n. 23.

34/ See Report at A-35. However, it is unclear what was the source of capital spent by KMM.

35/ See Report at A-24.

36/ Report at A-8-9.

37/ Report at A-8-9. [

n.2.] See Report at A-9,

domestic producer. 38/ 39/ Accordingly, we find that KMM's production activities are sufficient for it to be considered a producer in the United States. 40/

2. Location in a foreign trade zone.

Petitioner further argued that KMM's production, because it occurs in a foreign trade zone (FTZ), should not be considered domestic production. Respondents argued that the location of a producer in a foreign trade zone is immaterial to the question whether a producer should be considered part of the domestic industry. 41/ In the preliminary determination, the Commission did not explicitly address this question, but by including KMM in the domestic industry implicitly found that location in an FTZ did not preclude considering a producer to be part of the industry.

38/ See Generic Cephalixin Capsules from Canada, Inv. No. 731-TA-423 (Preliminary), USITC Pub. 2143 (December 1988) at 10.

39/ But See Commissioner Newquist's discussion at footnote 59, infra.

40/ Petitioner's arguments, at Attachment A of its posthearing brief, that the Commission should consider decisions involving country of origin, marking, substantial transformation and customs classifications, cases are unpersuasive. Customs and tariff classifications law does not control the Commission definition of the like product and industry under title VII. See Certain Stainless Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-376 (Final), USITC Pub. 2067 at 6, n. 15 (March 1988), citing Royal Business Machines v. United States, 507 F.Supp. 1007 (Ct. Int'l Trade 1980), aff'd, 669 F.2d 692 (1982).

41/ See Respondents' Posthearing Brief at Ex. 5.

A foreign trade zone is a site within the United States into which foreign goods may be brought without paying customs duties. 42/ Such a zone is outside the customs territory of the United States. 43/ If the article produced in the FTZ is subsequently imported into the United States, duties are paid on the product either as finally exported from the zone into U.S. customs territory (at the duty rate for the finished article, to the extent of foreign value) or as originally entered into the zone, i.e., as the parts and components at the duty rates for those parts and components, to the extent those are of non-U.S. origin. 44/

Thus, KMM's ATVs manufactured in the FTZ could be considered "imports" for some purposes 45/ and not U.S. production, meaning that KMM should not be considered a U.S. producer. In our view, however, the location of KMM's production facilities in a foreign trade zone in Lincoln, Nebraska does not preclude its inclusion in the domestic industry. First, the antidumping and

42/ If those foreign goods are brought into the zone and processed or manufactured and the resulting product subsequently exported to a foreign country, no U.S. customs duties are owed on those foreign goods.

43/ E.g., *Klockner Inc. v. United States*, 8 CIT 3, 12; 590 F.Supp. 1266 (1984); *Hawaiian Independent Refinery v. United States*, 460 F.Supp. 1249, 1251 (Cust. Ct. 1978).

44/ See, e.g., USITC Pub. 2071 at A-5--A-6.

45/ Even if the Commission were to adopt this construction, KMM's ATVs would not be considered imports "from Japan" but would instead be considered "imports" from the foreign trade zone.

countervailing duty laws direct the Commission to assess whether an industry "in the United States" is materially injured, 46/ not an industry "in the United States customs territory." 47/

Further, an FTZ is in the United States and remains generally subject to United States law, even though for payment of customs duties purposes it is outside the "customs territory." 48/ 49/

We also note that the Commerce Department ruled in its final determination in this investigation that it considered KMM's ATVs to be domestic products and would not apply antidumping duties to those products. 50/ Accordingly, we determine that KMM's location in an FTZ does not prevent it from being included in the

46/ See 19 U.S.C. §§ 1671d(b); 1673d(b).

47/ See Generic Cephalixin Capsules from Canada, Inv. No. 731-TA-423 (Preliminary), USITC Pub. 2143 (December 1988) at 10-11.

48/ See, e.g., A.T. Cross Co. v. Sunil Trading Corp., 467 F.Supp. 47, 51 (S.D.N.Y. 1979).

49/ Commissioner Cass notes that so far as laws directed at protection of employment and investment in the United States from adverse effects of economic practices thought to be unfair are concerned, treatment of FTZ production as U.S. production advances that goal.

50/ See 54 Fed. Reg. 4864, 4871 (January 31, 1989). Petitioner's arguments at Attachment A to its posthearing brief that antidumping duties should be applied to goods produced in an FTZ were more appropriately addressed to the Commerce Department, and the Commerce Department has already effectively rejected petitioner's position. Petitioner's arguments about whether KMM's production-related activities are sufficient to be considered domestic production are considered in the analysis of that issue above.

U.S. industry under 19 U.S.C. § 1677(4).

3. The related party provision of the statute.

The petitioner also urged that KMM be excluded as a related party, if KMM is otherwise deemed a domestic producer. 51/ Respondents took an ambiguous position on whether KMM should be excluded as a related party. 52/

In the preliminary investigation the Commission found that KMM is clearly a related party under section 771(4)(B) of the statute, 53/ but that appropriate circumstances did not exist for excluding KMM from the domestic industry. 54/ The factors the Commission examines in considering whether "appropriate circumstances" exist for excluding a related party include:

- (1) the percentage of domestic production attributable to the related producer;
- (2) the reasons the U.S. producer has decided to import the product under investigation,

51/ See, e.g., Petitioner's Prehearing Brief at 17-19.

52/ See Tr. at 139.

53/ 19 U.S.C. § 1677(4)(B) ("When some producers are related to the exporters or importers . . . the term 'industry' may be applied in appropriate circumstances by excluding such producers from those included in that industry."). KMM is a related party because is a subsidiary of Kawasaki Heavy Industries of Japan, a foreign exporter and is a "sister" corporation to the U.S. importer of ATVs from Kawasaki in Japan, Kawasaki Motor Corp. (KMC). KMM distributes its U.S.-produced ATVs solely through KMC. USITC Pub. 2071 at 12, n. 41.

54/ See USITC Pub. 2071 at 11-13.

i.e. whether to benefit from LTFV sales or subsidies or whether importation simply allows it to continue production and compete in the U.S. market; and

(3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. 55/

The Commission also will consider whether each related party's books are kept separately from its "relations", whether a foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, and whether the primary interests of the related producers lie in domestic production or in importation. 56/ Application of the related party provision of the statute rests with the Commission's soundly exercised discretion. 57/

Consideration of these factors suggests that, on balance, appropriate circumstances do not exist for excluding KMM from the

55/ See, e.g., Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan, Invs. Nos. 731-TA-426-428 (Preliminary), USITC Pub. 2156 (February 1989) at 25, n. 47; Granular Polytetrafluoroethylene Resin from Italy and Japan (PTFE), Invs. Nos. 731-TA-385 and 386 (Final), USITC Pub. 2112 (Aug. 1988) at 15.

56/ Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (Jan. 1988) at 11. See also, S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979); Empire Plow Co. v. United States, 11 CIT ___, 675 F.Supp. 1348, 1353 (1987).

57/ See Empire Plow Co. v. United States, 675 F.Supp. 1348, 1352 (Ct. Int'l Trade 1987).

industry. 58/ 59/ The Commission previously stated that domestic producers that substantially benefit from their relation to the subject imports are properly excluded as related parties. 60/ In this case KMM's financial data do not indicate that it is being shielded from the effects of dumped imports.

Further, KMM accounted for a majority of domestic production of ATVs from 1985 through 1988. 61/ Exclusion of KMM would thus not only remove the greater part of the domestic ATV industry from the Commission's consideration, but would also leave the domestic industry composed of only one producer, Polaris. We also note that the interest of KMM appears to be in domestic

58/ Our discussion of these factors is necessarily limited because of the confidential nature of much of the data pertaining to them. Throughout this opinion, we have attempted as much as possible to engage in a public discussion of the reasons for our determination.

59/ Commissioner Newquist has determined to exclude KMM as a related party. KMM keeps its books separately from KHI (its parent and an exporter of the subject imports) and from KMC (an importer of the subject imports and a related corporation). The nature of the transactions with these firms renders KMM's financial data at best of limited usefulness. See Report at 28, 34. Accordingly, he finds that "appropriate circumstances" exist for excluding KMM from the domestic industry as a related party. He does not join his colleagues' further discussion of the related party issue. However, he notes that his determination that a domestic industry is not materially injured or threatened with material injury by reason of the LTFV imports would not differ were KMM included in the domestic industry.

60/ PTFE, USITC Pub. 2112 at 14-15; Rock Salt, USITC Pub. 1798.

61/ Report at A-18 & App. C.

production rather than importation, because its sister corporation, KMC, which previously [

] 62/

We note that inclusion of KMM in the domestic industry did not affect our determination: we would have reached the same result if we had excluded KMM. Indeed, inclusion of KMM presents a [

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Material retardation

In the preliminary investigation, the petitioner argued that the domestic industry, which consisted only of itself, was being materially retarded from becoming established by reason of the dumped imports from Japan. In its preliminary determination, the Commission found, because it was including KMM in the industry, a material retardation analysis was not appropriate because the industry had begun producing ATVs in 1980 and had become established. 63/ In this final investigation, the petitioner conceded that if KMM was included in the industry and not

62/ Although it could be argued that KHI directed its exports to the United States so as not to compete with KMM, KMM's financial data does not suggest that any benefit was derived from this. Further, it could be argued that the ATV model exported to the United States by KHI competed to at least some extent with KMM's models. Commissioner Cass does not join this footnote.

63/ See USITC Pub. 2071 at 14.

excluded as a related party, material retardation of the establishment of an industry is not an issue. 64/ We agree. 65/ The domestic industry, which we have defined to consist of both KMM and Polaris, has been producing ATVs in the United States since 1980 and over the period of investigation has achieved a significant and increasing share of the U.S. market. 66/ Accordingly, we base our determination on our finding that the domestic industry, which is established, is not materially injured or threatened with material injury by reason of dumped imports.

64/ Petitioner's Prehearing Brief at 19 ("If the Commission finds Kawasaki to be a domestic producer the petitioner realizes that this precludes an argument regarding material retardation of the ATV industry in the United States.").

65/ Since Commissioner Newquist has excluded KMM from the domestic industry he has considered whether the domestic industry consisting only of Polaris is established. He notes that Polaris has been manufacturing ATVs for nearly four years, since March 1985; has achieved a [] market share; has been able to utilize pre-existing production facilities and a distribution system that it used and uses for the manufacture and sale of snowmobiles; and has surpassed a breakeven point in its first two years of operation. Commissioner Newquist finds that the domestic industry is therefore established, and material retardation is not an issue.

66/ See Report at A-45 & c-6.

Condition of the domestic industry 67/

In the preliminary determination, the Commission found that the indicia of the industry's condition were generally positive, based on data through the end of 1987. 68/ The data gathered in this final investigation confirm this finding.

This fact is particularly significant in light of the downward trend in domestic consumption. U.S. consumption has steadily and substantially declined from its peak in 1984. 69/ This downward trend is accounted for, in large part, by a maturing market, closure of land for ecological reasons, increased cost of liability insurance, and, most important of all, the adverse publicity concerning safety problems associated

67/ Pursuant to 19 U.S.C. § 1677(7)(C)(iii), in assessing the condition of the domestic industry, the Commission considers, among other factors, production, capacity, capacity utilization, shipments, inventories, employment, and financial performance.

For the purposes of this investigation the Commission considered data for the period of 1985 through 1988. We were able, by requesting the producers and importers to supplement their questionnaire responses to the extent practicable, to obtain data through the end of calendar year 1988 for many categories of information, even though the questionnaires had to be returned prior to the end of calendar year 1988. The Commission's questionnaires requested data through the end of the third quarter of 1988. However, we have considered the fourth quarter 1988 data we did receive with caution, because it was received late in the investigation.

68/ USITC Pub. 2071 at 15.

69/ Report at A-11-A-12; A-17, c-6. In 1988, U.S. consumption of ATVs stood at approximately a third of 1985 U.S. consumption by units; approximately half of 1985 U.S. consumption by value. See Report at A-17; c-6.

with ATVs. 70/ Notwithstanding this sharp decline in demand, the domestic industry's share of the market increased substantially between 1985 and 1988, whether measured in terms of volume or value, 71/ and prices for the domestic product generally rose. 72/ The domestic industry also substantially increased its capacity over the period of investigation. 73/ While capacity utilization declined over the period of investigation, the decrease was entirely a result of the increase in capacity. 74/ Inventories remained at relatively insignificant levels while exports increased. 75/ Employment data also generally showed increases during the period of investigation. 76/ 77/

Several other indicators suggest a less positive condition, however. Domestic production, which rose steadily between 1985

70/ See, e.g., Report at A-15.

71/ Report at A-45, Table 1; C-6.

72/ See Report at A-52-53.

73/ See Report at A-18, c-2.

74/ Id.

75/ Report at A-22; c-2.

76/ Report at A-24. We note, however, that data for the last quarter of 1988 indicate some decline in several employment indicators.

77/ Commissioner Newquist finds similar trends for the domestic industry consisting only of Polaris, although [

and 1987, declined in 1988. 78/ Similarly, domestic shipments (in units) increased from 1985 through 1987, then decreased in 1988. Domestic shipments (in dollars) also increased from 1985 through 1987, and then declined in 1988, though the decline was less marked in value terms because the unit value of the ATVs increased. 79/ Most important, the financial data of the industry show a decline in profitability, in fact, [

] 80/ Polaris has also complained of cash flow problems. 81/ 82/

Accordingly, the mixed indicators suggest an industry that appears to be in a borderline condition, with many positive

78/ Id. at A-18, Table 4; C-2.

79/ Id. at A-20; C-2.

80/ See Report at A-30; c-2. Because the bulk of KMM's transactions are with related companies, its financial data are to some extent artificial allocations that would probably differ if the transactions had been with independent firms instead. See Report at A-33. We have taken this fact into account in weighing KMM's financial data. Polaris shows an [

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81/ See, e.g., Tr. at 73-74.

82/ Commissioner Newquist notes similar trends in these indicators for the domestic industry consisting only of Polaris.

indicators but some important indications of problems. 83/ In light of the improvement in a number of industry indicators over the period of investigation, it is questionable whether the industry is presently suffering material injury. 84/ 85/ Even assuming the domestic industry is presently suffering material injury, we base our negative determination on the lack of a causal nexus between the condition of the industry and any harm being suffered by it, 86/ and to the lack of any indication of a

83/ Commissioners Eckes, Rohr, and Newquist note that, while material retardation of the establishment of an industry analysis is not appropriate, they have taken into account the fact that the domestic industry, although established, has been in the process of expanding into a market that historically has been dominated by imports.

84/ Based on information collected in the final investigation, particularly on the downturn in profitability and the recent decline in production and shipments, Commissioner Lodwick finds that the domestic industry has been materially injured.

85/ Commissioner Cass does not believe that an independent inquiry into the existence of material injury, defined simply as a change in the condition of the domestic industry divorced from the effects of LTFV imports, is necessary or appropriate under title VII. See Digital Readout Systems, *supra*, at 95-117 (Concurring and Dissenting Views of Commissioner Cass).

86/ Acting Chairman Brunsdale and Commissioner Cass believe that the discussion of the domestic industry is accurate and relevant to their respective decisions on the existence of material injury by reason of dumped imports. However, Acting Chairman Brunsdale and Commissioner Cass do not reach a separate legal conclusion on the condition of the domestic industry. They note that the data of record do not indicate a marked deterioration in the condition of the domestic industry over the period investigated by the Commission.

real and imminent threat of material injury to that industry. 87/

No material injury by reason of LTFV imports 88/

In considering whether the domestic industry is materially injured by reason of LTFV imports, the Commission is required to consider the volume of the imports, the effect of such imports on prices, and the impact of such imports on the domestic industry. 89/

We do not weigh causes of material injury, and the imports need not be a principal, a substantial, or a significant cause of material injury. However, we are to consider information that indicates that harm is caused by factors other than the LTFV imports, such as a contraction in demand, or changes in patterns of consumption or restrictive practices of and competition between the foreign and domestic producers. 90/

Our determination in the preliminary investigation indicated that even under the more generous "reasonable indication" of

87/ Commissioner Newquist concurs in this conclusion with respect to the domestic industry consisting only of Polaris.

88/ Acting Chairman Brunsdale does not join this section of the opinion. See her Additional Views. Except where otherwise indicated, Commissioner Cass joins this section of the opinion insofar as it reports information that he regards as highly relevant to the Commission determination. However, Commissioner Cass' analysis of this information and of the question of causation of material injury generally is set forth in his Additional Views.

89/ 19 U.S.C. § 1677(7)(B).

90/ See S. Rep. No. 249 at 74-75; H.R. Rep. No. 317, 96th Cong., 1st Sess. at 46-47 (1979).

material injury standard utilized in preliminary determinations, a number of factors suggested that the imports were not a cause of material injury. 91/ In particular, we noted that the domestic industry's market share had risen, the imports under investigation had declined absolutely and relative to domestic consumption both in volume and value, and prices for both the domestic and imported product generally increased despite significantly declining demand for ATVs. 92/ We indicated an intent to closely consider in the final investigation whether there is a sufficient causal link between the imports and any material injury being suffered by the industry, or whether the decline in demand for ATVs due to public concerns over safety or other reasons caused such injury.

After considering the record of this investigation, we find an insufficient causal link between the condition of the industry and the LTFV imports. 93/ The quantity of imports declined steadily and significantly between 1985 and 1988. The value of

91/ See USITC Pub. 2071 at 18.

92/ See USITC Pub. 2071 at 18 (Eckes, Lodwick, Rohr, Cass).

93/ Commissioner Newquist notes his concern regarding the vulnerability and problems of a domestic industry attempting to expand into a market created and dominated by imports. However, he finds, on the record of this investigation, that any difficulties being suffered by the domestic industry must be attributed to causes other than the LTFV imports, and in particular to the dramatic shrinking of the ATV market.

import shipments declined over this same period. 94/ Import market share also steadily declined from 1985 to 1988. 95/ While the volume and market share of the imports remains substantial, the petitioner has conceded that the adverse effects of the imports were not felt until sometime in 1987, 96/ despite the fact that the volume and share of the market held by the imports were higher in 1985 and 1986.

Further, we find the fact the domestic industry has gained market share over the period of investigation at the expense of the LTFV imports to be significant, particularly in light of the pronounced contraction in demand for the product. Domestic market share has steadily increased in terms of quantity and value from 1985 through 1988. 97/ 98/

We also find no adverse price effects by the LTFV imports. As we noted in the preliminary investigation, 99/ because

94/ See Report at A-42-A-43; c-4.

95/ See Report at A-45 & c-6.

96/ See, e.g., Petitioner's Postconference Brief at 18 (preliminary investigation); Transcript of March 1, 1988 Conference at 11, 51, 60; Petitioner's Posthearing Brief at Attachment D.

97/ See Report at A-45 & c-6.

98/ Commissioner Newquist joins this discussion, noting that the trends in domestic market share for the industry consisting only of Polaris are similar.

99/ See USITC Pub. 2071 at 19.

different models of ATVs are not fungible commodities, due to significantly different features among models, 100/ price comparisons between models are not very illuminating. 101/

We find no evidence that the LTFV imports have depressed prices, because both import and domestic prices have generally risen. 102/ The price data we obtained have generally been adjusted for rebates, discounts, holdbacks, preparation/assembly allowances and any freight absorption) to ensure that increased costs for such items, not normally reflected in list prices, were properly considered in evaluating price trends. 103/ Prices have thus increased even taking into account sales incentive expenditures. Such expenditures [] during the first three quarters of 1988, the latest period for which we were able

100/ See, e.g., Report at A-58-59. For example, Polaris' ATVs have an automatic transmission, while the imported ATVs and KMM's ATVs have manual transmissions.

101/ The price comparisons that are attempted in the Report at A-59-69 indicate a mixed pattern of underselling and overselling by the imports. On the facts of this case, we find that such evidence does not demonstrate "significant" underselling, notwithstanding the large market share held by the imports. See also, Copperweld Corp. v. United States, 12 CIT ---, 682 F.Supp. 552, 566 (1988).

102/ Commissioner Cass does not join in this statement. His analysis of the impact of the subject imports on prices of the domestic like product is set forth in his Additional Views.

103/ See Report at A-49.

to obtain data. 104/ The only adjustments not made were for extended floorplanning, cooperative advertising, accessory giveaways, and "other" sales programs, because these programs do not directly affect either the dealer's purchase price or the U.S. producer or importer selling prices. 105/

We also find no evidence that the LTFV imports have prevented price increases, to any significant degree, that would otherwise have occurred. The financial data for the industry suggest that while prices have generally increased over the period of investigation, they have not risen sufficiently to offset increased costs during the latter part of the period of investigation. However, we find that the imports were not responsible to any significant degree for the failure of prices to increase still further. Rather, any difficulties in increasing prices still further is attributable to the significantly declining demand for the product. In sum, the fact that the domestic industry has been able to raise prices and increase its market share in this dramatically shrinking market

104/ Report at A-48.

105/ Report at A-49. See also, Copperweld, supra, 12 CIT ___, 682 F.Supp. at 567; British Steel Corp. v. United States, 8 CIT 86, ___, 593 F.Supp. 405, 412 (1984) (the Commission is to focus on prices and not make adjustments for prices for cost factors).

is significant. 106/ 107/

Our contacts with purchasers in the course of our investigation into alleged lost sales, and with dealers to whom Polaris alleged either stopped selling the Polaris ATV or who had declined to become a Polaris dealer, confirm the lack of a causal nexus between the imports and condition of the industry. Commission staff was able to contact and have meaningful discussions with 27 of the 34 dealers named by Polaris. Of the 27 dealers contacted, only one indicated that the imported ATVs were sold at lower prices than the domestic ATVs. 108/ One other dealer thought the Japanese were selling at lower prices but could not recall any specifics and acknowledged that even if the prices for the imported ATVs and Polaris' ATVs were the same, that purchasers would prefer the Japanese product. 109/ All the other dealers indicated other reasons for purchasing Japanese ATVs instead of the domestic product, for declining to become a Polaris dealer, or for getting out of the ATV business entirely. Those reasons included lack of demand due to the safety concerns

106/ Commissioner Lodwick does not join this last characterization.

107/ Commissioner Newquist concurs with this discussion of the price effects of the imports, though he considered domestic prices only of Polaris. He also joins the balance of this section of the opinion.

108/ See Report at A-76.

109/ See Report at A-77.

regarding the ATVs or concerns about carrying liability insurance, quality problems with the Polaris ATVs and problems with Polaris' service and sales support, disagreements with Polaris' requirements for purchasing ATVs (such as minimum order requirements), the offering of only one engine-size by Polaris and brand-name loyalty to existing suppliers other than Polaris. 110/ 111/

Our consideration of the impact of the imports also takes into account that at least some of the problems of the domestic industry must be attributed not to the imports, but to the domestic industry's excess and significant expansion of capacity on the erroneous assumption that domestic consumption was not going to decline as it did. 112/ 113/

110/ See Report at A-70-78.

111/ In our preliminary determination, we indicated an intention to more closely examine whether Polaris' efforts to establish dealerships have been hindered by LTFV imports. See USITC Pub. 2071 at 20. We find no such effect. Polaris has achieved remarkable success in establishing an ATV dealer network, with the number of its ATV dealers rising from 0 in 1985 to a significant number in 1988. Memorandum EC-M-053 at 2. We also note that our discussions with those dealers specified by Polaris have not generally indicated that the prices of the LTFV imports was a reason for declining to become a Polaris dealer.

112/ E.g., see Tr. at 86 ("the commitment to increased capacity was done prior to the safety problem and the precipitous drop in the demand of the ATV market.").

113/ We reject the petitioner's contention that we should determine whether the imports are to blame for the decline in
(continued...)

No threat of material injury by reason of LTFV imports 114/ 115/

Section 771(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "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." 116/ The factors the Commission must consider are:

(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,

113/ (...continued)
demand due to public concerns over safety because the imports ignored the safety issue, and then use the decline in demand ("caused" by the imports) as a basis for an affirmative determination. See Tr. at 61-63; Petitioner's Posthearing Brief at 7. As noted above, the legislative history of the statute indicates that contraction in demand or changes in patterns of consumption is a different potential cause of material injury than the dumped imports. Therefore the reasons for the decline in demand, for example, safety concerns of the public, relate to a potential cause of material injury separate from the imports.

114/ Acting Chairman Brunsdale joins this section of the opinion.

115/ Commissioner Newquist, in considering the threat of material injury to the domestic industry consisting only of Polaris, joins this discussion of threat of material injury.

116/ 19 U.S.C. § 1677(7)(F)(ii).

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(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, and

(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 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation. 117/

The factors relevant to this investigation, 118/ and the record in this investigation, indicate two facts that might have supported an affirmative threat determination: (1) there remains

117/ 19 U.S.C. § 1677(7)(F)(i).

118/ Because this is an antidumping investigation, there is no subsidy involved. Further, there are no investigations or final orders under the antidumping or countervailing duty laws that are applicable to related products, the production facilities for producing which could be used instead to produce ATVs. There also are no "other demonstrable adverse trends."

significant and excess or underutilized capacity for producing the merchandise in the exporting country, and (2) the United States is the primary market for the ATVs produced in Japan. Notwithstanding these facts, we find that there is no real and imminent threat of material injury and no likelihood that this excess or underutilized capacity will result in an increase in exports to the United States.

Capacity for production of ATVs in Japan has fallen dramatically over the period of investigation, with the ATV-capacity increasingly being used to produce other products. 119/ While significant excess capacity remains, our consideration of the other factors mandated by the statute leads us to conclude that any threat that may exist is not real or imminent. 120/ Rather than increasing, LTFV imports from Japan declined steadily and significantly in quantity between 1985 and 1987. 121/ Imports further declined by well over 50 percent between 1987 and 1988. 122/ Imports thus declined even more markedly in the

119/ See Report at A-38-40, c-7.

120/ Commissioner Newquist notes that the excess capacity in Japan also must be considered in light of the ability of the Japanese exporters to reconvert capacity now used to produce other products to ATV production. He concludes, however, that this capability alone does not make a threat of material injury real or imminent.

121/ Report at A-42.

122/ See Report at c-4.

latest period for which we have data. Similarly, in terms of value, import shipments also declined, though less steeply, by 12.8 percent between 1985 and 1987, despite an increase in the average value per unit shipped. 123/ However, the value of import shipments was nearly halved between 1987 and 1988, despite a slight increase in the average value per unit shipped. 124/

We also see no evidence that future imports will enter the United States at prices that will have a price suppressing or depressing effect. As we found above, there is no evidence of any current significant price suppressing or depressing effect. Polaris itself recognized that, with demand in the U.S. declining, the Japanese exporters have an incentive to increase prices and therefore their profit margins. 125/ While the imports could perhaps reduce prices and maintain or increase their still considerable market share, the evidence in this investigation indicates an opposite trend: increasing prices by the imports and a declining market share.

Finally, importer inventories have declined rather than increased in the United States since 1986. 126/ We also note

123/ Report at A-43.

124/ See Report at c-4.

125/ See Tr. at 65.

126/ See Report at A-41. This decline continued through calendar year 1988.

there is no significant "overhang" of inventories in Japan that could rapidly enter the U.S. market. 127/

Conclusion

For the foregoing reasons, we find the domestic industry industry in the United States is not materially injured or threatened with material injury by reason of LTFV imports of ATVs from Japan.

127/ See Report at c-7.

ADDITIONAL VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Certain All-Terrain Vehicles from Japan
Inv. No. 731-TA-388 (Final)

March 10, 1989

I agree with the majority's conclusions regarding like product and the domestic industry, their characterization of the condition of the domestic industry, and their discussion of threat factors in this investigation. I also agree with their conclusion that the domestic industry producing all-terrain vehicles (ATVs) is not materially injured or threatened with material injury by reason of unfair imports from Japan. I reach this conclusion, however, through an analysis that is different from theirs. These additional views explain my approach to causation in this case.

Volume of Imports, Market Penetration, and Dumping Margins

The number of Japanese ATVs imported into the United States fell dramatically between 1985 and 1987, declining from 546,654 units in 1985 to 333,212 in 1987.^{1/} In value terms, Japanese imports dropped from \$787 million in 1985 to \$686

^{1/} See Report at A-43 (Table 16). These figures represent shipments of Japanese ATVs. Id. This trend accelerated between 1987 and 1988, as the imports fell from 223,208 units for the first nine months of 1987 to 113,593 units in the comparable period of 1988. Id. Total imports for 1988 were [*****], roughly a [**] percent reduction from 1987 levels. See Report at C-4.

million in 1987.^{2/} The market share of the Japanese imports also dropped throughout the investigation. It fell from [**] percent in 1985 to [**] percent in 1987 to [**] percent in 1988, measured by quantity,^{3/} and from [**] percent in 1985 to [**] percent in 1987 to [**] percent in 1988 measured by value.^{4/}

The dumping margins in this case were moderate. They ranged from 8.5 percent for Yamaha to 35.5 percent for Kawasaki,^{5/} with the average for all Japanese manufacturers being 24.6 percent.^{6/}

Elasticity Information in This Case

In each investigation, Commission staff gathers a great deal of data about the workings of the market. This information, collected from producers and consumers, assists the Commission in understanding how the manufacturers and

^{2/} See id.. Again, these figures represent the value of Japanese shipments to the United States. The declining trends accelerated between 1987 and 1988, with the value of these imports dropping from \$446 million in the first nine months of 1987 to \$244 million in the same period of 1988. Id. Total sales in 1988 were [****] million, again almost a [**] percent reduction from 1987 levels. See Report at C-4.

^{3/} See Report at A-45 (Table 18), C-6.

^{4/} See id.

^{5/} Id.

^{6/} See Final Determination of Sales at Less Than Fair Value: Certain All-Terrain Vehicles from Japan, 54 Fed. Reg. 4864, 4871 (January 31, 1989). Virtually all of the sales examined by the Department of Commerce were found to be dumped -- [**] percent by both value and quantity. See Report at A-7.

consumers of the product in question respond to changes in the product's price. This information is useful for two reasons: it gives us a better understanding of both the market for the product and the role that imports play in that market, and it gives us a better idea of the effect the unfair imports have on domestic sales because of the price advantage due to dumping.^{7/}

Elasticity of Supply. In this investigation, staff estimates that the domestic supply of ATVs is elastic, most likely in the range of 5 or greater.^{8/} Petitioners appear to agree with this estimate.^{9/} Respondents disagree, arguing that

^{7/} As I have explained in previous opinions, these data permit an economically meaningful assessment of the impact of dumped imports on the domestic industry. For a more complete discussion of the usefulness of elasticities, see Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, 731-TA-367-370 (Final), USITC Pub. 2046, at 23-32 (December 1987) (Additional Views of Vice Chairman Anne E. Brunsdale). The Court of International Trade has also discussed with approval the use of elasticities. See Copperweld Corp. v. United States, No. 88-23, slip op. at 45-48 (Ct. Int'l Trade Feb. 24, 1988).

^{8/} See Memorandum from Director, Office of Economics, on Certain All-Terrain Vehicles from Japan, Memorandum EC-M-054, at 5 (February 27, 1989). Petitioner seems to agree that the staff estimates are reasonable. See Petitioner's Post Hearing Brief, Appendix J, at 2 (February 2, 1989). Respondents, however, argue that supply is not as elastic as predicted by staff. See Respondents' Post Hearing Brief, Appendix 1, at 5-10 (February 2, 1989). While Respondents make some strong arguments, I am convinced that the position taken by the Petitioner and the staff is correct in this instance.

^{9/} See Petitioner's Post Hearing Brief, Appendix J, at 2 (February 2, 1989).

domestic supply is not elastic, and falls between 0 and 2.^{10/} Several factors in this investigation persuade me that domestic supply is elastic.

First, capacity utilization in the domestic industry fell from [**] percent in 1985 to [**] percent in 1986 and [**] percent in 1987,^{11/} and reached only [**] percent in 1988.^{12/} While there are some indications that domestic producers' reliance on foreign components limits their ability to respond quickly and increase production is limited in the very short term (i.e., less than three months),^{13/} I am convinced by Petitioner's assertion that it is able to adjust its production to meet demand within a relatively short period of time.^{14/}

^{10/} See Respondents' Post Hearing Brief, Appendix 1, at 9 (February 2, 1989).

^{11/} See Report at A-18 (Table 4). During this period, both Polaris and Kawasaki increased their production capacity, which contributed to the declining capacity utilization. Total production capacity in the industry increased from [*****] units in 1985 to [*****] units in 1986 and [*****] units in 1987. Id. Capacity also increased in the interim period, from [*****] units for the first three quarters of 1987 to [*****] units for the first three quarters of 1988. Id. While some may question the wisdom of continuing to expand capacity in the face of a declining market, the fact remains that substantial excess capacity is available in the domestic ATVs industry.

^{12/} See Report at C-2.

^{13/} See, e.g., Respondent's Post Hearing Brief, Appendix 1, at 5 (February 2, 1989).

^{14/} See Petitioner's Post Hearing Brief, Appendix J, at 2 (February 2, 1989). Additionally, Kawasaki Motors Manufacturing Corporation, U.S.A., a wholly-owned subsidiary
(continued...)

Second, exports of domestic ATVs increased from [*****] units in 1985 to [*****] units in 1987 and [*****] units in 1988.^{15/} The existence of these growing export markets indicates that domestic producers could increase domestic shipments by diverting sales from their export markets.

Finally, equipment used to produce ATVs in the United States is also used to manufacture a variety of other products, such as snowmobiles, motorcycles, and jet skis.^{16/} As the demand for ATVs changes, producers can increase or decrease the amount of time their equipment is used to manufacture ATVs.

Thus, given the large amount of unused capacity, the significant export shipments, and the ability to divert production equipment into greater production of ATVs, I conclude that the estimates proposed by staff are reasonable and I determine that the elasticity of domestic supply is high, and probably falls in the range of 5 or greater.

^{14/} (...continued)

of Kawasaki Heavy Industries of Japan, imports parts from its parent corporation, and because of that close relationship, should have little difficulty in increasing shipments if demand increases. See Report at A-8 - A-9.

^{15/} See Report at A-21 (Table 7), C-2. In 1988, exports by U.S. manufacturers equalled [**] percent of domestic shipments. Id.

^{16/} See Memorandum EC-M-054, supra note 8, at 7.

Elasticity of Domestic Demand. In most instances, the purchase of an ATV is a discretionary one.^{17/} ATVs are relatively costly, ranging in price from \$2,000 to \$5,000.^{18/} Total demand for ATVs declined dramatically over the period of investigation, because of a number of factors, including safety concerns generated by Consumer Product Safety Commission and television news investigations, land closures (which reduced the land available for riding ATVs), a mature market for the product, and increased insurance rates.^{19/} For these reasons, staff estimates that demand was moderately elastic during the three-year period of investigation, ranging from -1 to -3, but was less elastic during the most recent one-year period, falling between -1 and -2.^{20/}

Petitioners agree with this assessment.^{21/} Respondents argue that the appropriate range for the elasticity of

^{17/} See Memorandum EC-M-054, supra note 8, at 13.

^{18/} See Report at A-58 - A-69.

^{19/} See Report at A-16.

^{20/} See Memorandum EC-M-054, supra note 8, at 13. Sales of the sport/performance models of ATVs are decreasing significantly, while sales in the utility model segment of the industry are in somewhat better shape. Staff estimates that the utility segment of market is less price responsive than the sport segment of the market, and the increasing share of overall sales held by utility models contributed to the increasingly inelastic demand in the ATV market in the last year. Id.

^{21/} See Petitioner's Post Hearing Brief, Appendix J, at 2-3 (February 2, 1989).

domestic demand is between -1.0 and -1.5.^{22/} They reach this conclusion by examining the same factors staff used to reach its determination -- the discretionary nature of most ATV purchases, the expense of an ATV, and the factors contributing to the overall decline in demand for ATVs.^{23/} I believe that Respondents examined the appropriate factors in this case, but I agree with the conclusion reached by staff in its examination of these factors. Therefore, for purposes of my analysis, I will consider domestic demand to be growing less elastic, and use the range of -1 to -2.

Elasticity of Substitution. Although ATVs are generally substitutable with each other, in that they perform the same functions and have the same basic characteristics, a number of significant differences do exist between the domestic and imported product lines. First, they differ as to the number of models and the features on those models.^{24/} Domestic producers in general offer fewer models than the Japanese,

^{22/} See Respondents' Post Hearing Brief, Appendix 1, at 21 (February 2, 1989).

^{23/} See id. at 16-21.

^{24/} See Memorandum EC-M-054, supra note 8, at 10. In general, Kawasaki's U.S. subsidiary tends to design and market its product like the Japanese product, and not like its domestic competitor, Polaris. Therefore, most of the contrasts drawn in this section are between Polaris and the Japanese imports. Because Polaris constitutes a significant force in the domestic industry, I believe these comparisons are still valid, and reinforce the notion that producers in this industry each behave quite differently, thus lowering the overall elasticity of substitution.

and cluster their models in the utility/recreation end of the market, while the Japanese produce ATVs falling not only in that category, but in the youth and performance categories as well.^{25/} The Japanese offer many more engine sizes than does Polaris.^{26/} Finally, Polaris ATVs have automatic transmissions, while the Japanese imports (and domestic Kawasakis) have manual transmissions.^{27/}

Second, the channels of distribution are different for Polaris and the Japanese firms. Polaris sells [*****] of its ATVs to distributors than the Japanese, while the Japanese imports and domestic Kawasakis are sold [*****
*****] to dealers.^{28/} Polaris retailers generally also sell snowmobiles, farm equipment, lawn and garden equipment, or boats, while dealers for the Japanese importers and domestic Kawasakis generally also sell motorcycles.^{29/} Polaris retailers are more heavily represented in the snowbelt, while dealers of the Japanese imports are more prominent on the West Coast and in the Southeast.^{30/}

^{25/} See id.

^{26/} Id. at 11-12. It appears that domestically produced Kawasakis also offer a wide range of engine sizes. Id.

^{27/} Id.

^{28/} These Polaris distributors then ship the product to dealers that sell Polaris ATVs and other Polaris products. Id. at A-19 (Table 2).

^{29/} Id. at A-18 - A-19.

^{30/} See Petitioner's Post Hearing Brief at 5 (February 2, 1989).

Finally, Polaris retailers are generally located in rural and suburban areas, while Japanese dealers tend to be located in suburban and urban areas.^{31/}

The above factors indicate that the degree of substitution between the domestic and imported ATVs is limited.^{32/} Staff estimates that the elasticity of substitution is moderate, falling between 1.5 and 3.5.^{33/} Petitioners argue that the elasticity of substitution is moderately high,^{34/} while Respondents, who point to many of the same factors identified by the Commission, conclude that the elasticity of substitution should be characterized as moderate, but suggest a range of 0.5 to 2.^{35/} I am persuaded that, because of the number and substantial nature of the differences between domestic ATVs and imported ATVs, the elasticity of substitution is at best moderate, and probably falls at the low end of the range identified by staff.^{36/}

^{31/} Id.

^{32/} It is true that the substitutability of domestic Kawasakis and Japanese imports is higher than that of Polaris and Japanese imports. Despite this, I conclude that, when examining the domestic industry as a whole, there are significant differences between domestic and imported ATVs.

^{33/} See Memorandum EC-M-054, supra note 8, at 10.

^{34/} See Petitioner's Post Hearing Brief, Appendix J, at 3 (February 2, 1989).

^{35/} See Respondents' Post Hearing Brief, Appendix 1, at 11, 16 (February 2, 1989).

^{36/} That is, closer to 1 than to 3.

No Material Injury by Reason of Dumped ATVs

In this market it is clear that the domestic industry is not being materially injured by reason of unfair imports. First, demand is declining and becoming increasingly inelastic. This indicates that the market for ATVs is shrinking and is increasingly composed of models for which the demand is less price responsive.^{37/} Second, the imported and domestic products are at best moderately substitutable, a factor that limits the impact that sales of the imported product have on sales of the domestic product. Third, dumping margins in this investigation are only moderately large, translating into about a 25 percent price advantage for the Japanese product on average. Because of the increasingly inelastic demand and the moderate degree of substitutability, any price advantage resulting from dumping would not have had a strong effect on domestic sales or domestic prices. Fourth, the price data collected by the Commission show a mixed record of under- and overselling by imports.^{38/} Finally, the absolute number, value, and market share of imports fell throughout the period of investigation, indicating that imports were a declining presence in this market. These figures also support the conclusion that the imports have not had a negative effect on the volume of domestic sales.

^{37/} See Memorandum EC-M-054, supra note 8, at 14.

^{38/} That is, there is no clear pattern of underselling by the Japanese imports. See Report at A-59 - A-69.

Parables Revisited -- The Grasshopper and the Ant

In the Commission's preliminary investigation of this product, I noted that "given the large market share held by imports from Japan, the impact in the market of even a small price advantage held by Japanese firms as a result of dumping could be significant for domestic producers."^{39/} I also noted that "the extent of the impact of such a price advantage will depend to a great extent on the degree of substitutability between dumped imports and domestic ATVs."^{40/} In the final investigation, it became clear that the domestic and imported products were not highly substitutable, a finding that reduces the significance of the large Japanese market share in this case.^{41/} The parable of the elephant and the mouse is thus not apt in this final investigation.

A more appropriate parable might be that of the grasshopper and the ant -- which roughly translates into two

^{39/} See Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071, at 33 (March 1988) (Additional Views of Chairman Susan Liebler and Vice Chairman Anne E. Brunsdale).

^{40/} Id. at 33 n.23.

^{41/} In addition, the average of the final dumping margins is roughly one-third less than the upper range of the dumping margin allegations noted by the Department of Commerce in its notice of institution in the preliminary investigation. See Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071, at a-7 (March 1988). Lower dumping margins reduce the effect Chairman Liebler and I estimated to have been present in this market in our preliminary assessment of the industry.

parties pursuing the same goal but using very different strategies. Both the grasshopper and the ant are looking for food for the winter, but they conduct their searches quite differently, so that the strategy and efforts of the grasshopper have little effect on those of the ant.^{42/} The same is true of the domestic and foreign producers of ATVs -- they both competed for customers, but their products and strategies were sufficiently different that the presence of Japanese imports in the domestic market did not cause material injury to the domestic industry.

Conclusion

The evidence presented to the Commission on declining domestic demand and the increasing inelasticity of demand, the moderate degree of substitutability between the imported and domestic products, the moderate dumping margins, the inconclusive nominal price data, and the declining volume, value and market share of imports all combine to support a convincing case of no material injury to this industry.^{43/} Therefore, I agree with my colleagues that the statutory

^{42/} Moreover, neither the ant nor the grasshopper modified its behavior to mimick the other, until the end of the parable.

^{43/} As noted in the Condition of the Industry section of the majority opinion, in which I joined, the domestic industry in this investigation exhibits a number of positive and negative indicators, which lead me to conclude that the industry is neither robustly healthy, nor terminally ill. I view the effect of unfair imports within that framework.

criteria are not met and that no antidumping duties should be imposed in this case.

ADDITIONAL VIEWS OF COMMISSIONER RONALD A. CASS

Certain All Terrain Vehicles from Japan
Inv. No. 731-TA-388
(Final)

I have joined in the Commission's unanimous negative determination in this investigation. I offer these Additional Views because my analysis of the causation of material injury by reason of the subject imports differs in important respects from that of some of my colleagues.

I. FRAMEWORK FOR ANALYSIS: THE "UNITARY" OR
"COMPARATIVE" APPROACH

In Title VII cases, I have employed an analysis referred to as a "unitary" or "comparative" approach to determine whether imports sold at less than fair value ("LTFV imports") have caused material injury to a domestic industry. This approach seeks explicitly to compare the domestic industry's actual performance with what the industry's performance would have been had there been no LTFV imports.^{1/} In short, it attempts to assess directly the effects of selling particular volumes of given imports in the United States at less than fair value.

This investigation provides an unusually good illustration of the practical, as well as legal, advantages of this approach.

^{1/} See, e.g., Certain Telephone Systems and Subassemblies Thereof from Japan, Korea and Taiwan, USITC Pub. 2156, Inv. Nos. 731-TA-426-428 (Preliminary) 64-67 (Feb. 1989) (Additional Views of Commissioner Cass); Internal Combustion Engine Forklift Trucks from Japan, USITC Pub. 2082, Inv. No. 731-TA-377 (Final) 113-118 (May 1988) (Additional Views of Commissioner Cass); 3.5" Microdisks and Media Therefor from Japan, USITC Pub. 2076, Inv. No. 731-TA-389 (Preliminary) (April 1988) (Additional Views of Commissioner Cass) ("Microdisks").

In this case, we have been presented with abundant evidence suggesting that the condition of the domestic industry has been adversely affected by factors other than the dumped imports that are the subject of our investigation. For example, we have before us information suggesting that Petitioner's ATV business has been hurt by, inter alia, a lack of demand due to safety concerns about ATVs generally; problems with the quality of Petitioner's product and with its service, sales support and/or marketing strategy; liability concerns; and brand-name loyalty to existing suppliers other than Petitioner.^{2/} We have also concluded that at least some of the industry's problems are due to "the industry's excess and significant expansion of capacity on the erroneous assumption that domestic consumption was not going to decline as it did".^{3/}

Of course, the Commission does not compare the harm from different causes in Title VII cases to determine whether some phenomenon other than sales of LTFV imports has caused a greater injury. To use the common argot for this thought, we do not "weigh causes of injury."^{4/} We may consider, and in this case properly have considered, information indicating that harm has been caused to the domestic industry by factors other than LTFV

^{2/} Views of the Commission at 22-23, 28, 31-32.

^{3/} Id. at 32.

^{4/} See, e.g., *Hercules, Inc. v. United States*, 673 F. Supp. 454, 481 (Ct. Int'l Trade 1987); S. Rep. No. 249, 96th Cong., 1st Sess. 57 (1979); *Certain Granite from Italy and Spain*, USITC Pub. 2110, Inv. Nos. 701-TA-289 and 731-TA-381 (Final) 22 (Aug. 1988).

imports.^{5/} Ultimately, however, this information, standing alone, cannot support a determination whether the subject imports, considered separately from other causes of injury, have caused material injury to the domestic industry. Even if we have concluded that other factors appear to have accounted for the bulk of any problems experienced by the domestic industry, that cannot ever complete our inquiry. Our statutory mandate is to ascertain whether dumping of LTFV imports accounted for some residual amount of injury to the industry that might be regarded as material. Put another way, in this case, as in every case, an effort to determine the actual effects of dumping is essential.

The three-part inquiry into the causation of material injury that I conduct in Title VII cases is designed to facilitate such an assessment.^{6/} The factors that are listed in the statute, as well as the order in which they are listed, suggest that the Commission must carefully consider three related questions.^{7/}

^{5/} See S. Rep. No. 249, 96th Cong., 2d Sess. 74-75 (1979); H. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

^{6/} As I have stated in other opinions, I do not believe that an analysis of recent trends in prices and sales of the domestic like product, viewed either in isolation or in comparison to trends in import volumes, can form the basis for any meaningful conclusions on this subject. See, e.g., Nitrile Rubber from Japan, USITC Pub. 2090, Inv. No. 731-TA-384 (Final) (June 1988) (Additional Views of Commissioner Cass).

^{7/} Title VII directs the Commission, in assessing the causation of injury by dumped imports, to

"consider, among other factors --

- (i) the volume of imports of the merchandise which is the subject of the investigation,
- (ii) the effect of imports of that merchandise on

First, the Commission must examine the volumes of imports of the merchandise under investigation and must, in the process, assess the extent to which import volumes changed as a result of the dumping. This change will be closely related to, and in large part a function of, changes in the prices of these imports that occurred consequent to dumping. Second, the Commission must attempt to determine how the subject imports affected prices, and concomitantly sales, of the domestic like product. Finally, the Commission must evaluate the extent to which these changes in demand for the domestic like product caused by LTFV imports affected such factors as return on investment and the level of employment and employment compensation in the domestic industry.^{8/}

The recently enacted Omnibus Trade and Competitiveness Act of 1988 has further directed that the Commission explicitly consider and state its conclusions on the factors that define each of these three inquiries.^{9/} Moreover, the Act instructs the

prices in the United States for like products, and
(iii) the impact of imports of such merchandise on
domestic producers of like products"

The statute goes on to spell out these three factors with greater particularity. See 19 U.S.C. § 1677(7)(B).

^{8/} Of course, the Commission must also evaluate whether these effects are "material" within the meaning of the statute. This assessment is, in some sense, a fourth part of our inquiry.

^{9/} 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

Commission, in making these inquiries, to consider the particular dynamics of the industries and markets.^{10/} Each of the three inquiries outlined above are undertaken in light of these directions in the succeeding sections of these Additional Views.

A. Volumes and Prices of LTFV Imports

In this investigation, the record evidence indicates that the effects of dumping on the prices of the subject imports would have varied significantly for the different Japanese producers. Due to the disparate manner in which dumping margins were computed for these producers by the Department of Commerce, an analysis of the imports produced by Suzuki, Yamaha and Kawasaki involves different conceptual issues than those presented in a consideration of the imports made by Honda.

In the case of both Suzuki and Yamaha, the final dumping margins calculated by Commerce were relatively low, but not de minimis: 8.47% in the case of Yamaha and 14.11% for Suzuki.^{11/}

impact of unfairly traded imports on the domestic industry producing the like product. See, e.g., New Steel Rails from Canada, USITC Pub. 2135, Inv. Nos. 731-TA-422 and 701-TA-297 (Preliminary) 35-37 (Nov. 1988) (Additional Views of Commissioner Cass) ("Steel Rails"); Generic Cephalixin Capsules from Canada, USITC Pub. 2142, Inv. No. 731-TA-423 (Preliminary) 56-58 (Dec. 1988) (Dissenting Views of Commissioner Cass).

^{10/} 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).

^{11/} See Report at A-7.

Kawasaki was assigned a margin of 35.53%.^{12/} Kawasaki did not respond to Commerce's questionnaire and it was therefore assigned, as the best information available, the highest margin alleged for the company in the Petition.^{13/} For all three companies, the dumping margins were computed on the basis of an analysis of the prices actually charged (or, in the case of Kawasaki, purportedly charged) for ATVs made by those companies and sold in a third-country market, Canada.^{14/} However, such margins are not conclusive of the effects of dumping on the prices of the imports made by these producers, for dumping margins computed on the basis of disparities in foreign market and U.S. market prices do not generally constitute a precise measure of the extent to which the prices of subject imports declined as the result of dumping.^{15/} In most such cases, the actual price decrease will be less than the full amount of the dumping margin. The change in the price of LTFV goods that occurs consequent to dumping depends to some extent on the nature of the dumping. As defined by the Tariff Act, "dumping" encompasses, inter alia, any sale of goods at a higher price in

^{12/} Id. at A-7.

^{13/} Id.

^{14/} Id. at A-6-A-7.

^{15/} See, e.g., Granular Polytetrafluoroethylene Resin from Japan and the Netherlands, USITC Pub. 2112, Inv. Nos. 731-TA-385-386 (Final) 74 (Aug. 1988) (Additional Views of Commissioner Cass); Certain Bimetallic Cylinders from Japan, USITC Pub. 2080, Inv. No. 731-TA-383 (Final) 44 (May 1988) (Additional Views of Commissioner Cass).

the exporter's home market (or, as in this case, a surrogate for it) and a lower price in the U.S. market. In general, dumping by a foreign producer, charging lower prices in the U.S. for its products than in the foreign market, occurs because the producer enjoys more market power in the foreign market than in the U.S. market and seeks to increase its overall profitability by charging more where the producer is able to and less where he faces more competition.^{16/} Other explanations for dumping are possible,^{17/} but Respondents have not argued, and the record evidence before us does not suggest, that they are at all likely explanations for the dumping in which Yamaha, Suzuki or Kawasaki engaged. For the purposes of this investigation, in determining the likely impact of the alleged dumping on the prices of the imports made by these companies, the record is most consistent with the conclusion that LTFV pricing by these firms was a product of the disparity in the market power enjoyed by the

^{16/} Commentators who have studied differential pricing in international markets have long believed that this is the best explanation for most instances of dumping. See, e.g., G. von Haberler, *The Theory of International Trade with its Application to Commercial Policy* 296-317 (1936). See also J. Viner, *Dumping: A Problem in International Trade* (1923).

^{17/} For example, dumping may reflect the desire to capture the value of an established brand name in a market where that name is known but not to add a premium for that name when its goods are introduced into a new market. See *Microdisks*, supra, at 77; *Steel Rails*, supra, at 59. Dumping may also be motivated by predation, but predation is, in general, a most improbable explanation. As the Supreme Court recognized in *Matsushita Electric Industries Co. v. Zenith Radio Corp.*, 475 U.S. 574, 589 (1986), "predatory pricing schemes are rarely tried, and even more rarely successful".

subject foreign producers in Canada, which here is the surrogate for their respective home market, and their market power in the U.S. market.

In any case where differential pricing of sales to the U.S. market and to a foreign market has occurred, the actual decrease in the U.S. price of the subject imports that occurred consequent to dumping will be a percentage of the dumping margin; this percentage will be, in large measure, a function of the proportion of the sales of the subject foreign producer(s) in their combined U.S. and the home (or other foreign) market that is accounted for by sales in the relevant foreign market (in this case, Canada).^{18/} In reality, an estimate of the decrease in the price of the dumped product that is derived in this fashion will be somewhat overstated as it represents an approximate upper bound of that decrease.^{19/}

In the case of Yamaha, Suzuki and Kawasaki, sales of ATVs in Canada represented a relatively small percentage of their total

^{18/} See, e.g., Granular Polytetrafluoroethylene Resin from Japan and the Netherlands, USITC Pub. 2112, Inv. Nos. 731-TA-385 and 386 (Final) 74 (Aug. 1988) (Additional Views of Commissioner Cass); Certain Bimetallic Cylinders from Japan, USITC Pub. 2080, Inv. No. 731-TA-383 (Final) 44 (May 1988) (Additional Views of Commissioner Cass).

^{19/} For a thorough explication of this subject, see R. Boltuck, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 at 1, n. 1, 13, 19-21 (May 10, 1988) (unpublished).

sales of Japanese-made ATVs^{20/} in the combined U.S. and Canadian markets in 1987, as well as during the first nine months of 1988.^{21/} Accordingly, the maximum decrease in the price of these imports that occurred consequent to dumping was at most a small percentage of the dumping margins calculated by Commerce for those producers.^{22/}

A different and, in some respects, more complex, mode of analysis is required in order to calculate the effects of dumping on the price of Honda's imports. The Commerce Department computed a dumping margin of 32.89% for Honda using a constructed value methodology.^{23/} I have used this margin as the measure of the amount by which the Honda imports declined as a result of dumping in order to give Petitioner the benefit of a doubt in estimating the maximum effect that dumping may have had on the price of the subject imports. In this particular case, the

^{20/} Kawasaki, of course, also produces ATVs in the United States, but these ATVs are not the subject of this antidumping investigation.

^{21/} For Yamaha, the percentage of Canadian sales in a combined U.S./Canadian market were [*]% in 1987 and [*]% in the first nine months of 1988. See Report at A-56, Table 13. For Suzuki, the comparable figures were [*]% in 1987 and [*]% in the first nine months of 1988. Id. For Kawasaki, Canadian sales accounted for [*]% of sales in the combined market in 1987, but [* * *] were made during the first nine months of 1988. Id.

^{22/} The maximum price declines for the Yamaha, Suzuki and Yamaha products under investigation were, in each instance, approximately 1%.

^{23/} See Report at A-6-A-7; 54 Fed. Reg. 4864, 4866 (January 31, 1989).

outcome is not affected by this treatment of Honda's dumping margin. However, in general, dumping margins based upon constructed value raise serious analytical questions that deserve special attention by the Commission. Because those questions do not affect the outcome of this case, I will reserve for another time further discussion of my views on that subject.

In sum, the record evidence makes it quite plain that the prices of the Yamaha and Suzuki and Kawaski imports were not affected by dumping to any significant extent. The record evidence also suggests that it is possible that dumping resulted in significant changes in the prices of the Honda imports. For the purpose of my analysis of this case, I have used these maximum possible price changes in order to assess the impact of the subject imports on the domestic industry.

Even using the maximum possible price effects, the evidence before us concerning the the effects of dumping on sales of the subject imports indicates that the sales effects were minimal. The extent to which decreases in the prices of the subject imports produce increases in the sales of those products is, in large measure, a function of the degree to which the imported product is substitutable for domestically produced ATVs. For reasons discussed in more detail below, all of the evidence indicates that the substitutability of the subject ATVs for ATVs made domestically is quite limited.

B. Prices and Sales of Domestic Like Product

During the period covered by our investigation, the subject imports accounted for a substantial, albeit declining, percentage of all ATVs sold in the United States. In 1987 and the first nine months of 1988, periods during which the Commerce Department found that dumping was occurring, the subject imports, whether measured by quantity or by value, accounted for over [*]% of all ATVs sold in the United States.^{24/} At first blush, this might appear to suggest that dumping of the subject imports might have produced significant adverse effects on sales of the domestic like product.

However, Respondents and the Commission staff have presented evidence to us that, in my view, demonstrates conclusively that this was not the case. In particular, it is quite apparent that the subject imports and domestically made ATVs are, on balance, not close substitutes for one another. This is so for several reasons.

First, the basic characteristics of the Japanese ATVs and the domestically produced ATVs, particularly those made by Petitioner Polaris, are fundamentally different in several important respects. Perhaps most importantly, as suggested in connection with the Commission's discussion of the like product issue, there simply are no domestically-produced counterparts to

^{24/} Specifically, on a quantity-measured basis, the subject imports accounted for [*]% of the domestic market in 1987 and [*]% in the first nine months of 1988. See Report at A-45, Table 18. On a value-measured basis, they accounted for [*]% of the domestic market in 1987 and [*]% in the first nine months of 1988. Id.

several types of ATVs sold in the United States in substantial quantities by the Japanese producers, including youth ATVs, small displacement ATVs and high performance ATVs.^{25/} Moreover, the features that are typically found on Japanese made ATVs differ in

^{25/} See Views of the Commission at 7-8.

In that context, it should be noted that Respondents argued at length that a hedonic analysis of the prices of certain ATV models indicates that there are at least three separate ATV market "segments". See, e.g., Respondents' Posthearing Brief at Exhibit 2. Because the parties devoted a significant amount of time to this issue, I believe that Respondents' argument deserves some discussion here. In general, I believe that the Commission's traditional like product analysis defines the criteria that properly guide the Commission's evaluation of like product issues. See Microdisks, *supra*, at 41-49. Thus, in this case, I have joined in the Commission's discussion of the like product issue. See Views of the Commission at 3-11. I am not prepared to say that hedonic or other econometric analyses of the sort proffered by Respondents in this investigation are necessarily irrelevant to our like product evaluation. However, I believe that Petitioner has persuasively argued that data limitations and other factors limit the significance of the particular hedonic analysis that Respondents have advanced in this case. See generally Petitioner's Posthearing Brief at Attachment I. Respondents' analysis does, however, support other evidence before us indicating that consumers do not view ATVs as perfectly uniform commodities. Instead, consumers distinguish among ATVs on various grounds other than price, the most important of which are identified by Respondents. For the purposes of a like product analysis, however, the question is not whether such differences exist. Rather, we must answer two questions about consumers' reaction to these products: first, whether the differences in product characteristics are sufficiently important to consumers that the products should be treated separately; and second, whether the significant characteristics are distributed among products in a way that allows easy separation of those products. I believe that the answers to these questions are negative in this case, but note that, given our disposition of this investigation, rejection of Respondents' like product argument does not affect our determination. I also note that, because my analysis of causation of material injury is sensitive to differences in market responses to imports and domestic products, the impact of the like product determination on case outcomes is, in this case, as in other cases, to some extent muted.

many ways from those found on the ATVs made by Petitioner Polaris. Japanese made ATVs come in a variety of engine sizes, whereas all Polaris ATVs have a 250cc engine.26/ The Japanese ATVs have manual transmissions and shaft drives; Petitioner's ATVs have automatic transmissions and chain drives.27/ Petitioner's ATVs also have a variety of other distinguishing features -- e.g., floorboards as opposed to footpegs.28/

The subject imports are also marketed in ways that differ fundamentally from the manner in which Petitioner's ATVs are sold. Petitioner sells the majority of its ATVs [* * * *], while most Japanese imported ATVs are sold directly to dealers.29/ The nature of the outlets through which the products are ultimately sold also differ significantly. Most Japanese made ATVs are sold by motorcycle dealers,30/ while Petitioner's ATVs are sold through snowmobile, boat and marine, farm implement, and lawn and garden equipment dealers.31/

26/ See Report at A-59; USITC Memorandum EC-M-054 (February 27, 1989) from Office of Economics ("OE Memorandum") at 10.

27/ Report at A-59; OE Memorandum at 12.

28/ See Report at A-59. Many dealers surveyed by the Commission indicated that these features provide safety advantages, easier handling and tighter turning. Id.

29/ OE Memorandum at 10.

30/ OE Memorandum at 10; Respondents' Prehearing Brief at 50.

31/ OE Memorandum at 10. See also Respondents' Prehearing Brief at 50.

Other less objective, but nevertheless widely observed, factors also operate to limit the substitutability of the Japanese and domestic like products. Brand-name recognition is generally seen as an important factor in purchasers' decisions,^{32/} and it appears that the domestic like product may enjoy certain advantages because it is perceived as "made in America".^{33/} Finally, it is clear that there are marked, if widely divergent, consumer perceptions respecting the quality of the Japanese ATVs and Petitioner's products.^{34/}

For all of these reasons, the evidence strongly indicates that the subject imports did not have a significant effect on either prices or sales of the domestic like product. Viewed in the light of that evidence, it is plain that dumping -- the sale of imports at LTFV that are the subjects of this investigation -- does not in any appreciable way account for the rather large share of the domestic market that is held by the subject producers. The Japanese producers are, to a large extent, simply making a product that, if not so different as to be wholly unlike the domestic ATVs, nonetheless differs significantly from them.

C. Investment and Employment

^{32/} OE Memorandum at 11; Respondents' Posthearing Brief at 12-13.

^{33/} Report at A-82-A-83.

^{34/} Compare Report at A-72 [* * *], A-77 [* * *], A-77 [* * *], A-77-78 [* * *] with id. at A-76 [* * *], A-77 [* * *], A-78 [* * *], A-78 [* * *].

As the Views of The Commission suggest, the investment and employment data compiled by the Commission are somewhat mixed.^{35/} However, as the Commission has also pointed out, these data do not in any event provide any support for the conclusion that dumping -- as opposed to other factors, such as reduced demand for ATVs -- is responsible for any problems that the domestic industry has been experiencing.^{36/} I have little to add to the Commission's discussion of these data, but believe that two points deserve special emphasis.

First, the probative value of the financial data provided for Kawasaki's domestic ATV operations is questionable because Kawasaki Motors Manufacturing Corp., U.S.A. ("KMM") engages in numerous and sizable transactions with sister companies. KMM's financial data are therefore the product of a number of artificial allocations that may or may not be a meaningful reflection of KMM's actual financial performance.

Second, the financial data provided to the Commission by Petitioner raise a number of questions that have not, in my view, been adequately addressed by Petitioner.^{37/} In particular, it appears that certain of Petitioner's [* * * * *

* * * * *

^{35/} See Views of the Commission at 22-26.

^{36/} See Views of the Commission at 22-23, 28, 31-32.

^{37/} See Respondents' Prehearing Brief at 16-17, 10-13; Respondents' Posthearing Brief at 7-9.

* * * *] 38/ It also appears that Petitioner has allocated to its ATV operations an extraordinarily high percentage of certain costs that it incurred in expanding a plant that is also devoted in substantial part to the production of snowmobiles. For these reasons, I have taken with the proverbial grain of salt Petitioner's claim that its ATV operations are not generating sufficient returns.

II. APPLICATION OF THE CADIC MODEL

In assessing the impact of the dumped imports on the U.S. industry, I considered, among other things, the analysis provided by Commission staff using the computable market-simulation "Comparative Analysis of the Domestic Industry's Condition Lotus Template System", commonly known as the "CADIC model". 39/ This model generates estimates of changes in the prices and quantities sold of a domestic industry's like product under various descriptions of the imports' volumes, dumping margins, and markets for the imports and the domestic like product. The CADIC model has been described fully in publicly available

38/ See Report at Table 11.

39/ The analytical framework underlying the CADIC model is explained in detail in R. Boltuck, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 (May 10 & 18, 1988) (unpublished). The results of the Commission staff's use of the model in this case are set forth in USITC Memorandum EC-M-057 (February 28, 1989) from the Office of Economics.

documents,^{40/} and copies of the computer program have been made available to all interested members of the public.

Consideration of this model can assist commissioners in assessing the significance of different judgments respecting the substitutability of imported and domestic products, consumers' reactions to changes in prices of the products at issue, and producers' willingness to increase their supply of those products. These are judgments that, for reasons previously discussed, critically affect our assessment of injury causation under the criteria set forth in Title VII. Of course, each commissioner must decide what factual inferences should be drawn from the record in a given investigation respecting these matters, and each commissioner must also decide what weight to give to the estimates generated through application of the model. When I do not believe that the information generated by the model is useful (that is, when I find that the assumptions upon which the model is based are unrealistic in light of the other evidence of record in a particular investigation or that the information necessary to employ the model cannot be reliably inferred from the other evidence of record), I do not rely upon the estimates that the model produces.

In this investigation, however, I have found the model quite useful. In this case, all of the parties discussed at length

^{40/} See R. Boltuck, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 (May 10 & 18, 1988) (unpublished).

various estimates of the effects of dumping on the prices and volume of the domestic like product that might be derived by using the model. Although each side argued that the CADIC model yielded estimates that were favorable to their view of the case -- in other words, estimates that were themselves quite different -- all of the parties apparently agreed that the model itself is an analytical tool that was useful in understanding the manner and extent to which dumping affected the domestic industry.

Each of the parties also advanced a number of arguments challenging the initial judgment of the Commission's staff on certain questions that are relevant to the estimates obtained by using the model.^{41/} The staff took these arguments fully into account in refining its judgment on these questions.^{42/}

In this investigation, I believe that the CADIC model, properly applied, supports the conclusion that I have reached on the question of material injury. In short, such an application of the model indicates that dumping did not produce effects on prices or sales of the domestic like product that can reasonably be regarded as material.

The estimates of the price and volume effects that I derive by using the model are, for a variety of reasons, much closer to the estimates suggested by Respondents than to those proffered by Petitioner. Based upon its use of the model, Petitioner argued

^{41/} See, e.g., Petitioners' Posthearing Brief at Attachment J; Respondents' Posthearing Brief at Exhibit 1.

^{42/} See OE Memorandum at 7-8, 9-10, 12, 14.

that the subject imports caused declines in the price of the domestic like product of 3 to 4 percent and sales decreases of 19 to 26 percent.^{43/} I believe that these estimates are grossly overstated for two reasons.

First, for the reasons previously discussed, in my view, the substitutability of the Japanese made ATVs for the domestically produced product is quite limited. Accordingly, I do not think it likely that Petitioner is correct in contending that the elasticity of substitution between the two products -- an important element taken into account by the model -- was as high as three or four.^{44/}

The second important reason why Petitioner's estimates cannot be credited is that Petitioner, in using the model, apparently assumed that dumping caused the price of the subject imports made by each of the Japanese producers to fall by the full amount of the applicable dumping margin.^{45/} For the reasons previously stated, I believe that this assumption has no basis in the record because, in the case of the imports produced by Yamaha, Suzuki and Kawasaki, there is every reason to believe that dumping caused the price of the imported products to decrease by only a relatively small percentage of the dumping

^{43/} Petitioner's Posthearing Brief at Attachment J at 8, Exhibit A.

^{44/} See Petitioner's Posthearing Brief at Attachment J at Exhibit A.

^{45/} Id.

margin.^{46/} If Petitioner's erroneous assumption is corrected, it quickly becomes apparent that, even using the high elasticity of substitution posited by Petitioner, the price and volume effects of dumping were modest.^{47/}

^{46/} See discussion, infra, at 57-61.

^{47/} Respondents' Posthearing Brief at Attachment J at Exhibit A. In particular, the maximum effect on prices of the domestic like product was less than one percent and the maximum effect on sales of the domestic like product was less than four percent. Id.

In that context, however, it should be noted that Petitioner is correct in arguing that there is no basis for assuming that dumping had no effect on prices or sales of the domestic like product. Petitioner correctly observes that, if one were to conclude that the elasticity of demand for ATVs generally and the elasticity of substitution between Japanese made ATVs and domestically produced ATVs were identical, then one would find that dumping had no effect on domestic prices and sales. Id. at Attachment J at 8-9. But, contrary to Petitioner's assumption, this conclusion does not follow from, and is indeed inconsistent with, the information developed by the staff.

Prior to the hearing that was held on January 26 in this case, the staff provided the Commission and the parties with preliminary estimates of ranges for the relevant elasticities, and the mid-points of the ranges for the demand elasticity and the elasticity of substitution were, in fact, the same number. See USITC Memorandum EC-M-018 (January 24, 1988) from the Office of Economics. However, in suggesting ranges for these elasticities, the staff at no time suggested that the actual elasticity in each case fell midway between the two ends of the range. Moreover, it should be noted that, even if one were to choose an elasticity figure that is the mid-point of the elasticity ranges ultimately suggested by the staff, this would not produce identical numbers for the elasticity of demand and the elasticity of substitution. See OE Memorandum at 10, 13.

I also note the common sense basis for distinguishing between these two numbers and, in every estimation of effects of LTFV imports, for concluding that the elasticity of substitution (of the like product for the subject imports) exceeds the demand elasticity for the aggregate product category (including imports and the domestic like product). In selecting the domestic like product, the Commission identifies the product that competes most closely with the subject imports. However different the two

In my judgment, Respondents are correct in asserting that a proper application of the CADIC model indicates that dumping did not produce significant effects on prices and sales of the domestic like product.^{48/} Respondents' estimates are not substantially different from those estimates developed by the staff that I believe most closely approximate the actual effects of dumping on prices and sales of the domestic like product.^{49/} However, in saying this, I emphasize that I found entirely unpersuasive many of the arguments advanced by Respondents in support of its position with respect to the application of the CADIC model to the facts of this case. I note in particular that Respondents challenged at great length the use in the CADIC model of the dumping margins found by the Department of Commerce.^{50/} Respondents appear to object particularly to the use of the dumping margins calculated by Commerce for Respondent Honda.^{51/}

products, the domestic like product must be more similar to the subject imported product than the residual "basket" category of all other products. Because relative price changes will cause consumers to shift purchases among more similar products faster than among less similar products, it necessarily follows, using the jargon of economists, that the elasticity of substitution for the most similar products exceeds the elasticity of demand for those products as a group, for the elasticity of demand measures price-related substitution from the similar products to all other (less similar) products.

^{48/} See Respondents' Posthearing Brief at 33-34.

^{49/} See

^{49/} See USITC Memorandum EC-M-057 (February 28, 1989) from Office of Economics, Table 1, Scenario 1.

^{50/} Id.

^{50/} Id. at Exhibit 1 at 25; Exhibit 9.

^{51/} Id.

It is not clear whether Respondents object to any use of Honda's margin, or instead objects only to the use of any weighted average that fails to take into account the fact that Honda's dumping margin was calculated in a manner that is different from the way in which margins were calculated for the other three Japanese producers. If Respondents' only concern is the latter concern, then it is groundless for, as previously noted,^{52/} I have separately examined the margins for the various producers in determining the extent to which dumping caused a decrease in prices of the subject imports, precisely because Honda's dumping margin was computed under a different formula than the one used for the other Respondents.^{53/}

If Respondents' objection is instead against any use of the Honda margin, the arguments advanced by Respondents provide no grounds for such an objection. Among other things, Respondents argue that Honda's weighted average dumping margin "clearly does not reflect actual market conditions" because "[n]ot a single case of lost sales or underselling was found [by the Commission]".^{54/} However, given the manner in which dumping is

^{52/} See discussion, supra, at 57-62.

^{53/} This is also true of the estimates developed by the staff. ^{8A} See USITC Memorandum EC-M-057 (February 28, 1989) from the Office of Economics. ² ^{9A}

^{54/} Respondents' Posthearing Brief at 25-26. In the same breath, Respondents appear to qualify this argument by saying that no "systematic" underselling was found. Id. at 26. ^{Ec} ¹⁰ ¹⁰²

defined by law,^{55/} one need not find lost sales or underselling in order to find dumping. Those are, instead, effects of dumping that indicate injury to the domestic industry. Respondents also dispute at great length the manner in which the Commerce Department computed the Honda dumping margin.^{56/} Respondents go on to suggest that the Commission use, instead of the Honda margin, a weighted average of the Yamaha-Suzuki margins or the Suzuki margin itself as "the best available information".^{57/} However, I am at a loss to find any legal or factual basis on which the Commission might proceed in that fashion, and Respondents have suggested none. As I have stated in other opinions, I believe that the dumping margins calculated by the Department of Commerce are the best available information and that we should use them as such.^{58/} Moreover, Respondents have provided the Commission with no information, other than its bald assertion, to support a conclusion that some figures other than those provided by Commerce better "reflect actual market conditions". Respondents' argument may in fact be true; I do

^{55/} A foreign producer engages in dumping, within the meaning of the law, when it charges a lower price for a good in the U.S. market than it charges for the same good in its home (or other surrogate foreign) market, or, in certain cases, when it charges a price for the good in the United States that is lower than its "cost of production" as calculated by Commerce.

^{56/} Respondents' Poshearing Brief at Exhibit 9.

^{57/} Id.

^{58/} See Granular Polytetrafluoroethylene Resin from Japan and the Netherlands, USITC Pub. 2112, Inv. Nos. 731-TA-385-386 (Final) 63-67 (Aug. 1988) (Additional Views of Commissioner Cass).

not, however, have any basis in the factual record apart from their assertion to rest such a judgment.

Finally, I note that Respondents state that they have used an elasticity of substitution of $-.5$ in the CADIC model to estimate the price and sales effects of the subject imports on a domestic industry producing all ATVs.^{59/} Although I have concluded that the substitutability of the Japanese made and domestically produced ATVs is limited, I do not believe that it is quite as limited as such a very low elasticity figure would suggest.^{60/}

In short, then, while I am in essential agreement with Respondents' views respecting the ultimate conclusions that one might draw from the use of the CADIC model in this case, I do not subscribe to certain of the arguments that they have made in urging us to reach these conclusions.

CONCLUSION

For all of the foregoing reasons, I concur with the Commission's determination that the domestic industry has not

^{59/} Respondents' Posthearing Brief at Exhibit 1 at 38.

^{60/} I also note that the elasticity of substitution that Respondents say that they have used is less than, and therefore inconsistent with, their posited elasticity of demand of -1.5 . See *id.* For an explanation of why these two elasticities are inconsistent, see discussion, *supra*, at n. 47.

Respondents have also raised other, more minor technical issues. Although these may be of some significance in other contexts, given the disposition of this case, I do not believe that discussion of these issues is merited here.

been materially injured by the LTFV imports that are the subject of this investigation.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

Following a preliminary determination by the U.S. Department of Commerce that imports of all-terrain vehicles (ATVs) 1/ from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission, effective September 12, 1988, instituted investigation No. 731-TA-388 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise, provided for in subheading 8703.21.00 of the Harmonized Tariff Schedule of the United States (HTS). Notice of the institution of the Commission's final investigation, and of the public hearing to be held in connection therewith, was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 26, 1988 (53 F.R. 43275). 2/ The hearing was held in Washington, DC, on January 26, 1989. 3/ Commerce notified the Commission that it had made its final LTFV determination on January 31, 1989. The applicable statute directs that the Commission make its final injury determination within 45 days after the final determination by Commerce, or in this case by March 16, 1989. However, the Commission's administrative deadline for transmitting its final determination to the Secretary of Commerce is March 10, 1989.

Background

This investigation results from a petition filed by Polaris Industries, L.P., on February 9, 1988, alleging that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of LTFV imports of ATVs from Japan. In response to that petition, the Commission instituted investigation No. 731-TA-388 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) and, on March 21, 1988, determined that there was such a reasonable indication of material injury.

1/ For purposes of this investigation, certain ATVs are defined as motor vehicles principally designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are nonamphibious, have three or four wheels, and weigh less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control. If imported, they were previously reported under item 692.1090 of the Tariff Schedules of the United States Annotated (TSUSA).

2/ Copies of the cited Federal Register notices are presented in app. A.

3/ A list of the participants in the hearing is presented in app. B.

The Product

Description and uses

ATVs are three- and four-wheeled motorized vehicles powered by gasoline internal combustion engines having piston displacements that range from 70cc to 500cc. ^{1/} However, the majority of the ATVs produced in the United States and the imported models have engine sizes ranging from approximately 250cc to 350cc. The engines have either one or two cylinders with two- or four-stroke cycles, and can be either air or water cooled. Most ATVs are equipped with 5- or 6-speed transmissions and all are less than 63 inches in height, 50 inches in width, and 600 pounds in weight. All ATVs have a seat designed to be straddled by the operator and handlebars for steering control. Tires used on ATVs are wide and lightweight, and have a recommended air pressure of only 2 to 6 pounds per square inch. Most ATVs have both front and rear brakes, and are equipped with either electric, kick, or pull starters. Both the imported and the domestic ATVs are constructed in a similar manner, but each has different features.

Imported ATVs and those produced by Kawasaki Motors Manufacturing Corp. in the United States are available in a wide variety of models and engine sizes. They generally have five- or six-speed transmissions, footpegs for footrests, and a dual braking system. In comparison, the Polaris ATVs are available in only two or three models, in only one engine size (250cc), with variable-speed transmissions (automatic, i.e., requiring no shifting), footboards instead of footrests, and a single brake lever, which slows the front and rear wheels at the same time.

Three-wheelers versus four-wheelers.--Three-wheelers and four-wheelers can be used for basically the same purposes, including sport/recreational uses and nonrecreational uses such as hauling, lawn mowing, and so forth. However, the three-wheeler may be somewhat more appealing to a recreational driver or racer. The three-wheelers are smaller, lighter, and have a smaller turning radius, ^{2/} which requires greater operator participation when turning. For these reasons, they are easier to maneuver than four-wheelers, but also are perceived to be less stable.

The four-wheelers, on the other hand, have more features that are useful for utility applications. For example, the four-wheeler has better stability, and a greater carrying capacity than the three-wheeler, as well as allowing for the option of four wheel drive. In addition, the four-wheeler leaves only two tracks whereas the three-wheeler leaves three, which makes the four-wheeler better suited for work in fields with row crops.

Uses.--ATVs are designed solely for offroad use. They have a variety of uses including recreational riding, transporting materials, gardening and farming, herding cattle, snowblowing, and racing. For purposes of this investigation we have identified three general use classifications: sport, utility/sportsman, and utility. In addition, within these categories,

^{1/} Three-wheeled ATVs are no longer produced in the United States or imported into the United States.

^{2/} It has also been reported that the tighter turning radius makes the three-wheel ATV better suited for use in barns.

distinctions could be established on the basis of engine size; the ATVs with smaller displacement engines are used primarily by younger riders for recreative purposes and those with larger displacement engines are driven by older riders for heavy utility purposes. All of these classes, however, tend to overlap. Most ATVs could be used for recreational riding as well as for some utility purposes.

The sport ATVs are normally used for racing and recreational riding. They usually have kick starters, higher performance engines, a superior suspension system, and no rack or trailer hitch.

The utility/sportsman models are generally used for a combination of light utility applications such as light grounds and farm maintenance, and sportsman activities such as carrying hunting, fishing, and camping equipment. These ATVs normally have lower performance engines than sport models, may come with one or two racks for cargo, and have electric starters.

The utility vehicles are often used for more heavy-duty work-related endeavors. These ATVs may be used when tilling soil, spraying crops, plowing snow, and transporting fairly heavy equipment. They may also be used for hunting, fishing, and camping where the terrain is especially rough and demanding. These models usually have an electric starter, a trailer hitch, and racks for cargo. They may also have four-wheel drive and power take-offs.

Substitute products.--There are no perfect substitutes for ATVs. No other types of vehicles are currently available that weigh less than 600 pounds and can be used for both recreational and utility purposes. 1/

Off-highway motorcycles are the closest substitutes available for sport or recreational purposes. These motorcycles can also be ridden in various terrains such as through woods, on sand, and over hills. However, these vehicles are not designed to pull equipment or carry cargo.

Off-highway motorcycles have some of the same physical characteristics as ATVs. The engine sizes of off-highway motorcycles range from approximately 50cc to 600cc, close to the size range for ATVs. In addition, these vehicles

1/ There are other vehicles being produced in the United States that are similar to ATVs. In October 1988, Polaris began production of a 6-wheel vehicle, called the Big Boss. It is primarily a utility vehicle, which has a box in the back for hauling equipment. In October-December 1988, Polaris produced *** of these vehicles. In November 1987, Kawasaki began production of the Mule 1000, a utility vehicle designed to fill the niche between an ATV and a mini pickup truck. Like the Polaris Big Boss it has a box in the back; however, it has only 4 wheels and has a bench seat and a steering wheel. Kawasaki produced approximately *** of these vehicles in 1988. Recreative Industries produces a 6-wheel ATV that is used primarily for hunting. The company produces approximately *** a year. John Deere markets a five-wheel All Material Transport Vehicle (AMT600). It has a box in the back for carrying equipment, weighs 800 pounds, and can travel up to 20 miles per hour. It can travel only on level terrain and does not have any recreational uses. The AMT600 has been on the market for approximately 2 years. John Deere sold approximately *** of these vehicles in 1987.

have four-stroke single-cylinder engines, five- or six-speed transmissions, seating for one person, and handlebar steering.

Garden tractors may be used in many of the same applications as utility ATVs. Both vehicles can be used for lawn mowing, snowblowing, transporting materials, and for agricultural purposes, such as tilling soil and spraying crops. However, there are three major differences between a garden tractor and a utility ATV. First, a garden tractor's towing capability is normally greater. Second, garden tractors travel at significantly lower speeds than ATVs. The top speed of a garden tractor is usually between 8 and 10 miles per hour; in comparison, utility ATVs can travel up to, and sometimes over, 30 miles per hour. Last, garden tractors are designed to be ridden in primarily flat, agricultural areas, whereas ATVs may be ridden on almost any terrain.

Garden tractors also have many of the same features as utility ATVs. Both may have five-speed transmissions, similar size engines, power take-offs, and trailer hitches.

Manufacturing process

There are currently two U.S. manufacturers of ATVs--Polaris, located in Roseau, MN, and Kawasaki Motors Manufacturing Corp., U.S.A. (KMM), ^{1/} located in Lincoln, NE. Polaris primarily manufactures snowmobiles and ATVs. KMM primarily manufactures motorcycles, jet skis, and ATVs.

At present, Polaris manufactures * * *. In contrast, KMM produces * * *. In addition, Polaris manufactures * * *, whereas KMM * * *.

The first stage of the manufacturing process typically involves stamping, cutting, and bending steel sheets, coils, and tubing into different shapes and sizes. These parts are machined and placed in welding jigs, where they are welded together either manually or by robots. Each part is sent down the conveyor line for additional welding until the entire frame has been welded. The frame is then dipped in water to ensure that it has been properly welded and does not leak and is then placed on a conveyor belt and brought into a large vat, where it is washed, dried, and painted. Polaris * * *, whereas KMM * * *.

The frame is then brought to the assembly line. Production operations can generally be divided into three separate processes: preassembly, subassembly, and final assembly. During preassembly, the drive system (the transmission, sprocket, and rear assembly) is assembled onto the frame. During subassembly, the components that are built onto the engine (e.g., the clutch, manifold, carburetor, throttle cable, and so forth) are assembled. During final assembly, the body, engine, gas tank, tires, and all other components are installed. The ATV is then inspected, boxed, and prepared for shipping.

^{1/} Polaris has alleged that it is the only U.S. manufacturer of ATVs in the United States, and that KMM is an assembler. For purposes of expediency, KMM will be referred to as a producer throughout this report, with the understanding that this is an issue to be considered by the Commission. For further information on the nature of the two firms' manufacturing operations, see the section of this report entitled "The U.S. industry."

U.S. tariff treatment

Imports of ATVs are classified in subheading 8703.21.00 of the Harmonized Tariff Schedule (HTS); they were previously classified in item 692.10 of the Tariff Schedules of the United States (TSUS). The current column 1 general rate of duty 1/ of 2.5 percent ad valorem is the final staged duty reduction negotiated in the Tokyo Round of the Multilateral Trade Negotiations (MTN). 2/ 3/ The column 2 rate of duty 4/ is 10 percent ad valorem. 5/

Most imported ATV parts (except engines and engine parts) are classified in subheadings of HTS heading 8708. The current column 1 general rate of duty for such articles is 3.1 percent ad valorem and the column 2 rate of duty is 25 percent ad valorem. Eligible Canadian products enter free of duty under the provisions of the Automotive Products Trade Act of 1965 (APTA). Engine and engine parts imported for ATVs are classified in subheadings of HTS heading 8407 (formerly in TSUS items 660.56 and 660.57). The column 1 general duty rate is free, and the column 2 rate is 35 percent ad valorem. Eligible Canadian engines and parts enter free of duty under the provisions of APTA.

One U.S. producer, KMM (Lincoln, NE), currently produces ATVs in areas designated as foreign trade zones or subzones (FTZs). 6/ Since FTZs are

1/ The rates of duty in the general subcolumn of col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general note 3(b) of the HTS. However, the MFN rates do not apply if preferential tariff treatment is sought and granted to products of developing countries under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or to products of Israel or Canada, as provided under the Special rates of duty subcolumn of col. 1.

2/ Rate effective Jan. 1, 1987.

3/ If an ATV were imported from Canada, it would enter duty-free under the Automotive Products Trade Act (APTA). However, no ATVs are currently produced in Canada.

4/ The rates of duty in col. 2 apply to imported products from those Communist countries and areas enumerated in general note 3(b) of the HTS.

5/ In addition, pursuant to the Omnibus Budget Reconciliation Act of 1986, a user fee of 0.17 percent ad valorem on most U.S. imports is in effect.

6/ An FTZ or subzone is a site within the United States where foreign and domestic merchandise is considered by the U.S. Government as being outside U.S. customs territory for purposes of paying customs duties. Foreign or domestic merchandise may be brought into these enclaves without a formal customs entry or the payment of customs duties or Government excise taxes, and without a thorough examination. Merchandise brought into a zone or subzone may be stored, tested, relabeled or repackaged, displayed, manipulated in some manner, mixed with domestic and/or foreign materials, and used in an assembly or manufacturing process. If the final product is exported from the zone or subzone, no U.S. customs duty or excise tax is levied. If the final product is imported into the United States customs territory, U.S. customs duties and excise taxes are due only at the time of its physical removal from the zone or subzone and formal entry into the United States customs territory. At the importers' option, the product may be classified either based upon its form as

outside the U.S. customs territory, foreign parts entering an FTZ to be used in the assembly of a completed product (such as ATVs) need not be assessed U.S. duties until the final product is imported into the U.S. customs territory. An FTZ user can elect to pay duties based on the rate applicable either to the parts (by declaring the merchandise to be "privileged" prior to manufacture) or to the completed product when it is imported from the FTZ. ^{1/} When the duty applicable to the completed product is lower than the duty applicable to the parts, an FTZ user may realize certain savings by electing not to declare its foreign parts as "privileged;" with the declaration of "privileged" status, the FTZ user would instead pay the higher rate applicable to the parts. However, the zone user may let the parts remain "nonprivileged;" use them in the manufacture of a completed product, and then "import" the completed product and pay the lower duty rate applicable to the dutiable value of that product. If duty is paid on the completed product, it is only to the extent of nonprivileged imports comprising the product, not on the value of the entire end product.

Nature and Extent of Sales at LTFV

On January 31, 1989, Commerce published notice that it had made a final determination that certain ATVs from Japan are being, or are likely to be sold in the United States at LTFV. Commerce's investigation covered the period September 1, 1987, through February 29, 1988. Commerce established 2 categories of "such or similar merchandise": (1) three-wheel ATVs and (2) four-wheel ATVs. Comparisons were made on 61.0 percent of Honda's sales to the United States, 79.8 percent of Yamaha's, and 92.6 percent of Suzuki's. Kawasaki did not respond to the Commerce questionnaire.

To make a determination of whether sales of the subject products were made at LTFV, Commerce compared the U.S. price with the foreign-market value. As noted before, Kawasaki did not respond to the Commerce questionnaire, therefore

entered into the zone, or upon its form as imported from the zone into U.S. customs territory.

^{1/} Foreign merchandise (goods of foreign origin that have not been released from Customs custody within the customs territory) in an FTZ may have either "privileged" or "nonprivileged" status. If such articles have not been manipulated or manufactured so as to effect a change in tariff classification (19 CFR 146.41), an application may be made to the district director of Customs to treat the goods as privileged. If the application is accepted, the goods are classified and appraised according to their condition and quantity on the date of filing, even if the goods are subsequently changed in form and though the duties need not be paid until entry into the customs territory. Other foreign merchandise is afforded nonprivileged status, and duties are payable at entry into the customs territory in the condition and quantity imported. The choice of declaring privilege can result in a significant difference in applicable customs duties, particularly if duty rates are about to change or if duty rates for parts are significantly different from those on finished articles. Bookkeeping and other administrative costs would be included in the analysis of whether or not to make such a declaration. None of these concerns would be relevant to parts or articles intended to be exported outside the FTZ and not entered into the customs territory.

Commerce determined, consistent with the best-information-available provisions of section 776(c) of the Tariff Act of 1930, to assign to Kawasaki the highest margin indicated for it in the petition. Another manufacturer, Honda, refused to reply to Commerce's cost of production questionnaire as it related to ATV models produced prior to the 1987 model year. Therefore, again consistent with the best-information-available provisions of section 776(c), Commerce decided to assign to Honda's sales of pre-1987 models the highest margin indicated for Honda in the petition. For sales by Honda, Yamaha, and Suzuki, the U.S. price was based on exporter's sales price because in each case the sale to the first unrelated purchaser took place after importation into the United States. For Honda, Suzuki, and Yamaha, Commerce found that home-market sales were insufficient to serve as the basis for foreign-market value. Canada was determined to be the appropriate third-country market to serve as the basis for foreign-market value in Commerce's preliminary determination.

Subsequently, based on allegations by petitioner, Commerce initiated a cost-of-production investigation for Honda, Suzuki, and Yamaha. For Suzuki and Yamaha, Commerce found sufficient Canadian sales above the cost of production to use those prices in accordance with section 773(a)(1)(A) of the Act. Therefore, foreign-market value was calculated based on packed f.o.b. seller's warehouse or delivered prices to unrelated purchasers in Canada, with appropriate deductions. In the case of Honda, Commerce found insufficient Canadian sales above its cost of production. Therefore, foreign market value was based upon constructed value in accordance with section 773(e) of the Act.

Commerce found that the final weighted-average LTFV margins were as follows (in percent):

<u>Manufacturer/producer/exporter</u>	<u>Weighted-average margin</u>
Honda.....	32.89
Yamaha.....	8.47
Suzuki.....	14.11
Kawasaki.....	35.43
All others.....	24.59

Commerce provided information on the total quantity and value of the subject ATVs exported to the United States that it examined, and the quantity and value of shipments, of those it examined, that were found to be sold at LTFV. According to these data, * * * percent of exports of ATVs by quantity and * * * percent by value, of those Commerce examined, were sold at LTFV. This information is shown in the following tabulation:

<u>Company</u>	<u>Total sales</u>	<u>Sales at LTFV</u>	<u>Total sales</u>	<u>Sales at LTFV</u>
	<u>--1,000 dollars--</u>		<u>-- Units --</u>	
Honda.....	***	***	***	***
Suzuki.....	***	***	***	***
Yamaha.....	***	***	***	***
Total.....	***	***	***	***

The U.S. Industry

There are currently two firms that produce or assemble ATVs in the United States: Polaris Industries L.P., Minneapolis, MN, and Kawasaki Motors Manufacturing Corp., U.S.A., Lincoln, NE.

Polaris Industries L.P.

Polaris has been a producer of snowmobiles since 1953 when it built its first in Roseau, MN. In 1968, Polaris, which had been an independent company operated principally by its founders, was sold to Textron. In 1981, several managers bought the company from Textron in a leveraged buyout for approximately \$8 million. In September 1987, Polaris sold its assets to a limited partnership for \$110 million. Polaris has its production facility in Roseau, MN, and is headquartered in Minneapolis, MN. Polaris began producing ATVs at its Roseau facility in March 1985, reportedly in part to allow it to use its snowmobile production facilities year round and to offer year-round employment to its workers.

* * * * *

Polaris provided the following information on the costs per unit of one of its models, the * * *, broken out among U.S.-produced versus foreign-produced component parts, labor, factory overhead, and general, selling, and administrative expenses. This model reportedly has the greatest percentage of foreign-sourced components, as shown in the following tabulation:

<u>Item</u>	<u>Cost per unit</u>	<u>Percent of total cost</u>
Component parts:		
U.S. produced.....	***	***
Imported from Japan.....	***	***
Other foreign source.....	***	***
Total component parts...	***	***
Labor.....	***	***
Factory overhead.....	***	***
GS&A.....	***	***
Total.....	***	100.0

Polaris began its production of ATVs in 1985 with one assembly line for both ATVs and snowmobiles. In August 1986, as part of an expansion program, it began construction of a second production line as well as a new cleaning and painting facility. This new equipment began operating in November 1987.

Kawasaki Motors Manufacturing Corp., U.S.A.

Kawasaki Motor Corp. (KMC) established a plant in Lincoln, NE, in 1974, to assemble motorcycles. At that time KMC was the sales, marketing, and distribution company for Kawasaki Heavy Industries, Ltd. (KHI), of Japan. On January 1, 1982, KMC sold its interest in the Lincoln facility to KHI, the parent company in Japan, and KMM was established as a separate entity.

KMM, which at the time was a division of KMC, began production of three-wheel ATVs in May 1980, and began production of four-wheel ATVs in March 1985. In addition to ATVs and motorcycles, KMM manufactures Jet Ski watercraft and, as of November 1987, a mule utility vehicle (which is a cross between a mini-pickup truck and an ATV).

* * * * *

KMM provided information on the costs per unit of one of its models, the * * *, broken out among U.S.-produced versus foreign-produced component parts, labor, factory overhead, and general, selling and administrative expense (GS&A) expenses. The following model reportedly has the greatest percentage of foreign-sourced components:

<u>Item</u>	<u>Cost per unit</u>	<u>Percent of total cost</u>
Component parts:		
U.S. produced.....	***	***
Imported from Japan.....	***	***
Other foreign source.....	***	***
Total component parts...	***	***
Labor.....	***	***
Factory overhead.....	***	***
GS&A.....	***	***
Total.....	***	100.0

KMM also reported that its estimate of the total value (average selling price) of its U.S.-produced ATVs accounted for by its U.S. operations is approximately *** percent. KMM indicated in its questionnaire response that it * * *.

U.S. Importers

Four U.S. importers accounted for all known ATVs imported into the United States from Japan during the period covered by this investigation. American Honda Motor Co., Inc. (Honda), Gardena, CA, is a ***-owned subsidiary of Honda Motor Co., Ltd., of Tokyo, Japan. In 1987, it accounted for *** percent of imports of ATVs from Japan. Kawasaki Motor Corp., U.S.A. (KMC), headquartered in Irvine, CA, is a ***-owned subsidiary of Kawasaki Heavy Industries, Ltd. (KHI), of Kobe, Japan. KMC is the sales and marketing company for KMM. In 1987, it accounted for *** percent of imports of ATVs from Japan. * * *.

U.S. Suzuki Motor Corp. (Suzuki) of Brea, CA, is *** owned by American Suzuki Motor Corp. of Brea, CA, which is *** owned by Suzuki Motor Co., Ltd., of Hamamatsu, Japan. Suzuki accounted for *** percent of imports of ATVs from Japan in 1987. Yamaha Motor Corp., USA (Yamaha), Cypress, CA, is a ***-owned subsidiary of Yamaha Motor Co., Ltd., of Shizuoka-ken, Japan. In 1987, Yamaha accounted for *** percent of imports of ATVs from Japan.

The Domestic Market

Apparent U.S. consumption

Data on apparent U.S. consumption of ATVs were compiled from information submitted in response to questionnaires of the U.S. International Trade Commission. The consumption data are composed of reported shipments of U.S.-produced ATVs and reported U.S. shipments of imports of ATVs from Japan by each of the known importers. In addition, * * *. It is believed that the information on consumption accounts for virtually all shipments of the subject product in the United States.

Apparent U.S. consumption of ATVs, by quantity, declined steadily from *** units in 1985 to *** units in 1987, representing a drop of *** percent, then dropped from *** units in January-September 1987 to *** units in January-September 1988, representing a decline of *** percent (table 1). On the basis of value, U.S. consumption fell from *** in 1985 to *** in 1987, representing a decline of *** percent, then dropped by *** percent in January-September 1988 compared with the level of consumption in January-September 1987.

Table 1

ATVs: Apparent U.S. consumption, by principal sources, 1985-87, January-September 1987, and January-September 1988

Source	1985	1986	1987	January-September-- 1987	1988
Quantity (units)					
U.S. produced:					
Polaris.....	***	***	***	***	***
KMM.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Imported from Japan:					
Honda.....	***	***	***	***	***
KMC.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Subtotal.....	546,654	411,727	333,212	223,208	113,593
Imported from other countries 1/.....	***	***	***	***	***
Total apparent consumption.....	***	***	***	***	***
Value (1,000 dollars)					
U.S. produced:					
Polaris.....	***	***	***	***	***
KMM.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Imported from Japan:					
Honda.....	***	***	***	***	***
KMC.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Subtotal.....	786,637	723,003	686,468	446,060	244,405
Imported from other countries 1/.....	***	***	***	***	***
Total apparent consumption.....	***	***	***	***	***

1/ * * *.

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

Channels of distribution

U.S. producers of ATVs sell directly to independent dealers and distributors in the U.S. market; the latter in turn also sell to dealers. Polaris relies heavily on its established snowmobile distribution system, comprised of dealers and distributors, for marketing ATVs in the snowbelt. In other areas of the United States, Polaris is continuing to develop new dealers for its ATVs. 1/ Polaris sold *** percent of its domestically produced ATVs to distributors in 1985. In 1986 Polaris * * *, and by the end of 1988 sold *** percent of its U.S.-produced ATVs to *** dealers and the remaining *** percent to *** distributors (table 2). 2/ This relative increase in sales to dealers represents an increase in both the number of dealers and in total units sold in 1988 compared with sales in 1986. Discussions with purchasers identified in lost sales allegations suggest that some dealers have dropped or refused to carry the Polaris ATVs; nevertheless, Polaris' total sales and its dealer direct sales still increased.

Importers use their established nationwide motorcycle dealership system to sell their ATVs throughout the United States. * * *. KMC sold * * *.

Polaris and its distributors sell the domestic ATVs to independent snowmobile dealers, lawn and garden retailers, boat and marine dealers, and farm implement dealers. The dealers selling the Polaris ATVs are generally located in suburban and rural areas. On the other hand, the importers' motorcycle dealerships are located in both urban and suburban/rural areas.

Polaris ships *** ATVs to dealers and distributors in the U.S. market directly from its Minnesota plant and the remainder, *** annually, from U.S. warehouses. 3/ Kawasaki ships its domestically produced ATVs, as well as its imported Japanese ATVs, from regional warehouses in the United States. Honda, Suzuki, and Yamaha also ship their imported Japanese ATVs from regional warehouses located throughout the United States. The U.S. producers and importers of the subject ATVs do not own the storage facilities, but lease space in public warehouses. Locations of these U.S. warehouses are shown in table 3. Honda sells from *** warehouse locations, Kawasaki from ***, Suzuki from ***, Yamaha from ***, and Polaris from ***. An extensive warehouse system makes delivery more convenient for dealers, who are typically small firms.

1/ * * *.

2/ * * *.

3/ * * *.

Table 2

Shares of domestically produced and imported ATVs sold directly to U.S. dealers and distributors, by producers and importers, 1985-88

(In percent)								
	1985		1986		1987		1988	
Type of firm	Dealer	Distri- butor	Dealer	Distri- butor	Dealer	Distri- butor	Dealer	Distri- butor
U.S. producer:								
Polaris.....	***	***	***	***	***	***	***	***
KMM.....	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***
U.S. importer:								
Honda.....	***	***	***	***	***	***	***	***
KMC.....	***	***	***	***	***	***	***	***
Suzuki.....	***	***	***	***	***	***	***	***
Yamaha.....	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***

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

Table 3

U.S. warehouse selling locations from which U.S. and imported Japanese ATVs are sold

State locations of U.S. warehouses	Importing firms				U.S. producers	
	Honda	Kawasaki	Suzuki	Yamaha	Polaris	Kawasaki 1/
Alaska.....	***	***	***	***	***	***
California.....	***	***	***	***	***	***
Florida.....	***	***	***	***	***	***
Georgia.....	***	***	***	***	***	***
Illinois.....	***	***	***	***	***	***
Louisiana.....	***	***	***	***	***	***
Michigan.....	***	***	***	***	***	***
Minnesota.....	***	***	***	***	***	***
Nebraska.....	***	***	***	***	***	***
New Jersey.....	***	***	***	***	***	***
New York.....	***	***	***	***	***	***
Ohio.....	***	***	***	***	***	***
Texas.....	***	***	***	***	***	***
Virginia.....	***	***	***	***	***	***
Washington.....	***	***	***	***	***	***

1/ Kawasaki sells its U.S.-produced and imported Japanese ATVs from the same warehouse locations.

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

California is the top consuming State for ATVs in the U.S. market and accounted for 11 percent of annual ATV purchases in the United States in 1986, the latest period the such data were available. Although Polaris does not warehouse in California or any contiguous State, both the imported Japanese ATVs and those produced in the United States by Kawasaki are readily available from warehouse facilities in the California market. The imported ATVs and those produced in the United States by Kawasaki are readily available in many other areas of the United States where significant numbers of ATVs are also sold. In the Southwest the major importers of the Japanese ATVs sell from warehouses in Texas; in the South they sell from locations in Florida, Georgia, and Louisiana; in the Midwest they sell from warehouses in Illinois, Michigan, Minnesota, Nebraska, and Ohio; and in the Northeast they sell from warehouses in New Jersey and New York.

Market factors

According to a market sketch on ATVs prepared by the Directorate for Economic Analysis, Division of Program Analysis of the Consumer Product Safety Commission (CPSC), ATVs were first marketed in the United States in 1970, and initially appealed to a small segment of offroad recreational motorcycle riders. The

popularity of ATVs grew during the mid to late 1970s and by 1984 sales to retailers had peaked at *** units. This information is shown in the following tabulation (in units):

<u>Year 1/</u>	<u>Total Shipments</u>	<u>Shipments by types</u>	
		<u>Three-wheel</u>	<u>Four-wheel</u>
1972.....	***	***	
1973.....	***	***	
1974.....	***	***	
1975.....	***	***	
1976.....	***	***	
1977.....	***	***	
1978.....	***	***	
1979.....	***	***	
1980.....	***	***	
1981.....	***	***	
1982.....	***	***	
1983.....	***	***	***
1984.....	***	***	***
1985.....	***	***	***
1986.....	***	***	***
1987.....	***	***	***
January-September--			
1987.....	***	***	***
1988.....	***	***	***

1/ Data for the period 1972-84 are from the Motorcycle Industry Council (MIC), 1985; data for the period 1985-87, January-September 1987, and January-September 1988 are from U.S. International Trade Commission questionnaires. Questionnaire data were used for the latter periods because Motorcycle Industry Council data do not include sales by Polaris; the two sets of data are very closely comparable except for the inclusion of Polaris' sales in the Commission's questionnaire data.

Until 1982, shipments of ATVs were all of three-wheelers; however, by 1985, *** percent of shipments were of four-wheel ATVs. According to the market sketch on ATVs done by the CPSC, "The reasons for the growing popularity of the four-wheeled ATVs are not yet entirely understood. However, several industry sources have said that the four-wheeled ATVs have extended both the 'utility' and recreational market for ATVs. One industry source indicated that the four-wheeled ATVs are generally sturdier than their three-wheeled counterparts, and that they are increasingly being used on farms as an inexpensive substitute for small tractors in light work applications or as on-farm transportation vehicles. Other sources said that four-wheeled ATVs are still primarily recreational vehicles. One source said that while three-wheeled ATVs tend to appeal to traditional motorcycle riders, four-wheeled ATVs tend to expand the appeal of ATVs to the non-motorcycle riding public."

Information gathered by the Commission supports the recent trend shown in the MIC data which indicate that, along with the shift from three-wheel to four-wheel ATVs, apparent U.S. consumption of ATVs declined after 1984. There are several factors cited as contributing to the decline in consumption. One factor is that the market for ATVs has matured, particularly in the sport and competition segments of the market. Another factor is land closure caused by ecological considerations

and the increasing cost of liability insurance for private landowners who allow riding of ATVs in competitive events on their property. 1/

Perhaps the most important factor, however, is the adverse publicity surrounding ATVs and the CPSC investigations concerning this product. There have been several news and consumer programs such as ABC's 20/20 (April 1985) and CBS's 60 Minutes (April 1987), that reported on the potential safety problems involving ATVs.

The CPSC began looking into the safety concerns associated with ATVs in late 1984, and on April 3, 1985, the CPSC voted to establish a staff task force "to carry out a number of activities that were crucial in obtaining an understanding of hazards associated with ATVs and developing recommendations to address them." In the course of this investigation the CPSC held six public hearings throughout the United States between May 1985 and March 1986.

In February 1987, the CPSC formally requested that the U.S. Department of Justice initiate an action against the ATV industry, seeking a recall of three-wheel ATVs and four-wheel ATVs intended for use by children under age 16, and requiring that ATV purchasers receive hands-on training. In addition, in May 1987 the CPSC issued a safety alert advising of the potential risks associated with three- and four-wheel ATVs.

In December 1987, the Department of Justice filed a civil action against the producers and importers of ATVs under section 12 of the Consumer Product Safety Act, 15 U.S.C. § 2061, as amended, 1981. Simultaneously, the Government and the defendants filed preliminary consent decrees outlining a settlement of the lawsuit and calling for the filing of final consent decrees 45 days later. The major points in the preliminary consent decree include halting the sales of three-wheel ATVs, requiring that producers/importers offer to repurchase any three-wheelers that their dealers may have in inventory, and a variety of notification, labeling, and safety regulations governing four-wheel ATVs.

The proposed final decree was signed and sent to the court by the parties on March 14, 1988. A hearing on whether the court should approve the proposed decrees was held on April 18, 1988. The final agreements were signed on April 28, 1988.

Consideration of Prevention of Establishment of an Industry in the United States

Polaris has alleged that as the domestic industry, it is being materially retarded from becoming established. The information presented in the section of this report entitled "Financial experience of Polaris Industries," concerning Polaris' income-and-loss experience and its total company financial position, may be useful in assessing this allegation. The petitioner's confidential Exhibits A1 to A4, attached to the petition, may also be helpful in assessing this issue.

1/ Transcript of the conference held in the preliminary investigation, pp. 98-99.

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

In order to evaluate the condition of the U.S. industry producing ATVs, the Commission sent questionnaires to the only known manufacturers of the product in the United States. These firms and their respective roles in the U.S. market are discussed in the U.S. industry section of this report. Information on these firms is presented separately throughout the material injury section of this report. ^{1/}

U.S. production, capacity, and capacity utilization

Production of ATVs * * * throughout the period from *** units in 1985 to *** units in 1987, representing * * * of *** percent, then * * * to *** units in January-September 1988, compared with *** units in January-September 1987, or by *** percent (table 4). The * * * from 1985 to 1987 was accounted for * * *. Polaris's production then * * * in January-September 1988 compared with that in January-September 1987. KMM's production * * * from *** units in 1985 to *** units in 1987, * * * of *** percent, and then * * * by *** percent in January-September 1988 compared with that in January-September 1987.

Average-of-period capacity increased throughout the period from *** units in 1985 to *** units in 1987, representing an increase of *** percent. Capacity then * * * to *** units in January-September 1988 compared with *** units in January-September 1987, representing * * * of *** percent. The increase in 1986 was due to a * * * in * * *, which then * * * in 1987. The * * * in 1987 * * * was attributable to * * * in capacity by * * *. Polaris' average-of-period capacity allocated to ATVs was *** units in 1986 and *** units in 1987. Capacity then *** to *** units in January-September 1988 compared with *** units in January-September 1987, * * *. * * *. Commission staff verified the capacity data and found the allocation method to be acceptable.

Capacity utilization * * * steadily throughout the period from *** percent in 1985 to *** percent in 1987, and then to *** percent in January-September 1988 compared with *** percent in January-September 1987. The * * * from 1985 to 1987 was due to the * * *. The * * * in January-September 1988 was due to a * * *.

^{1/} Questionnaires covered 1985-87, January-September 1987, and January-September 1988. Updated information covering full-year 1988 is presented in app. C.

Table 4

ATVs: U.S. production, capacity, and capacity utilization, by firms, 1985-87, January-September 1987, and January-September 1988

Source	1985	1986	1987	January-September--	
				1987	1988
				Quantity (units)	
Production:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Capacity: 1/					
KMM 2/.....	***	***	***	***	***
Polaris 3/.....	***	***	***	***	***
Total.....	***	***	***	***	***
				Percent	
Capacity utilization:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Consists of average-of period capacity.

2/ * * *.

2/ * * *.

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

Average capacity at Polaris' and KMM's establishments to produce all products during 1985-87, January-September 1987, and January-September 1988 is shown in the following tabulation (in units):

<u>Firm</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>January-September--</u>	
				1987	1988
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***

U.S. producers' domestic shipments

Domestic shipments of ATVs * * * *** from *** units in 1985 to *** units in 1987, then * * * by *** percent in January-September 1988 compared with those in January-September 1987 (table 5). Shipments by Polaris * * * by *** percent from *** units in 1985, the year it started production, to *** units in 1987, then * * * by *** percent in January-September 1988 compared with those in the corresponding period of 1987. Shipments by KMM * * * by *** percent from 1985 to 1987, with * * * of *** percent in January-September 1988 compared with those in January-September 1987.

Table 5

ATVs: U.S.-produced domestic shipments (including intracompany transfers), by firms and by types, 1985-87, January-September 1987, and January-September 1988

Type and firm	1985	1986	1987	January-September-- 1987	1988
Quantity (units)					
3-wheel:					
KMM 1/.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
4-wheel:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars)					
3-wheel:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
4-wheel:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value					
3-wheel:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***
4-wheel:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***
Total:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

The value of domestic shipments * * * steadily from *** in 1985 to *** in 1987, representing * * * of *** percent. The value of shipments * * * to *** in January-September 1988 compared with *** in January-September 1987, or by *** percent.

The unit value of domestic shipments * * * steadily throughout the period from *** in 1985 to *** in 1987, representing * * * of *** percent, then * * * to *** in January-September 1988 compared with *** in January-September 1987, representing * * * of *** percent.

Information on domestic shipments by type is also presented in table 5. Polaris had some shipments of three-wheel ATVs in 1985, but discontinued its production later that year, and * * *. KMM reported that *** of its shipments in 1985 were of three-wheel ATVs, but this share * * * to *** percent in 1986, the last year it produced the three-wheel vehicle.

In the four-wheel category Polaris started its production with a sportsman/utility model in 1985, but introduced a sport model and a utility model in 1986. The sport model was discontinued in 1987.

KMM reported that it offered sport/utility models for sale in 1985 and expanded its line to include sport models in 1986. The sport models accounted for *** percent of its shipments of four-wheel ATVs in 1986 and *** percent in 1987. * * *. Information on shipments of ATVs by engine size is presented in table 6. Polaris shipped only 250cc ATVs throughout the period. KMM's shipments were concentrated in the * * * range throughout the period, (until interim 1988, when *** percent of its shipments were in the *** range) but the firm also reported shipments in the *** range *** and in the *** range ***. KMM reported * * *.

Table 6

ATVs: U.S.-produced domestic shipments (including intracompany transfers), by firms and by engine sizes, 1985-87, January-September 1987, and January-September 1988

(In units)					
Firm and engine size	1985	1986	1987	January-September--	
				1987	1988
Polaris:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
KMM:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***

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

U.S. producers' export shipments

Exports by Polaris and KMM * * * from *** units in 1985 to *** units in 1987 (table 7). Exports * * * in January-September 1988 to *** compared with *** units exported in January-September 1987. Polaris accounted for *** of the export shipments reported in 1985 and 1986, *** percent in 1987, *** percent in January-September 1987, *** percent in January-September 1988, * * *. The primary export market * * *.

Table 7

ATVs: U.S. producers' export shipments, by firms and by types, 1985-87, January-September 1987, and January-September 1988

(In units)					
Firm and type	1985	1986	1987	January-September-- 1987	1988
KMM:					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	***	***	***	***	***
Polaris:					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	***	***	***	***	***

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

U.S. producers' end-of-period inventories

Polaris reported * * *. * * *. * * * end-of-period inventories are shown in table 8. KMM reported * * *.

Table 8

ATVs: U.S. producers' inventories, by types, as of Dec. 31 of 1985-87, Sept. 30, 1987, and Sept. 30, 1988

(In units)					
Type	1985	1986	1987	January-September-- 1987	1988
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	***	***	***	***	***

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

Employment and productivity

The number of workers employed in the production of ATVs * * * throughout the period, from *** workers in 1985 to *** workers in 1987, representing * * * of *** percent, then * * * in January-September 1988 compared with the number in January-September 1987 (table 9). Hours worked by these workers * * * as well, by *** percent from 1985 to 1987 and * * * in January-September 1988 compared with the hours worked during January-September 1987. Wages paid and total compensation also * * * steadily throughout the period. Average wages per hour

* * * slightly from *** per hour in 1985 to *** per hour in 1987, then * * * to *** per hour in January-September 1988 compared with *** per hour in the corresponding period of 1987. Average productivity * * * steadily throughout the period, with * * *.

Average unit labor costs * * * steadily from *** in 1985 to *** in 1987, representing * * * of *** percent. Polaris' unit labor costs * * * from 1985 to 1986 by *** percent, then * * * by *** percent in 1987, with an additional * * * of *** percent in January-September 1988. KMM's unit labor costs * * * from *** per unit in 1985 to *** per unit in 1987, then * * * slightly by *** percent in January-September 1988 compared with such costs during January-September 1987.

Polaris reported that its workers are not represented by a union. It reported that its production schedule for ATVs was * * *. KMM reported that its employees are not represented by a union; * * *.

Table 9

ATVs: Total employees and employment of production and related workers and their hours worked, wages paid, total compensation, productivity, and unit labor costs, by firms, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September--	
				1987	1988
Total employees:					
KMM	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Production and related workers producing ATVs:					
KMM	***	***	***	***	***
Polaris.....	***	***	***	***	***
Total.....	***	***	***	***	***
Hours worked producing ATVs:					
KMM (1,000 hours).....	***	***	***	***	***
Polaris (1,000 hours)..	***	***	***	***	***
Total (1,000 hours)..	***	***	***	***	***
Wages paid for producing ATVs:					
KMM (1,000 dollars)....	***	***	***	***	***
Polaris (1,000 dollars).....	***	***	***	***	***
Total (1,000 dollars).....	***	***	***	***	***
Total compensation paid to workers producing ATVs:					
KMM (1,000 dollars)....	***	***	***	***	***
Polaris (1,000 dollars).....	***	***	***	***	***
Total (1,000 dollars).....	***	***	***	***	***
Wages per hour:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***
Productivity:					
KMM (units per hour)...	***	***	***	***	***
Polaris (units per hour).....	***	***	***	***	***
Average (units per hour).....	***	***	***	***	***
Unit labor costs:					
KMM.....	***	***	***	***	***
Polaris.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

Financial experience of U.S. producers

Polaris and KMM, accounting for *** and *** percent, respectively, of U.S. production of ATVs in 1987, provided the Commission with financial data. These data are presented in this section.

Overall operations.--Polaris and KMM both produce products other than ATVs in the facilities in which the subject product is produced. Polaris produces one other product, snowmobiles, in its facility. As a share of units produced in 1987, snowmobiles accounted for *** percent. KMM also produces motorcycles and jet skis. These other products accounted for *** percent of its total units produced in 1987. Overall establishment income-and-loss data for Polaris and KMM are presented individually and in the aggregate in table 10.

Polaris Industries.--Overall establishment sales * * * substantially during 1985-87, 1/ from *** in 1985, to *** in 1986 and *** in 1987, or by *** percent during these years. The company attributes this * * * primarily to (1) * * *; (2) * * *; (3) * * *; and (4) * * *. Except for the *** percent margin in 1985, the * * * rates have been * * * percent level in all the remaining periods. Contributing to the * * * and * * * margins after 1985 is the * * *.

GS&A expenses * * * during 1985-87 because of the * * *. Notwithstanding the * * * GS&A expenses, the * * * margins were consistently * * * those in 1985 at *** percent, *** percent, *** percent, and *** percent for 1986, 1987, interim 1987, and interim 1988, respectively, compared with *** percent in 1985.

1/ Fiscal periods ending Mar. 31, 1986, Mar. 31, 1987, and Mar. 31, 1988, respectively.

Table 10

Income-and-loss experience of U.S. producers on their overall establishment operations within which ATVs are produced, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

Item	1985	1986	1987 1/	Interim period ended Sept. 30--	
				1987	1988
Value (1,000 dollars)					
Net sales:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Cost of goods sold:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Gross profit:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
General, selling, and administrative expenses:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Operating income or (loss):					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Interest expense:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Other income (expense), net:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Net income or (loss) before income taxes:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***

Table 10--Continued

Income-and-loss experience of U.S. producers on their overall establishment operations within which ATVs are produced, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

				Interim period ended Sept 30--	
Item	1985	1986	1987	1987	1988
	Share of net sales (percent)				
Cost of goods sold:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Gross profit:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
General, selling, and administrative expenses:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Operating income or (loss):					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Net income or (loss) before income taxes:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***

1/ Full year data is from Apr. 1, 1987 to Mar. 31, 1988 for Polaris and on a calendar basis for KMM. Interim data is from Jan. 1 through Sept. 30 for both Polaris and KMM.

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

Selected key financial ratios of Polaris are presented in the following tabulation:

Item	Mar. 31--			
	1985	1986	1987	1988 1/
Current ratio.....	1.19	2.72	1.00	***
Quick ratio.....	0.38	1.15	0.64	***
Working capital (1,000 dollars).....	2,273	11,874	136	***
Total debt to equity (percent).....	2.23	0.47	5.85	***
Return on investment ratios:				
Net income or (loss) to--				
Total capital (percent).....	94.2	70.1	329.7	***
Total assets (percent).....	29.1	47.7	48.2	***
Invested capital 2/ (percent)...	114.3	72.7	347.9	***

1/ Adjusted to remove effect of purchase accounting, i.e., goodwill, intangibles and fixed asset step-up resulting from sale of the company in September 1987. Adjustments may not be exact in all instances.

2/ Invested capital is defined as working capital plus net property and equipment.

Current ratio, quick ratio, and working capital represent short-term debt paying abilities of the company. Polaris' current ratio (current assets to current liabilities) was 1.19 as of March 31, 1985, peaked at 2.72 as of March 31, 1986, and then declined to 1.00 in 1987, the lowest point in 1985-87. * * * in the most recent period. A current ratio of more than 2.0 is normally considered to be strong. The quick ratio (current assets less inventories to current liabilities) was * * * than *** in each reported period except 1986. A ratio of 1.0 is generally considered adequate for this indicator. * * *. Working capital, which is the difference between the current assets and current liabilities, was * * * as of March 31, 1987. The major reason for this * * * of working capital was * * *.

As the debt-to-equity ratio shows, liabilities exceeded equity as of March 31, 1985, and 1987. As of March 31, 1986 and 1988, * * *. Polaris has * * *. The company borrowed funds on a short-term basis during certain seasonal months.

The return on investment ratios measure the effectiveness of management in employing the resources available to it. The return is measured by taking net income earned by the company before distribution to its shareholders, relative to various types of investment. The returns on total capital and invested capital showed similar trends, * * * in fiscal 1986, * * * in fiscal 1987, and then * * * in fiscal 1988 to the * * * point in the four years under review. The return on total assets * * * from fiscal 1985 to fiscal 1987 and then * * * sharply in fiscal 1988. The return measure by the different investment bases is * * * through fiscal 1987.

In summary, Polaris' financial picture * * *.

KMM Corp.--Practically all of KMM's transactions, including * * *. * * *.

KMM's overall establishment sales * * * from *** in 1985 to *** in 1986, or by *** percent, then * * * to *** in 1987, representing * * * of *** percent when compared with those in 1986. Interim period sales in 1988 also show * * *

when compared with those in the corresponding period of 1987; from *** to ***, or by *** percent.

*** margins, **, for the years 1985-87, respectively, and *** percent for both interim periods. *** margins followed a similar trend at *** percent, *** percent, and *** percent, for the years 1985-87, respectively, and *** percent during both interim periods. Although it appears that the company is operating at a **.

ATV operations.--Polaris' production of ATVs accounted for *** percent of total units produced in 1987, which is *** to KMM's *** percent for the year. The financial results, however, are **. The ATV financial experiences of both producers are presented individually and in the aggregate in table 11.

Polaris.--The company started production of ATVs in March 1985, with sales in the first year of **. Sales *** to *** in 1986, or by *** percent. There was, however, a *** to *** in 1987, representing ** of *** percent compared with the 1986 results. Sales also *** during interim 1988 to *** from *** in interim 1987, or by *** percent.

The company incurred startup engineering costs of ***, manufacturing consultant costs of ***, and manufacturing productivity (learning curve) costs of *** during the initial period of production in 1985 and 1986. As the company became **, the cost of goods sold as a share of net sales *** from *** percent in 1985 to *** percent in 1986; *** in the remaining periods. The company attributes the **. *** margins were *** percent, *** percent, *** percent, *** percent, and *** percent, for 1985-87, interim 1987, and interim 1988, respectively.

GS&A expenses *** by *** percent from 1985 to 1986 and by *** from 1986 to 1987, because of **.

Table 11

Income-and-loss experience of U.S. producers on their ATV operations, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

	Interim period ended Sept 30--				
Item	1985	1986	1987	1987	1988
	Value (1,000 dollars)				
Net sales:					
Polaris.....	***	***	*** 1/	*** 1/	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Cost of goods sold:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Gross profit:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
General, selling, and administrative expenses:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Operating income or (loss):					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Interest expense:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Other income (expense), net:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
Net income or (loss) before income taxes:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total	***	***	***	***	***

Table 11--Continued

Income-and-loss experience of U.S. producers on their ATV operations, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

Item	1985	1986	1987	Interim period ended Sept. 30--	
				1987	1988
Share of net sales (percent)					
Cost of goods sold:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Gross profit:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
General, selling, and administrative expenses:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Operating income or (loss):					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Net income or (loss) before income taxes:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Per unit					
Net sales:					
Polaris.....	\$***	\$***	\$***	\$***	\$***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Cost of goods sold:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Gross profit:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***

Table 11--Continued

Income-and-loss experience of U.S. producers on their ATV operations, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

				Interim period ended Sept. 30--	
Item	1985	1986	1987	1987	1988
	Per unit				
General, selling, and administrative expenses:					
Polaris.....	\$***	\$***	\$***	\$***	\$***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***
Operating income or (loss):					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted average..	***	***	***	***	***

1/ Polaris' data for 1987 are for the period Mar. 31, 1987, to Mar. 31, 1988 while data for the interim period are from Jan. 1, 1987, to Sept. 30, 1987. * * *.

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

There was also * * * of *** percent in these expenses from interim 1987 to interim 1988. The company reported that it identifies all major GS&A expenses separately for ATV products. The advertising and promotion expenses are shown in the following tabulation (in thousands of dollars):

Item	Apr. 1 to Dec. 31--		
	1986	1987	Increase from 1986 to 1987
Advertising expense.....	***	***	***
Promotion expense.....	***	***	***

Polaris also * * *. Operating income or (loss) margins in later periods reflect the * * *. The operating income or (loss) margins were *** percent, *** percent, *** percent, *** percent, and *** percent for 1985, 1986, 1987, interim 1987, and interim 1988, respectively. The data include export sales, which on the basis of total units sold, represented approximately *** percent in 1987 and *** percent in 1988 with exports to Canada accounting for *** percent and *** percent, respectively, of total units sold.

Verification of Polaris' data revealed that it had eliminated all purchase "step-up" adjustments as requested for consistency of reporting throughout the period of investigation. Although its allocation

methodology 1/ appeared unorthodox, Polaris' reported profitability was greater in all periods, except one, when compared with conventional allocation procedures 2/ as shown in the following tabulation (in thousands of dollars, except as noted):

	<u>Interim period</u> <u>ended Sept. 30--</u>				
<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1987</u>	<u>1988</u>
	<u>Value (1,000 dollars)</u>				
Cost of goods sold:					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***
Difference.....	***	***	***	***	***
SG&A:					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***
Difference.....	***	***	***	***	***
Operating income or (loss):					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***
Difference.....	***	***	***	***	***
	<u>As a percent of net sales</u>				
Cost of goods sold:					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***
SG&A:					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***
Operating income or (loss):					
Questionnaire.....	***	***	***	***	***
Alternative.....	***	***	***	***	***

KMM.--The company generally * * *.

Net sales of ATVs * * * by *** percent from * * * in 1985 to *** in 1986, then * * * in 1987. * * * from 1985 to 1986; while, * * * to * * * of *** and ***, respectively, in 1986, and all three items were * * * in

1/ Incremental method was used by Polaris whereby newer products absorb the majority of additional costs, and conversely, older products absorb the majority of general, selling and administrative costs because these would have been incurred regardless of the newer products.

2/ Factory overhead is allocated on the basis of direct labor dollars and GS&A is allocated on the basis of cost of sales.

the remaining periods. The company attributes the * * * in profits and the * * * to the * * *.

It was noted that the GS&A rate is * * *. In summary, * * *.

Value of plant, property, and equipment.--The data provided by the producers on their end-of-period investment in productive facilities in which ATVs are produced are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period as of Sept 30--</u>	
				<u>1987</u>	<u>1988</u>
All products:					
Polaris:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Kawasaki:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Total:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
ATVs:					
Polaris:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Kawasaki:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Total:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***

Capital expenditures.--The data provided by the U.S. producers relative to their capital expenditures for land, buildings, and machinery and equipment used in the manufacture of ATVs are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period</u> <u>ended Sept 30--</u>	
				<u>1987</u>	<u>1988</u>
All products:					
Polaris:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Kawasaki:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
ATVs:					
Polaris:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Kawasaki:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
Land and land improvements.....	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***

Research and development expenses.--Research and development expenses relating to ATVs for the U.S. producers are shown in the following tabulation (in thousands of dollars):

<u>Firm</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period ended Sept 30--</u>	
				<u>1987</u>	<u>1988</u>
All products:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***
ATVs:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Total.....	***	***	***	***	***

As with GS&A expenses for Kawasaki, * * *.

Capital and investment.--The Commission requested U.S. producers to describe the actual and potential negative effects of imports of ATVs from Japan on their firm's growth, investment, production and development efforts, and ability to raise capital. Their replies are presented below.

Polaris.--* * *.

KMM.--* * *.

The Question of Threat of Material Injury to an Industry in the United States

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 the merchandise, the Commission shall consider, among other relevant economic 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),

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 subtitle 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."

(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,

(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, and

(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 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation. 1/

1/ The Omnibus Trade and Competitiveness Act of 1988 amended section 771(7)(F) of the Tariff Act of 1930 by adding two items to section 771(7)(F)(i) (19 U.S.C. § 1677 (7)(F)(i)(IX) and (X), and by adding section 771(7)(F)(iii) (19 U.S.C. § 1677(7)(F)(iii) in its entirety. While this investigation was initiated prior to the effective date of the amendments, they are presented below (and discussed in the following text) for information. Section 771(7)(i)(F)(IX) directs that the Commission consider ". . . 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 being 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)." Section 771(F)(i)(X) directs that the Commission consider ". . . 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." Section 771(7)(F)(iii) of the act provides that, in antidumping

Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged injury." The potential for "product-shifting" (item VIII) is not an issue in this investigation since there are no known products subject to investigation or to final orders that are produced in facilities that can be used to make ATVs. Item I is also not at issue as this is an antidumping investigation. The available information on foreign producers' operations (items (II) and (VI) above) and on U.S. inventories of the subject product (item (V)) follow.

The ATV industry in Japan and its ability to generate exports

There are four known producers of ATVs in Japan: Honda Motor Co., Ltd.; Kawasaki Heavy Industries, Ltd. (KHI); Suzuki Motor Co., Ltd.; and Yamaha Motor Co., Ltd. Data on these four producers' capacity and production are presented in table 12.

The capacity of Japanese producers to produce ATVs decreased significantly from 1985 to 1987, declining by 62.2 percent from over 1 million units in 1985 to 381,200 units in 1987. Capacity then declined by 32.1 percent from 303,500 units in January-September 1987 to 206,200 units in January-September 1988. Production declined as well, dropping by 60.0 percent from 719,454 units in 1987 to 287,895 units in 1987. Production then dropped by 52.9 percent from 235,228 units in January-September 1987 to 110,780 units in January-September 1988.

Honda * * *.

KHI also reported * * *.

Suzuki * * *.

Yamaha also reported * * *.

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."

Table 12

ATVs: Production, capacity, and capacity utilization in Japan, by firms, 1985-87, January-September 1987, and January-September 1988

Source	1985	1986	1987	January-September--	
				1987	1988
	Quantity (units)				
Production:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	719,454	433,444	287,895	235,228	110,780
Capacity:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	1,008,900	514,400	381,200	303,500	206,200
	Percent				
Capacity utilization:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Average.....	71.3	84.3	75.5	77.5	53.7

Source: Compiled from data submitted by counsel for the Japanese producers.

Shipments in Japan by the four producers accounted for * * * percent of total shipments by these firms from 1985 to 1987 (table 13). Shipments to the United States, which accounted for between *** and *** percent of exports of ATVs, declined steadily, by *** percent from 1985 to 1987. Shipments to Canada accounted for between *** and *** percent of exports from Japan from 1985 to 1987. These shipments declined by *** percent during the period. End-of-period inventories in Japan declined by *** percent from 1985 to 1987.

Table 13

ATVs: Shipments and inventories of Japanese producers, by firms, 1985-87, January-September 1987, and January-September 1988

(In units)					
Source	1985	1986	1987	January-September-- 1987	1988
Shipments in Japan by--					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Shipments to the United States by--					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Shipments to Canada by--					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Shipments to all other countries by--					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Yearend inventories in Japan:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***

Source: Compiled from data submitted by counsel for the Japanese producers.

U.S. inventories of ATVs from Japan

U.S importers' inventories of ATVs from Japan * * * by *** percent from December 31, 1985, to December 31, 1986, then * * * by *** percent as of December 31, 1987, with another * * * of *** percent reported as of September 30, 1988, compared with inventories as of September 30, 1987 (table 14). Inventories of three-wheel ATVs * * * by *** percent between

Table 14

ATVs: U.S. inventories of imports from Japan, by types and by importers, as of Dec. 31 of 1985-87, Sept. 30, 1987, and Sept. 30, 1988

(In units)					
Type and firm	1985	1986	1987	January-September--	
				1987	1988
3-wheel:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
4-wheel:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***

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

December 31, 1985 and December 31, 1987, then * * * by *** percent as of September 1988 compared with September 30, 1987. Inventories of four-wheel ATVs * * * by *** percent between December 31, 1985 and December 31, 1986, then * * * by *** percent as of December 31, 1987. Inventories then * * * by *** percent as of September 30, 1988 compared with those as of September 30, 1987.

As a share of U.S. importers' shipments, inventories of ATVs * * * from *** percent in 1985 to *** percent in 1986, then * * * to *** percent in 1987. These inventories *** to *** percent of shipments in January-September 1988 compared with *** percent in January-September 1987.

Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Injury

U.S. imports

U.S. imports of ATVs covered by this investigation are provided for in subheading 8703.21.00 of the HTS (they were previously classified in TSUSA item 692.1090). This tariff classification is a basket category that applies to "motor vehicles (except motorcycles) principally designed for the transport of persons," which are not specifically provided for elsewhere, including items other than ATVs. For purposes of this report, data on U.S. imports and U.S. shipments of imports were compiled from responses to the Commission's questionnaires. The four responding importers are believed to account for virtually all imports of the subject product.

Total imports of ATVs from Japan declined steadily from 622,313 units in 1985 to 288,744 units in 1987; a drop of 53.6 percent (table 15). Imports then dropped to 86,039 units in January-September 1988 from 205,304 units in

Table 15

ATVs: U.S. imports from Japan, by types and by importers, 1985-87, January-September 1987, and January-September 1988

(In units)

Type and firm	1985	1986	1987	January-September-- 1987	1988
3-wheel:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
4-wheel:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
Honda.....	***	***	***	***	***
KHI.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Total.....	622,313	424,333	288,744	205,304	86,039

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

January-September 1987, representing a decline of 58.1 percent. Imports of three-wheel ATVs * * * from *** units in 1985 to *** units in 1986, with only *** imports of three-wheel ATVs reported in 1987. Imports of four-wheel ATVs * * * steadily throughout the period as well. Imports of the four-wheel ATVs * * * by *** percent from *** units in 1985 to *** units in 1987. Imports then * * * by *** percent in January-September 1988 compared with those in January-September 1987.

U.S. shipments of imports from Japan

Shipments of imports from Japan declined at a somewhat slower rate than imports, dropping from 546,654 units in 1985 to 333,212 units in 1987, representing a decline of 39.0 percent, and by an additional 49.1 percent in January-September 1988 compared with those in January-September 1987 (table 16). Importers' shipments of three-wheel ATVs * * * from *** units in 1985 to *** units in 1987. Importers' shipments of four-wheel ATVs * * * from *** units in 1985 to *** units in 1986, then * * * to *** units in 1987, representing * * * of *** percent. Shipments of four-wheel ATVs * * * from *** units in January-September 1987 to *** units in January-September 1988, or by *** percent.

The value of importers' shipments of all ATVs declined by 12.8 percent from 1985 to 1987, and by 45.2 percent in January-September 1988 compared with the value of such shipments in January-September 1987. This decline in value was attributable to the decrease in shipments, since average unit values went up by over \$600 from 1985 to 1987 and by \$153 in January-September 1988 compared with the unit value in January-September 1987.

Table 16

ATVs: U.S. shipments of imports from Japan, by types, 1985-87, January-September 1987, and January-September 1988

Type	1985	1986	1987	<u>January-September--</u>	
				1987	1988
<u>Quantity (units)</u>					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	546,654	411,727	333,212	223,208	113,593
<u>Value (1,000 dollars) 1/</u>					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Total.....	786,637	723,003	686,468	446,060	244,405
<u>Unit value</u>					
3-wheel.....	***	***	***	***	***
4-wheel.....	***	***	***	***	***
Average.....	1,439	1,756	2,060	1,998	2,152

1/ F.o.b., U.S. point-of-shipment.

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

Information on shipments of imports of ATVs from Japan by engine size is shown in table 17. Shipments of the importers, like those of the U.S. producers, were concentrated in the above-225cc range. ATVs with engine sizes of above 225cc accounted for *** percent of shipments in 1985, *** percent in 1986, *** percent in 1987, *** percent in January-September 1987, and *** percent in January-September 1988. ATVs with engine sizes in the 160-225cc range was the next largest group, accounting for *** percent of shipments in 1985, *** percent in 1986, *** percent in 1987, *** percent in January-September 1987, and *** percent in January-September 1988.

Table 17

ATVs: U.S. shipments of imports from Japan, by firms and by engine sizes, 1985-87, January-September 1987, and January-September 1988

(In units)					
Type and firm	1985	1986	1987	January-September-- 1987	1988
Honda:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
KMC:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
Suzuki:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
Yamaha:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	***	***	***	***	***
Total:					
50-90cc.....	***	***	***	***	***
91-159cc.....	***	***	***	***	***
160-225cc.....	***	***	***	***	***
Above 225cc.....	***	***	***	***	***
Total.....	546,654	411,727	333,212	223,208	113,593

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

Market shares

In terms of quantity, U.S. shipments of U.S.-produced ATVs increased from *** percent of the market in 1985 to *** percent in 1987 (table 18); these shipments then increased to *** percent of the market in January-September 1988 compared with *** percent in January-September 1987. Shipments of imports from Japan by the four importers declined throughout the period from *** percent of apparent consumption, by quantity, in 1985 to *** percent in 1987. This share then dropped to *** percent in January-September 1988 compared with *** percent in the corresponding period of 1987. Imports from other countries * * * their share from *** percent in 1985 to *** percent in 1987. This share then * * * to *** percent of the market, by quantity, in January-September 1988 compared with *** percent in January-September 1987.

Table 18

ATVs: Shares of apparent U.S. consumption, by sources, 1985-87, January-September 1987, and January-September 1988

Firm	1985	1986	1987	January-September--	
				1987	1988
Percent of quantity					
Polaris.....	***	***	***	***	***
KMM.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Honda.....	***	***	***	***	***
KMC.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Subtotal from Japan..	***	***	***	***	***
* * *, from other					
countries.....	***	***	***	***	***
Total.....	100.0	100.0	100.0	100.0	100.0
Percent of value 1/					
Polaris.....	***	***	***	***	***
KMM.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Honda.....	***	***	***	***	***
KMC.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Subtotal from Japan..	***	***	***	***	***
* * *, from other					
countries.....	***	***	***	***	***
Total.....	100.0	100.0	100.0	100.0	100.0

1/ Value data are f.o.b., U.S. point-of-shipment.

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

In terms of value, U.S. shipments of U.S.-produced ATVs increased from *** percent of the market in 1985 to *** percent of the market in 1987, then rose to *** percent in January-September 1988 compared with *** percent in the corresponding period of 1987. Shipments of imports from Japan by the four importers declined from *** percent of apparent consumption in 1985 to *** percent in 1987, then dropped to *** percent in January-September 1988 compared with *** percent of the market in January-September 1987. Shipments of imports from other countries * * * from *** percent of consumption, by value, in 1985 to *** percent in 1987, then * * * to *** percent in January-September 1988 compared with *** percent in January-September 1987.

Prices

Market characteristics.--The prices of different ATV models vary according to differences in product specifications, including engine displacement, the number of wheels, and the quality of the suspension system. Higher prices may also be obtained for recognized brand names where quality and after-sales service are well known. Brand-name recognition is established by (1) advertising extensively, (2) developing a widespread dealer network that can service ATVs at locations convenient to consumers, and (3) offering a range of ATVs for different uses and age groups. Large suppliers of ATVs to the U.S. market, like Honda and Suzuki, sell a wide range of ATVs to appeal to various market segments, including light- and heavy-utility use, racing, general recreation, and sportsman uses such as hunting, fishing, and camping. 1/

U.S. producers and importers of ATVs publish price lists, quoting prices f.o.b. their U.S. plants and/or warehouses. But to compete in a differentiated product market, these firms offer a variety of sales rebates, 2/ promotions, and incentives to their dealers and distributors that may substantially reduce dealer and distributor purchase prices and/or selling costs. As a result, sales competition is reflected not only in the f.o.b. selling prices, but also in the various sales incentive programs offered. The major types of sales programs are described in the following list: 3/

Direct rebates to dealers based on retail sales.--These rebates are generally paid by the U.S. producers and importers to help move inventories at the dealer level. Rebate amounts differ by ATV and are offered only on specified models sold during stipulated time periods.

Discounts for ordering 100 percent of allocation.--If a dealer orders 100 percent of what it sold in the previous period, some importers discount the price of the newly ordered ATVs.

Dealer holdback.--At the time the dealer purchases its ATVs, some importers arrange to remit to their dealers a percentage (averages about 3 percent) of the dealers' list f.o.b. invoice price when the ATV is sold to a consumer. Such remittances either increase the dealers' profit margins if he sells at the suggested retail price, or allow him to achieve a given margin while selling below the suggested retail price.

Extended floorplanning.--U.S. producers and importers of the subject ATVs pay part or all of the interest on inventory loans to their dealer or distributor customers for a certain period (usually 30 to 90 days) after which the purchasers pay the full interest charge. The domestic producers

1/ Unlike the importers who offer only manual transmissions on the Japanese ATVs, Polaris equips its ATVs with automatic transmissions, which appeal to certain riders.

2/ Rebates are also offered by some of the importers directly to their ATV dealers' retail customers. The retail customer typically has the option of using the rebate as a downpayment on his ATV by signing the rebate over to the dealer, receiving a price reduction equal to the rebate, or receiving a rebate check directly from the importer. In the former two instances, the rebate is remitted to the dealer.

3/ The reported net f.o.b. selling prices discussed later in this section are net of the rebates, discounts, and holdbacks identified here, but do not include the effect of free floorplanning, cooperative advertising, accessory giveaways, or the "other" programs.

and importers of ATVs generally arrange their customers' inventory financing.

Cooperative advertising.--Both the U.S. producers and importers of the subject ATVs reimburse their dealers and distributors for part of the latter's advertising costs, generally up to 50 percent of some advertising dollar limit. The supplier usually specifies the types of advertising that are acceptable and the models that are affected, and requires proof of the advertising expenditures.

Accessory giveaways.--The U.S. producers and importers will discount various ATV-related products to dealers, if the latter sell a certain volume of specified ATV models. Related products could be wearing apparel for ATV riders or accessory equipment for ATVs.

Other programs.--The U.S. producers and importers offer their dealers limited other incentives, including rebates on ATVs sold to government agencies and to ATV safety instructors, rebates on demonstration models, and giveaway items like ATV apparel for donations or as incentives to sponsor racing events.

As sales of * * * ATVs imported from Japan fell during 1985-87, the U.S. importers significantly increased their average expenditures per ATV on the above programs. But sales volumes of the imported ATVs continued to fall during January-September 1988, and the importers then reduced their average sales-incentive expenditures per ATV during this latter period. Total sales of U.S.-produced ATV's * * *. Based on questionnaire responses, the following tabulation shows estimates of the average total expenditure per vehicle during the period of investigation. The figures shown in the tabulation were obtained by dividing each firm's total sales-incentive expenditures for each period by the total number of ATVs it shipped during the period indicated.

Firm	(Per ATV)			January-September	
	1985	1986	1987	1987	1988
U.S. producers:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted-average.....	***	***	***	***	***
U.S. importers:					
Honda.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Weighted-average.....	58.40	113.74	158.33	158.17	124.74

Polaris * * *. In January-September 1988 Polaris' average expenditure per vehicle * * *. On its U.S.-produced ATVs, Kawasaki's average per-vehicle expenditures on sales programs * * *. Importers * * * increased their sales-program expenditures on their imported Japanese ATVs during 1985-87; for all four firms combined the weighted-average per-vehicle cost rose from \$58.40 in 1985 to \$158.33 in 1987, representing an increase of about 170 percent. In

January-September 1988 the average expenditure per vehicle fell by about 21 percent compared with that in the corresponding period of 1987.

During 1985 and 1986, Polaris' average sales-program costs per ATV were * * *, respectively, * * * those of the four importing firms. But in 1987 Polaris' costs per vehicle averaged about * * * than for the imported ATVs, and during January-September 1988 these costs * * * the per-vehicle costs of the foreign ATVs. Kawasaki's per-vehicle expenditures on sales programs for its U.S.-produced ATVs were generally * * * on its imported ATVs, and * * * such costs of the four importing firms.

Four of the sales programs cited--extended floorplanning, cooperative advertising, accessory giveaways, and the "other" programs--affect the dealer's selling/marketing costs, but do not directly affect his purchase price or the U.S. producer's or importer's selling prices. The following tabulation shows, by supplying firm, the average combined expenditure per vehicle for these latter sales programs during the period of investigation. 1/ These figures are only estimates of the actual costs per vehicle. The figures shown in the tabulation, obtained from questionnaire data, were calculated by dividing each firm's combined sales-incentive expenditures for each period by the total number of ATVs it shipped during the period indicated.

Firm	1985	1986	1987	January-September	
				1987	1988
U.S. producers:					
Polaris.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Weighted-average.....	***	***	***	***	***
U.S. importers:					
Honda.....	***	***	***	***	***
Kawasaki.....	***	***	***	***	***
Suzuki.....	***	***	***	***	***
Yamaha.....	***	***	***	***	***
Weighted-average.....	***	***	***	***	***

As shown above, Polaris' per-unit expenditures on the four sales incentive programs were * * *. On the other hand, * * *.

Questionnaire price data.--The Commission requested net U.S. f.o.b. selling price data (adjusted for rebates, discounts, holdbacks, preparation/assembly allowances, and any freight absorption) for ATV models most similar to the Polaris Trailboss 250 2X4 and the Polaris Trailboss 250 4X4 from U.S. producers and importers of the subject ATVs. 2/ The Polaris 2X4 is a two-wheel-drive model and the Polaris 4X4 is a four-wheel-drive model. These two models were chosen by

1/ The majority of the expenditures shown for these four sales programs combined are accounted for by flooring costs and cooperative advertising.

2/ Because Commission staff was not sure which firms, if any, could supply the requested net price information, it also requested f.o.b. invoice selling price data adjusted only for preparation and assembly allowances and any freight absorption (adjusted f.o.b. invoice selling prices). Assembly/preparation allowances range from *** to *** per vehicle and are generally deducted from the dealers' list price and shown on the invoice. * * *.

Commission staff as they accounted for a significant share of Polaris' ATV sales, approximately *** percent during 1985-88, and were produced by Polaris throughout most of the investigation period. The U.S. producers and importers were requested to report the f.o.b. price data separately for sales to dealers and to distributors. The price data were requested for total sales of the models reported, by quarters, during January 1985-September 1988.

Producer/importer.--It was not clear what models of other domestic and imported Japanese ATVs competed with these Polaris models. Accordingly, KMM and the importers were asked to report from the range of ATV models they offered, pricing data for the model(s) that they considered most similar in product characteristics and uses to the two Polaris models. 1/ The responding firms were asked to provide any information on the similarity or dissimilarity of their selected models with the specified Polaris models. Such reported information is discussed in the price comparisons section of this report. Suzuki has argued that none of its imported models competed directly with the Polaris models, but it supplied data on models that were more similar in function than any other.
* * *

The two U.S. producers of ATVs and the U.S. importers of the Japanese ATVs, except for Yamaha, reported their net f.o.b. selling prices. Yamaha was unable to report the requested net selling price data, but did report the requested adjusted f.o.b. invoice selling prices and sales quantities. * * *. As indicated earlier in this report, * * *.

Polaris markets its Trailboss 250 2X4 model for a combination of utility, sportsman, and recreational uses, but sells its Trailboss 250 4X4 model primarily for more demanding utility uses. Polaris equips both of these ATVs with front and rear racks, a hitch, headlight, and tool kit.

The various domestic and imported Japanese ATV models for which the price data were reported are shown in the following tabulation by reporting firm and intended use. 2/ The tabulation also shows the percentage of each firm's total U.S. sales of ATVs during January 1985-December 1988 that were accounted for by each reported model. Product descriptions of the domestic and imported ATV models are shown in appendix D.

1/ Prices based on the petitioner's judgement of most similar competing models were requested of purchasers and are discussed in the price comparisons section.
2/ Importers did not report prices of any Japanese three-wheel ATVs. Commission staff conversations with industry spokesmen suggest that during 1985-87 the three- and four-wheel ATVs competed with each other for the same uses and the same types of customers, although the three-wheelers tended to be lighter, smaller, and have different handling characteristics than the four-wheel models. Since 1985 the relative share of four-wheel ATVs in the U.S. market has risen dramatically. Several factors may have accounted for this shift in demand, including a maturing product market for the three-wheel ATVs, and concern about the safety of three-wheel ATVs. At the end of 1987, the CPSC banned the sale of new three-wheel ATVs in the U.S. market. In the spring of 1988, the importers agreed, as part of their settlement with the CPSC, to buy back from their dealers all unsold three-wheel ATVs.

Vehicle category/ firms	Models 1/	Percent of total sales 2/	Primary intended use(s) 3/
Two-wheel drive:			
U.S. models:			
Polaris.....	Trailboss 250 2x4	***	Utility/sportsman/ recreation
KMM.....	Bayou 300 (KLF 300A/B series)	***	Utility
Japanese models:			
Honda.....	FourTrax 250 (TRX 250)	***	Utility/sportsman
	FourTrax 300 (TRX 300)	***	Utility
Suzuki.....	QuadRunner 250E (LT 250E)	***	Utility
	QuadRunner 300E (LT 300E)	***	Utility
	QuadRunner F250 (LTF 250)	***	Utility
Yamaha.....	MotoFour 225 (YFM 225)	***	Utility
Kawasaki.....	Bayou 185 (KLF 185-A series)	***	Light utility/ sportsman/rec- reation
Four-wheel drive: 4/			
U.S. model:			
Polaris.....	Trailboss 250 4X4	***	Utility
Japanese models:			
Honda.....	FourTrax Foreman 4X4 (TRX 350D)	***	Utility
Suzuki.....	QuadRunner 4WD (LT-4WD 250)	***	Utility
Yamaha.....	Big Bear (YFM 350FW)	***	Utility

1/ The 3-digit number following the letter prefix in the model name refers to the nominal engine displacement, measured in cubic centimeters (cc). For instance, the Trailboss 250 2X4 has a 250cc engine.

2/ Limited coverage on the Honda, Suzuki, and Yamaha ATVs reflect the variety of imported models, including three-wheelers, sold during the period of investigation.

3/ Based on descriptions in sales brochures, the listed uses were the ones most prominently featured. For three of the models shown, more than one use was cited with about equal emphasis.

4/ All of the reported 4-wheel drive ATVs were promoted in the brochures primarily to meet demanding utility needs, although sportsman uses were also cited.

Purchasers.--The Commission also requested prices from purchasers for the two Polaris models, a number of imported Japanese ATV models, and a U.S.-produced Kawasaki model that Polaris alleged to be directly competitive with its two specified models. These prices were net delivered purchase prices supplied by ATV dealers in the top 10 ATV-consuming States. The delivered price data were requested for total purchases of the models reported, by quarters, during January 1986-September 1988. Purchasers were also requested to report the delivered price data for any other imported Japanese ATVs that they felt competed directly with the two Polaris models. The domestic and subject imported ATV models for which delivered price data were requested are shown in the following tabulation:

Two-wheel drive:

U.S. models:

PRODUCT 1: Polaris Trailboss 250 2X4 (Model Nos. W86/W87/W88--7527)

PRODUCT 2: Kawasaki Bayou 300 (KLF 300A/B series) 1/

Japanese models:

PRODUCT 3: Honda FourTrax 200SX/SXJ (TRX 200SX/SXJ)

PRODUCT 4: Suzuki QuadRunner 250E (LT 250EF/EH/EJ)

PRODUCT 5: Suzuki QuadRunner 300E (LT 300EH/EJ)

PRODUCT 6: Yamaha MotoFour (YFM 200DXS/DXT/DXU)

PRODUCT 7: Kawasaki Bayou 185 (KLF 185-A series)

Four-wheel drive:

U.S. model:

PRODUCT 8: Polaris Trailboss 250 4X4 (Model Nos. W87/W88--8127)

Japanese models:

PRODUCT 9: Honda FourTrax Foreman 4X4 (TRX 350D)

PRODUCT 10: Honda FourTrax 4X4 (TRX 300FW)

PRODUCT 11: Suzuki QuadRunner 4WD (LT-4WDJ/WDK 250)

PRODUCT 12: Yamaha Big Bear (YFM 350FWT/FWU)

1/ Polaris identified the Kawasaki Bayou 300 (2-wheel drive) model as an imported Japanese ATV that was directly competitive with its 4-wheel drive Polaris Trailboss 4X4 model. Kawasaki reported in its questionnaire that * * *. Kawasaki does not * * *.

Price trends.--Price trends for the domestic ATVs and the imported Japanese ATVs, except for the Yamaha models, are based on indexes of the reported quarterly weighted-average net f.o.b. selling prices of the ATV models reported sold to dealers by U.S. producers and importers during January 1985-September 1988. These prices are net of rebates, discounts, holdbacks, preparation and assembly allowances, and any freight absorption. 1/ Price trends of the imported Yamaha models are based on indexes of the reported f.o.b. invoice prices adjusted only for assembly/preparation allowances and any freight absorption. Indexes of the price series are shown in table 19 for the U.S.-produced ATVs and tables 20 and 21 for the imported ATVs. 2/ As shown in these tables, prices generally increased for both the domestic and imported Japanese ATVs during the periods reported. Importers indicated in their questionnaire responses that the rising value of the yen and product improvements account for a large part of the price increases. 3/ Price increases in 1988 may also reflect increased costs associated with settlement agreements with the CPSC that were concluded in the spring of 1988. The consent agreements with the CPSC are discussed in the "market factors" section of this report.

U.S. producers' prices.--Based on the reported net f.o.b. prices of U.S. producers, quarterly selling prices of the domestic ATVs to dealers

1/ Kawasaki also reported its prices for both imported and U.S.-produced ATVs net of free flooring and any cooperative advertising and accessory giveaways.

2/ Appendix tables E-1, E-2, and F-1 through F-4 show the net f.o.b. selling prices and the quantities of the domestic and imported ATVs reported sold to dealers, by quarters, during January 1985-September 1988.

3/ U.S. producers and importers of ATVs usually introduce new models when they make significant product changes. ATVs have become increasingly sophisticated and, as a result, the newer models tend to be sold at higher prices than the older models. Product changes in established models, however, are generally modest. Price trends discussed in this section of the report are based on selling prices of established ATV models.

Table 19

U.S.-produced ATVs: Indexes of reported net f.o.b. selling prices to dealers of the Polaris Trailboss 250 2X4 and 250 4X4 ATVs and other domestic ATVs, by quarters, January 1985-September 1988 ^{1/}

Period	2-wheel drive (2X4)				4-wheel drive (4X4)	
	Polaris Trailboss	Kawasaki Bayou 300 series			Polaris Trailboss	
	250 2X4	KLF 300-A1	KLF 300-A2	KLF 300-B1	250 4X4	
1985:						
Jan.-Mar.....						
Apr.-June.....	*	*	*	*	*	*
July-Sept.....						
Oct.-Dec.....						
1986:						
Jan.-Mar.....						
Apr.-June.....						
July-Sept.....						
Oct.-Dec.....	*	*	*	*	*	*
1987:						
Jan.-Mar.....						
Apr.-June.....						
July-Sept.....						
Oct.-Dec.....						
1988:						
Jan.-Mar.....	*	*	*	*	*	*
Apr.-June.....						
July-Sept.....						

^{1/} Polaris was requested to supply net selling price data for its Trailboss 250 2X4 and 250 4X4 ATVs. The other U.S. producer, Kawasaki, was requested to report, * * *. Kawasaki's reported prices were also net of free flooring, cooperative advertising, and accessory giveaways.

Note: First period with data = 100.

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

Table 20

Imported Japanese ATVs: Indexes of reported net f.o.b. selling prices to dealers of selected imported Japanese ATV models that were most similar to the Polaris Trailboss 250 2X4, by quarters, January 1985-September 1988 ^{1/}

Period	<u>Honda</u>		<u>Suzuki</u>			<u>Yamaha 2/</u>
	<u>FourTrax-</u>		<u>QuadRunner-</u>			<u>MotoFour</u>
	250	300	250E	300E	F250	225
1985:						
Jan.-Mar.....						
Apr.-June.....	*	*	*	*	*	*
July-Sept.....						
Oct.-Dec.....						
1986:						
Jan.-Mar.....						
Apr.-June.....						
July-Sept.....						
Oct.-Dec.....	*	*	*	*	*	*
1987:						
Jan.-Mar.....						
Apr.-June.....						
July-Sept.....						
Oct.-Dec.....						
1988:						
Jan.-Mar.....						
Apr.-June.....	*	*	*	*	*	*
July-Sept.....						

See footnotes at the end of the table.

Table 20--Continued

Imported Japanese ATVs: Indexes of reported net f.o.b. selling prices to dealers of selected imported Japanese ATV models that were most similar to the Polaris Trailboss 250 2X4, by quarters, January 1985-September 1988 1/

Period	Kawasaki			
	Bayou 185 series-			
	KLF185-A1	KLF185-A2	KLF185-A3	KLF185-A4
1985:				
Jan.-Mar.....				
Apr.-June.....	*	*	*	*
July-Sept.....				
Oct.-Dec.....				
1986:				
Jan.-Mar.....				
Apr.-June.....				
July-Sept.....				
Oct.-Dec.....	*	*	*	*
1987:				
Jan.-Mar.....				
Apr.-June.....				
July-Sept.....				
Oct.-Dec.....				
1988:				
Jan.-Mar.....				
Apr.-June.....	*	*	*	*
July-Sept.....				

1/ U.S. importers of the Japanese ATVs were requested to report, from the imported ATV models they offered, net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 2X4.

2/ Price indexes of the Yamaha ATVs are based on f.o.b invoice selling prices less only preparation and assembly allowances and any freight absorption. Yamaha was unable to report net f.o.b. selling prices, which would also be less any rebates and discounts, and holdbacks.

Note. Kawasaki's reported prices were also net of any free flooring, cooperative advertising, or accessory giveaways.

Note. First period with data = 100.

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

Table 21

Imported Japanese ATVs: Indexes of reported net f.o.b. selling prices to dealers of selected imported Japanese ATV models that were most similar to the Polaris Trailboss 250 4X4, by quarters, April 1986-September 1988 1/

Period	Honda FourTrax Foreman (TRX 350D)	Suzuki QuadRunner 4WD (LT-4WD 250)	Yamaha 2/ Big Bear (YFM 350FW)
1986:			
Apr.-June.....			
July-Sept.....	*	*	*
Oct.-Dec.....			
1987:			
Jan.-Mar.....			
Apr.-June.....			
July-Sept.....	*	*	*
Oct.-Dec.....			
1988:			
Jan.-Mar.....			
Apr.-June.....	*	*	*
July-Sept.....			

1/ U.S. importers of the Japanese ATVs were requested to report, from the imported ATV models they offered, net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 4X4.

2/ Price indexes of the Yamaha ATVs are based on f.o.b invoice selling prices less only preparation and assembly allowances and any freight absorption. Yamaha was unable to report net f.o.b. selling prices, which would also exclude any rebates, discounts, and holdbacks.

3/ No sales to dealers of this specific model were reported during this period.

Note. Kawasaki reported * * *.

Note. First period with data = 100.

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

generally increased during the period reported (table 19). Selling prices of Polaris' Trailboss 250 2X4 to dealers * * * by *** percent during October 1985-September 1988. 1/ Prices of the U.S.-produced Kawasaki Bayou 300-A1 and B1 models sold to dealers each * * * by about *** percent during the respective periods reported, April 1985-September 1986 and October 1987-September 1988. Prices of the Bayou 300-A2 model * * * by *** percent during July 1986-September 1987. The Bayou 300 series was reported by Kawasaki to be the most similar of its domestic ATVs to the Polaris 2X4 model. Prices of the Polaris 250 4X4 * * * during October 1986-September 1988. 2/

U.S. importers' prices of Japanese ATVs.--Based on the reported net f.o.b. selling prices of U.S. importers, except for Yamaha which reported only partially adjusted f.o.b. prices, quarterly prices of the imported Japanese ATVs to dealers generally increased during the periods reported. For the imported Japanese models most similar to but not necessarily directly competitive with the Polaris Trailboss 250 2X4, selling prices of seven of the reported foreign ATV models increased during the periods reported; prices of another Japanese model remained unchanged during the period reported; and prices of two other Japanese models fell (table 20). The price increases ranged from an increase of *** percent during January 1985-September 1986 * * * to an increase of *** percent during January 1985-September 1988 * * *. Selling prices of the imported Kawasaki Bayou 185-A1 model * * * during January-December 1985. * * * during October 1985-March 1987, and prices of the Kawasaki Bayou 185-A3 * * * during July 1986-September 1987. Prices of the Kawasaki Bayou 185-A4 * * * during July 1987-September 1988.

For the imported Japanese models most similar to but not necessarily directly competitive with the Polaris Trailboss 250 4X4, selling prices * * * (table 21). Selling prices of the Honda FourTrax Foreman 4X4 * * * during July 1986-September 1988; prices of the Suzuki QuadRunner 4WD * * * during April 1986-September 1988; and prices of the Yamaha Big Bear * * * during October 1986-September 1988.

1/ * * *.

2/ * * *.

Price comparisons.--Price comparisons between the U.S.-produced Polaris Trailboss 250 2X4 and Polaris 250 4X4 and imported ATVs are based on the quarterly net f.o.b. price data for sales to dealers reported by Polaris and by the importers (tables 22-27). 1/2/ The imported models were chosen by the respondents from the ATVs they offered as those most similar to the specified Polaris models. Although some overlap exists between these models and the imported models selected by the petitioner, the question of which models compete was not resolved. Comparisons of prices of the individual models should be made with caution. Product specifications for the reported domestic and imported ATVs are presented in appendix D. The responding firms were asked to comment in their questionnaire returns on the similarity of the ATV models they selected with the domestic models, and these comments are discussed below. In addition, ATV dealers were requested in purchaser questionnaires to comment on the similarity of domestic and imported ATV models and their comments are also included.

In addition to price comparisons between the domestic and imported Japanese ATVs based on net f.o.b. selling prices, price comparisons are also available based on net delivered prices to dealers reported in purchaser questionnaires. The latter price comparisons, however, were based on far fewer ATV units, and were calculated on purchases in each of the following States and combined-State areas: each of the top three ATV-consuming States of California, Texas, and Florida, and the combined-State areas of Wisconsin/Minnesota and Alabama/Arkansas/Louisiana/Mississippi/Tennessee. 3/ Because of the limited number of ATVs covered by the purchaser price data, net delivered price comparisons between the Polaris and imported Japanese ATVs reported by dealers are not shown but will be discussed with the comparisons based on the reported net f.o.b. prices.

Seventy-three dealers discussed in their questionnaire responses the major differences between the Polaris and imported Japanese ATVs, and identified any of the imported models that, in their sales experience, competed with the Polaris Trailboss 250 2X4 and 4X4 models. The most frequently cited differences were the two-stroke engine and chain drive of the Polaris ATVs versus the four-stroke engines and shaft drive of the majority of the imported models. Most dealers indicated that the engines and drives of the imported models were more complex and advanced, resulting in a quieter running machine that was more comfortable

1/ Price comparisons between the Polaris and Yamaha models are based on the reported f.o.b. invoice selling prices adjusted only for preparation and assembly allowances and any freight absorption. Reported prices of the imported Yamaha models are an exception. Yamaha was not able to report its net f.o.b. selling prices, which also take account of rebates, discounts, and holdbacks. Polaris reported both adjusted and net f.o.b. selling prices. To make price comparisons between the Polaris and imported Yamaha models on similarly adjusted prices, the adjusted invoice prices were used.

2/ * * *. Dealers indicated in their purchaser questionnaire responses that freight costs based on delivered prices averaged less than 3 percent and were not an important factor in sourcing ATVs.

3/ Fifty-eight dealers provided usable net delivered pricing data, but not necessarily for every period or product requested. Total purchases of ATVs by these responding dealers during January 1987-September 1988 accounted for 3 percent of all U.S. producers' ATVs shipments in the United States during this period and 3 percent of all U.S. imports of the subject ATVs during this period. The pricing data were based on purchases of specified models during January 1986-September 1988. The total number of these specific ATVs reported accounted for 1 percent of all U.S. producers' ATVs shipments in the United States during this latter period and 0.5 percent of all U.S. imports of the subject ATVs during this same period.

for the rider to operate and easier for him to maintain. In addition, dealers cited the belt-driven automatic transmission of the Polaris models compared with the gear-operated manual transmissions of the imported models as important differences. Dealers also mentioned the greater range of engine sizes of the foreign ATVs compared with the Polaris models, which enabled the Japanese ATVs to appeal to a wider range of consumers. Polaris dealers frequently mentioned the automatic transmissions and footboards as significant safety features that, combined with better suspension, led to easier handling and tighter turning radius for the Polaris models compared with the Japanese models. These latter dealers also promoted the Polaris as a "made in America" product, which they felt was a selling advantage. Dealers of the imported ATVs cited more advanced engine design, more attractive styling, and superior craftsmanship of the imported models compared with the Polaris models. They believed this resulted in fewer repairs and longer lasting machines for the imported models. Several dealers attached to their purchaser questionnaire responses detailed comments regarding differences between the Polaris and Japanese ATVs. These comments are summarized in appendix G.

Although they reported significant product differences between the domestic and imported Japanese ATVs, 22 of the 73 responding dealers cited specific Japanese ATV models that they felt competed with the Polaris Trailboss 250 2X4 and 4X4 models. 1/ In competition with the Polaris 2X4 model, these dealers cited, in descending order of frequency, the Suzuki QuadRunner 250E model; the Honda FourTrax 300, 250, and 200 models; and the Yamaha MotoFour 200 and 225 models. In competition with the Polaris 4X4 model, they cited most frequently the Honda FourTrax Foreman 350 and FourTrax 300 4X4's, the Yamaha Big Bear 350FW, and the Suzuki QuadRunner 4WD model. 2/

Price comparisons with the Polaris Trailboss 250 (2X4).--Fifty-seven quarterly f.o.b. price comparisons were possible between the U.S.-produced Polaris 2X4 ATV and ATVs imported from Japan that were sold directly to dealers, for the period October 1985-September 1988 (tables 22-25). Sixteen quarterly price comparisons involved Honda ATVs (table 22), 12 involved Suzuki ATVs (table 23), 12 involved a Yamaha ATV (table 24), and 17 involved Kawasaki ATVs (table 25). Of the 57 quarterly price comparisons, 37 showed that prices of the imported Japanese ATVs were * * * the Polaris 250 2X4 ATV, ranging from *** to *** percent * * * prices of the Polaris model. Twenty price comparisons showed

1/ Eleven of the 22 were Polaris ATV dealers. The remaining 51 dealers of the 73, none of whom were Polaris dealers, indicated that the Japanese ATV models did not compete directly with the Polaris Trailboss 2X4 and 4X4 models because of significant product differences between the imported and domestic ATVs.

2/ Purchasers contacted by Commission staff in connection with lost sales allegations also noted differences between the Polaris and imported Japanese ATVs, but cited the following Japanese ATV models as similar to the domestic machines. Comparable with the Polaris Trailboss 250 2X4 were the Honda FourTrax 250 model and the Yamaha MotoFour 225 and 250 models. Comparable to the Polaris Trailboss 250 4X4 were the Honda FourTrax Foreman 350 4X4, the Suzuki QuadRunner 4WD, and the Yamaha Big Bear 350FW.

that prices of the imported Japanese ATVs were higher than prices of the Polaris model. 1/

F.o.b. price comparisons with the imported Honda ATVs involved the Honda FourTrax 250 and the Honda FourTrax 300 (table 22). Eleven of the quarterly price comparisons involved the Honda FourTrax 250 and five involved the Honda FourTrax 300. * * *. Four other price comparisons showed the imported model to be priced * * * than the domestic model. Initially the Honda 250 model was priced * * * than the Polaris model, in October-December 1985, but then was priced * * * than the domestic model throughout 1986 as the Honda price * * *. Throughout 1987 and January-September 1988, however, the Honda 250 model was priced * * * the Polaris 250 model. During these latter periods, prices of the Polaris model generally * * *. One of the five price comparisons involving the Honda 300 model showed the imported ATV to be priced * * * than the Polaris model, during January-March 1988, by a margin of *** per vehicle, or * * * than the price of the Polaris ATV. Four other price comparisons showed this somewhat larger Honda 300 model to be priced * * * than the Polaris 250 model. * * *. Thereafter prices of the Honda 300 model * * * at a faster rate than prices of the Polaris model, resulting in * * *. Based on their respective sales brochures, the Polaris and two Honda ATV models are sold for a combination of utility and sportsman uses. 2/

1/ Although not shown, 50 price comparisons were possible in the two-wheel drive category between the domestic Kawasaki Bayou 300 models and the imported Honda, Suzuki, and Yamaha ATVs most similar to the Polaris 2X4. Price comparisons involving the Honda and Suzuki models were based on net prices, but price comparisons with the Yamaha model were based on the adjusted invoice prices. Of the 50 comparisons, 38 showed the reported Japanese models to be priced * * * than the domestic Kawasaki models, with margins ranging from less than *** to *** percent. By comparison, net f.o.b. selling prices of the Polaris Trailboss 250 2X4 were * * * net prices of the U.S.-produced Kawasaki Bayou 300 models, by margins ranging from *** to *** percent. Prices of the imported Kawasaki Bayou 185 series were * * * prices of the larger domestic Kawasaki Bayou 300 * * *, with margins ranging from *** to *** percent.

2/ Based on net delivered prices reported by dealers in their purchaser questionnaires, 14 quarterly price comparisons were possible between these two Honda models and the Polaris 250 2X4 during January 1986-September 1988. Six of these comparisons showed that the imported ATVs were priced * * * than the domestic ATV, by margins ranging from *** to *** percent. In addition, net delivered price comparisons were also possible between the Honda FourTrax 200 and the Polaris Trailboss 250 2X4 during the same period. * * * quarterly price comparisons involving the latter two ATV models showed that the smaller imported ATV was priced * * * the domestic model, by margins ranging from *** to *** percent. The majority of these price comparisons occurred in the five Southern States and in Minnesota and Wisconsin.

Table 22

Price comparisons: Net f.o.b selling prices of the U.S.-produced Polaris Trailboss 250 2X4 and Honda ATVs imported from Japan that were sold to dealers, and margins of under/(over) selling, by quarters, October 1985-September 1988 1/

Period	Polaris Trailboss 250 (2X4)	Honda FourTrax 250	Average margins of under/(over) selling 2/		Honda FourTrax 300	Average margins of under/(over) selling 2/	
	-----Per vehicle-----		Percent		----Per vehicle----		
<u>Percent</u>							
1985:							
Oct.-Dec.....							
1986:							
Jan.-Mar.....	*	*	*	*	*	*	*
Apr.-June.....							
July-Sept.....							
Oct.-Dec.....							
1987:							
Jan.-Mar.....							
Apr.-June.....	*	*	*	*	*	*	*
July-Sept.....							
Oct.-Dec.....							
1988:							
Jan.-Mar.....							
Apr.-June.....	*	*	*	*	*	*	*
July-Sept.....							

1/ Price comparisons in this table are based on net f.o.b. selling prices reported by U.S. producers and importers of the subject ATVs. The domestic producers and importers were requested to supply net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 2X4 ATVs.

2/ Figures in parentheses indicate that the price of the domestic product was less than the price of the imported Japanese ATV.

3/ No units of the specific model were reported sold to dealers during this period.

Note: Honda reported that it has replaced the TRX 250 model with the TRX 300J model.

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

Table 23

Price comparisons: Net f.o.b selling prices of the U.S.-produced Polaris Trailboss 250 2X4 and Suzuki ATVs imported from Japan that were sold to dealers, and margins of under/(over) selling, by quarters, October 1985-September 1988 ^{1/}

Period	Polaris Trailboss 250 2X4	Suzuki QuadRunner 250E	Average margins of under/(over) selling ^{2/}		Suzuki QuadRunner 300E	Average margins of under/(over) selling ^{2/}	
	<u>-----Per vehicle-----</u>		<u>Percent</u>		<u>----Per vehicle----</u>		<u>Percent</u>
1985:							
Oct.-Dec.....							
1986:							
Jan.-Mar.....	*	*	*	*	*	*	*
Apr.-June.....							
July-Sept.....							
Oct.-Dec.....							
1987:							
Jan.-Mar.....	*	*	*	*	*	*	*
Apr.-June.....							
July-Sept.....							
	Polaris Trailboss 250 2X4	Suzuki QuadRunner F250	Average margins of under/(over) selling ^{2/}				
	<u>-----Per vehicle-----</u>		<u>Percent</u>		<u>-----Per vehicle-----</u>		<u>Percent</u>
1987:							
Oct.-Dec.....							
1988:							
Jan.-Mar.....	*	*	*	*	*	*	*
Apr.-June.....							
July-Sept.....							

^{1/} Price comparisons in this table are based on net f.o.b. selling prices reported by U.S. producers and importers of the subject ATVs. The domestic producers and importers were requested to supply net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 2X4.

^{2/} Figures in parentheses indicate that the price of the domestic product was less than the price of the imported Japanese ATV.

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

Quarterly price comparisons between the Polaris 2X4 and the imported Suzuki ATVs involved the following three Japanese ATV models: the Suzuki QuadRunner 250E, the Suzuki QuadRunner 300E, and the Suzuki QuadRunner F250 (table 23). * * *. For instance, Suzuki noted that its reported models have four-stroke engines versus the two-stroke engine in the Polaris model. The two engines are different in operating characteristics, power, efficiency, weight, noise, and maintenance requirements. The Suzuki ATVs have manual transmissions with several, selectable gears (similar to motorcycles), whereas the Polaris ATV has an automatic variable-speed transmission (similar to snowmobiles). In addition, Suzuki cited differences in styling, fit, and finish that further differentiated its imported models from the Polaris model. 1/

* * *. Based on Suzuki's sales brochures for these models, the imported ATVs are sold primarily for utility uses. 2/

Quarterly price comparisons between the Polaris 2X4 and the imported Yamaha ATV involved a single foreign model, the Yamaha MotoFour 225 (table 24). 3/ The Yamaha ATV is marketed primarily for utility uses. * * *. 4/

Price comparisons with the imported Kawasaki ATVs involved the Kawasaki Bayou 185-A series, * * * (table 25). Kawasaki markets its Bayou 185 models for light-utility, sportsman, and recreation uses. Its engine is significantly smaller than the Polaris 250. * * *. * * *. 5/

1/ Yamaha has asserted similar differences between its reported models and the Polaris ATVs.

2/ Based on net delivered prices reported by dealers in their purchaser questionnaires, 34 quarterly price comparisons were possible between the Suzuki 250E and 300E models and the Polaris 250 2X4 during January 1986-September 1988. Twenty-two of these comparisons showed that the imported ATVs were priced * * * than the domestic ATV, by margins ranging from *** to *** percent.

3/ Price comparisons with the Yamaha model were based on adjusted f.o.b. invoice selling prices of the Polaris and Yamaha models. These prices net out any preparation and assembly allowances and freight absorption, but do not take account of rebates, discounts, or holdbacks, free flooring, cooperative advertising, and accessory giveaways. During 1985-86, Yamaha offered * * *.

4/ Based on net delivered prices reported by dealers in their purchaser questionnaires, net delivered price comparisons were also possible between the Yamaha MotoFour 200 and the Polaris Trailboss 250 2X4 during January 1986-September 1988. * * * quarterly price comparisons involving the latter two ATV models showed that the imported ATV was priced * * * than the domestic model, by margins ranging from *** to *** percent. The majority of these price comparisons occurred in the five Southern States and in Minnesota and Wisconsin.

5/ Net prices of the imported Kawasaki ATVs also accounted for any free flooring, cooperative advertising, and accessory giveaways and, as a result, tend to overstate somewhat the * * *. These premiums offered by Kawasaki were * * *.

Table 24

Price comparisons: Net f.o.b. selling prices of the U.S.-produced Polaris Trailboss 250 2X4 and Yamaha ATVs imported from Japan that were sold to dealers, 1/ and margins of under/(over) selling, by quarters, October 1985-September 1988 2/

Period	Polaris Trailboss 250 2X4	Yamaha MotoFour 225	Average margins of under/(over) selling <u>3/</u>					
	<u>-- Per vehicle--</u>			<u>--Percent--</u>				
1985:								
Oct.-Dec.....								
1986:								
Jan.-Mar.....								
Apr.-June.....	*	*	*	*	*	*	*	*
July-Sept.....								
Oct.-Dec.....								
1987:								
Jan.-Mar.....								
Apr.-June.....								
July-Sept.....								
Oct.-Dec.....	*	*	*	*	*	*	*	*
1988:								
Jan.-Mar.....								
Apr.-June.....								
July-Sept.....								

1/ Price comparisons are based on the invoice selling prices of the domestic and imported Yamaha ATVs adjusted only for any preparation and assembly allowances and freight absorption. Yamaha was not able to report prices net of discounts and allowances.

2/ The domestic producers and importers were requested to supply net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 2X4.

3/ Figures in parentheses indicate that the price of the domestic product was less than the price of the imported Japanese ATV.

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

Table 25

Price comparisons: Net f.o.b selling prices of the U.S.-produced Polaris Trailboss 250 2X4 and Kawasaki ATVs imported from Japan that were sold to dealers, and margins of under/(over) selling, by quarters, October 1985-September 1988 ^{1/}

Period	Polaris Trailboss 250 2X4	Kawasaki Bayou 185-A1	Average margins of under/(over) selling	Kawasaki Bayou 185-A2	Average margins of under/(over) selling
	-----Per vehicle-----		Percent	-----Per vehicle-----	
1985:					
Oct.-Dec.....					
1986:					
Jan.-Mar.....	*	*	*	*	*
Apr.-June.....					
July-Sept.....					
Oct.-Dec.....					
1987:					
Jan.-Mar.....	*	*	*	*	*
Apr.-June.....					
July-Sept.....					
Oct.-Dec.....					
1988:					
Jan.-Mar.....					
Apr.-June.....	*	*	*	*	*
July-Sept.....					

See footnotes at the end of the table.

Table 25--Continued

Price comparisons: Net f.o.b selling prices of the U.S.-produced Polaris Trailboss 250 2X4 and Kawasaki ATVs imported from Japan that were sold to dealers, and margins of under/(over) selling, by quarters, October 1985-September 1988 1/

Period	Polaris Trailboss 250 2X4	Kawasaki Bayou 185-A3	Average margins of under/(over) selling		Kawasaki Bayou 185-A4	Average margins of under/(over) selling	
	-----Per vehicle-----		Percent		-----Per vehicle-----		Percent
1985:							
Oct.-Dec.....							
1986:							
Jan.-Mar.....	*	*	*	*	*	*	*
Apr.-June.....							
July-Sept.....							
Oct.-Dec.....							
1987:							
Jan.-Mar.....							
Apr.-June.....	*	*	*	*	*	*	*
July-Sept.....							
Oct.-Dec.....							
1988:							
Jan.-Mar.....							
Apr.-June.....	*	*	*	*	*	*	*
July-Sept.....							

1/ Price comparisons in this table are based on net f.o.b. selling prices reported by U.S. producers and importers of the subject ATVs. The domestic producers and importers were requested to supply net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 2X4. The net prices reported by Kawasaki also accounted for any free flooring, cooperative advertising, and accessory giveaways.

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

Price comparisons with the Polaris Trailboss 250 (4X4).--Twenty-four quarterly f.o.b. price comparisons were possible between the U.S.-produced Polaris 4X4 ATV and ATVs imported from Japan, during October 1986-September 1988 (tables 26 and 27). * * *. Kawasaki reported in its questionnaire response that * * *. Of the 24 quarterly price comparisons, 4 showed that prices of the imported Japanese ATVs were * * * than the Polaris 250 4X4 ATV, ranging from * * *. Twenty price comparisons showed that prices of the imported Japanese ATVs were * * * than prices of the Polaris model.

Quarterly price comparisons between the Polaris Trailboss 250 4X4 and the imported Honda ATV involved only a single imported Japanese model, the Honda FourTrax Foreman 4X4--TRX 350D (table 26). * * *. 1/ Based on Honda's sales brochure, the FourTrax Foreman 4X4 is marketed primarily for heavy utility uses.

Quarterly price comparisons with the imported Suzuki ATV involved a single imported Japanese model, the Suzuki QuadRunner LT-4WD 250 (table 26). Suzuki reported in its questionnaire response that none of its ATVs compete directly with the Polaris ATVs, 2/ but this model was the closest in product characteristics to the Polaris model. Based on sales brochures, the QuadRunner 4WD is marketed primarily for utility uses. * * *. 3/ * * *.

1/ Based on net delivered prices reported by dealers in their purchaser questionnaires, 19 quarterly price comparisons were possible between the Honda Foreman and the Polaris 250 4X4 during January 1986-September 1988. * * * of these comparisons showed that the imported ATV was priced * * * than the domestic ATV, by *** percent. In addition, net delivered price comparisons were also possible between the Honda FourTrax 300 4X4 and the Polaris Trailboss 250 4X4 during the same period. Eleven of the possible 14 quarterly price comparisons involving the latter two ATV models showed that the imported ATV was priced * * * than the domestic model, by margins ranging from *** to *** percent. The majority of these price comparisons occurred in the five Southern States and in Minnesota and Wisconsin.

2/ Alleged differences between the reported Suzuki model and the Polaris 4X4 are the same as those cited in the discussion of price comparisons involving the Polaris 2X4.

3/ Based on net delivered prices reported by dealers in their purchaser questionnaires, 16 quarterly price comparisons were possible between these Suzuki and Polaris ATV models during January 1986-September 1988. Twelve of the price comparisons showed that the imported ATV was priced * * * than the domestic ATV, by margins ranging from *** to *** percent.

Table 26

Price comparisons: Net f.o.b selling prices of the U.S.-produced Polaris Trailboss 250 4X4 and Honda and Suzuki ATVs imported from Japan that were sold to dealers, and margins of under/(over) selling, by quarters, October 1986-September 1988 ^{1/}

Period	Polaris Trailboss 250 4X4	Honda FourTrax Foreman 4X4 (TRX 350D)	Average margins of under/(over) selling ^{2/}	Suzuki QuadRunner 4WD (LT- 4WD 250)	Average margins of under/(over) selling ^{2/}
	-----Per vehicle-----		Percent	----Per vehicle----	
1986:					
Oct.-Dec.....					
1987:					
Jan.-Mar.....	*	*	*	*	*
Apr.-June.....					
July-Sept.....					
Oct.-Dec.....					
1988:					
Jan.-Mar.....	*	*	*	*	*
Apr.-June.....					
July-Sept.....					

^{1/} Price comparisons in this table are based on net f.o.b. selling prices reported by U.S. producers and importers of the subject ATVs. The domestic producers and importers were requested to supply net selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 4X4.

^{2/} Figures in parentheses indicate that the price of the domestic product was less than the price of the imported Japanese ATV.

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

Table 27

Price comparisons: F.o.b selling prices of the U.S.-produced Polaris Trailboss 250 4X4 and a specified Yamaha ATV imported from Japan that were sold to dealers, 1/ and margins of under/(over) selling, by quarters, October 1986-September 1988 2/

Period	Polaris Trailboss 250 4X4	Yamaha Big Bear (YFM 350FW)	Average margins of under/(over) selling <u>3/</u>
	<u>-----\$ Per Vehicle-----</u>		<u>Percent</u>
1986:			
Oct.-Dec.....	*	*	*
1987:			
Jan.-Mar.....			
Apr.-June.....			
July-Sept.....	*	*	*
Oct.-Dec.....			
1988:			
Jan.-Mar.....			
Apr.-June.....	*	*	*
July-Sept.....			

1/ Price comparisons are based on the invoice selling prices of the domestic and imported Yamaha ATVs adjusted only for any preparation and assembly allowances and freight absorption. Yamaha was not able to report prices net of discounts and allowances.

2/ The domestic producers and importers were requested to supply the selling price data for their largest selling model(s) that was (were) most similar in product specifications to the Polaris Trailboss 250 4X4.

3/ Figures in parentheses indicate that the price of the domestic product was less than the price of the imported Japanese ATV.

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

Quarterly price comparisons with the imported Yamaha ATV involved a single imported Japanese model, the Yamaha Big Bear--YFM 350FW, which has a significantly larger engine than the Polaris 250 4X4 (table 27). 1/ Based on sales brochures, the Big Bear model is marketed for heavy-utility use. 2/ * * *.

1/ Price comparisons between the Polaris 4X4 ATV and the Yamaha YFM 350FW ATV are based on invoice selling prices adjusted only for any preparation and assembly allowances and any freight absorption.

2/ The difference in product performance between the four-stroke engine in the Yamaha Big Bear model and the two-stroke engine in the Polaris 4X4 is similar to that noted in price comparisons involving the Polaris 2X4.

Transportation factors

U.S. producers and importers reported in their questionnaire responses that the domestic and imported ATVs are generally shipped by truck to their U.S. customers, and freight costs average less than 5 percent of the f.o.b. selling prices. Kawasaki characterized such costs as insignificant. All four major importers reported * * *. Polaris alleged * * *. 1/ Polaris reported shipping * * *. A more complete discussion of the various distribution systems is discussed earlier in this report in the section on Channels of Distribution.

Kawasaki and Suzuki reported * * *; Honda and Yamaha reported * * *. Polaris also reported * * *.

Polaris * * *. The importers, * * *.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Japanese yen increased relative to the U.S. dollar by approximately 93 percent during January 1985-September 1988 (table 28)--the latest period for which data were available. An approximately 15-percent deflation rate in Japan compared with about 4 percent inflation in the United States during this period, however, resulted in less appreciation of the Japanese yen in real terms compared with nominal terms. In real terms, the Japanese yen appreciated against the U.S. dollar during January 1985-September 1988 by approximately 58 percent, or 35 percentage points less than the appreciation in nominal terms.

1/ Sixty-eight dealers responded to questions about transportation costs in the purchaser questionnaire. These dealers were located in 10 States ranging from California to Florida and Louisiana to Minnesota. Based on their responses, dealers purchasing the Polaris ATVs paid freight costs averaging about *** percent of the delivered price, whereas dealers purchasing the imported Japanese ATVs or those produced in the United States by Kawasaki had freight costs averaging about *** percent of the delivered price. Although this freight difference results in large part from the different distribution systems, most of the responding dealers reported that transportation costs were not an important factor in their sourcing decisions for ATVs. In addition, the dealers generally responded that importers and U.S. producers did not absorb freight costs to the dealers' locations.

Table 28

U.S.-Japanese exchange rates: 1/ Indexes of the nominal and real exchange rates between the U.S. dollar and the Japanese yen, and indexes of producer prices in the United States and Japan, 2/ by quarters, January 1985-September 1988

Period	Nominal- exchange- rate index	Real- exchange- rate index	Japanese Producer Price index	U.S. Producer Price Index
1985:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	102.8	101.5	98.8	100.1
July-September.....	108.0	106.0	97.5	99.4
October-December....	124.4	117.8	94.7	100.0
1986:				
January-March.....	137.2	129.2	92.8	98.5
April-June.....	151.5	140.1	89.4	96.6
July-September.....	165.4	149.7	87.0	96.2
October-December....	160.8	143.5	86.1	96.5
1987:				
January-March.....	168.2	147.4	85.6	97.7
April-June.....	180.6	154.5	84.9	99.2
July-September.....	175.4	150.2	86.0	100.3
October-December....	189.8	161.3	85.7	100.8
1988:				
January-March.....	201.3	168.4	84.7	101.2
April-June.....	205.1	168.1	84.4	103.0
July-September <u>4/</u> ...	193.2	158.0	85.2	104.2

1/ Based on exchange rates expressed in U.S. dollars per Japanese yen.

2/ The producer price indexes are aggregate measures of inflation at the wholesale level in the United States and Japan. Quarterly producer prices in the United States fluctuated but rose by 4.2 percent during January 1985-September 1988. Most of this increase occurred during April-September 1988. In contrast, producer prices in Japan fell by 14.8 percent during January-September 1988.

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates as measured by the producer price indexes in the United States and Japan.

4/ Based on data only for July and August.

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

Note: January-March 1985=100.

Lost sales

Final investigation.--During the final investigation, U.S. producers of ATVs did not report any specific lost sales allegations regarding imports of the Japanese ATVs. Polaris did provide the names of 18 dealers, in addition to those supplied in the preliminary investigation, who either stopped selling the Polaris ATVs, or, as potential new dealers, refused to carry the Polaris ATVs. The Commission staff was able to contact 16 of the 18 dealers cited; 1/ conversations with representatives of the companies contacted are discussed below.

* * *, has sold the Polaris ATVs since * * *; it is the only brand of ATV carried by the firm. According to * * *, owner of the firm, * * * has sold about *** Polaris ATVs during the last 2 years, but plans to drop its ATV line shortly. * * * cited concerns about possible liability claims as the major reason for deciding to discontinue sales of ATVs, despite feeling that the Polaris models are safer than the Japanese ATVs. 2/ * * * is concerned that Polaris appears to be passing more responsibility for rider safety to the dealers. He stated his belief that Polaris convinced the CPSC to require ATV retailers to adhere to several new sales requirements. 3/ In addition to safety concerns, * * * stated that generally lower retail prices of the Japanese ATVs compared with his prices of the Polaris models also contributed to his decision to stop carrying ATVs. * * * assumed that retailers of the Japanese ATVs paid less for their vehicles than he paid for the Polaris models. Although he could not cite competing retail or dealer purchase prices, * * * identified the Honda FourTrax 250 as competing with the Polaris Trailboss 250 2X4 and the Honda FourTrax Foreman 4X4 as competing with the Polaris Trailboss 250 4X4.

* * *, carried Polaris ATVs during * * *, selling about *** units during this period before dropping ATVs altogether at the end of * * *. In * * *, * * * began selling ATVs again, offering the Kawasaki utility models. 4/ * * * cited two major reasons for dropping the Polaris ATVs. First he felt the Polaris models did not hold up well to the terrain. According to * * *, Polaris built its ATVs with snowmobile parts and design, and although Polaris has improved its ATVs, it is still behind the Japanese who have sold ATVs in the United States for more than 20 years. Secondly, * * * was concerned about possible liability claims against his firm because of accidents on the Polaris ATVs that resulted from what he

1/ Despite repeated telephone calls the Commission staff was unable to contact representatives of the following two ATV dealers: * * *.

2/ * * * noted two major safety features of the Polaris models: A footboard and an automatic transmission instead of a footpeg and clutch on the Japanese models. The footboard protects the rider's foot from accidentally slipping under the wheel. The automatic transmission provides smooth shifting between gears without causing the vehicle to rear backwards, which tends to happen with the clutch mechanisms of the Japanese models.

3/ * * * indicated that the retailer must display a 4 X 6 foot sign stating several rider restrictions and potential dangers of ATVs, including a statement citing the number of deaths attributed to riding ATVs during the most recent 5 years. In addition, retailers are responsible for certifying ATV buyers who have passed a rider safety course.

4/ * * *.

felt was poor design of the vehicles. Commenting on the impact of the CPSC rulings, * * * indicated that the unfavorable publicity accompanying the CPSC decisions killed the sport segment of the U.S. ATV market.

* * *, used to sell Polaris ATVs but dropped the product about 2 years ago and has not sold any ATVs since then. A few months after the ATVs were discontinued the dealership was sold, and the current owners were unable to explain why the Polaris ATVs were discontinued. The new owners have not been contacted by Polaris or any other supplier of ATVs.

* * *, has sold Kawasaki motorcycles and ATVs for about the last 5 years, selling about *** ATVs in 1988. According to * * *, owner of the firm, Polaris approached him in * * * to carry the Polaris brand but he refused. * * * indicated that he is a loyal Kawasaki dealer, and that in 1987 and 1988 the Kawasaki vehicles, which are made in the United States, have become more price competitive vis-a-vis the imported Japanese brands. He cited the rising value of the Japanese yen against the U.S. dollar as the major reason for the more favorable relative prices. Commenting on the CPSC rulings, * * * felt the adverse publicity has dampened demand for ATVs.

* * *, sells Polaris and Artic Cat snowmobiles and up to * * * sold Polaris ATVs. The company sold about *** of the Polaris ATVs in 1986 but has not carried ATVs since dropping the Polaris models * * *. According to * * *, the company stopped carrying the Polaris ATVs primarily because their floor space was too limited to justify the limited ATV sales volume. In addition, * * * stated that the flooring costs were too high. * * * also felt that sales of the Polaris models were hurt because the Japanese were quicker than Polaris to move to four-wheel drive vehicles and because safety concerns about three-wheel ATVs dampened demand for four-wheel ATVs.

* * *, was requested by Polaris in * * * to carry its ATVs. * * * of * * * stated that his firm had already decided not to sell any ATVs because of concern over safety of the vehicle and any liability claims that might result. According to * * *, about a month prior to the Polaris inquiry a boy in * * * was permanently paralyzed from an accident on a three-wheel ATV. * * * felt that similar accidents could happen with four-wheel ATVs. As a result, * * * stated that he turned down Polaris because he considered ATVs in general to be too much of a liability risk.

* * *, dropped the Polaris ATVs in * * * because of numerous recalls, including safety defects in the brakes and starting system. According to * * *, owner of the firm, he still sells Kawasaki and Suzuki ATVs, but sold only *** in 1988 compared with about *** in 1985. In addition to ATVs, * * * also sells * * *. * * * indicated that he felt Polaris has worked out the bugs in its ATVs and that, if the market improves, he would sell the Polaris ATVs again. But he indicated that current demand for ATVs is significantly below its levels of two and three years ago. He cited two major reasons for the decline in demand; government regulations and unfair publicity surrounding the Consumer Products Safety Commission ATV proceedings. * * * stated that his margins on ATVs have fallen as his

purchase prices have increased yet his sales prices have not kept pace in the light of falling demand. 1/

***, carried the Polaris ATVs for *** before dropping the brand. ***, owner of the firm, stated that the firm wanted to carry only the Polaris snowmobiles but was required to take *** of their ATVs per year to get the snowmobile franchise. *** explained that Polaris provided 90-day free flooring for the ATVs. Although they were able to sell *** of the ATVs within this period, *** indicated that the limited floor space and the low sales volume did not justify the cost of the inventory financing for ATVs after the first 90 days. As a result they stopped carrying Polaris ATVs and were obligated to also give up the Polaris snowmobile franchise. *** stated that neither safety issues or pricing of the Polaris and Japanese ATVs affected their decision to drop the Polaris ATVs. *** also commented that they carry the John Deere AMT 600--a six-wheel utility vehicle with a hydraulic dump bed in the back. *** indicated that this latter vehicle, which can be used only for utility purposes, was much different from ATVs that can also be used as speed machines.

***, carried Suzuki ATVs until *** when they stopped selling ATVs altogether. ***, salesman for the firm, could not recall being approached by Polaris to carry its ATVs. *** explained his firm stopped selling ATVs because of low sales volume and because the firm's employees were primarily involved with selling and servicing ***, their major line of trade.

***, sold both Polaris and Yamaha ATVs. ***, purchaser for the firm, indicated that he dropped the Polaris ATVs *** and the Yamaha ATVs at ***. *** carried the Polaris ATVs for ***, selling *** units, before dropping the brand. He cited poor styling and craftsmanship as major reasons for doing so. 2/ *** dropped the Yamaha ATVs, after selling them since ***. Although he sold about *** of the Japanese ATVs in 1988, he felt there were too many Yamaha ATV dealers in his area--he cited *** dealers within a half-hour of his location.

Even though *** felt that the Polaris engine and transmission were attractive features, he claimed that his customers generally preferred the Yamaha ATVs to the Polaris ATVs because of better styling and craftsmanship. As an example, *** indicated that his customers preferred the Yamaha 225 to the Polaris 250 2X4, models he felt were comparable. *** indicated that the Yamaha model retailed for about *** less than the Polaris model, but this price difference did not appear to be a significant factor, as his customers generally referred to more appealing styling and better craftsmanship when choosing the Yamaha model.

***, carried both the Polaris and Kawasaki ATVs, as well as Polaris snowmobiles and Kawasaki jet skis and motorcycles. ***, owner of the firm, indicated that he purchased Polaris ATVs in ***, selling *** units

1/ *** indicated that his purchase prices of the Kawasaki and Suzuki ATVs have increased for the last several model years, and that Honda has priced itself out of the market with the highest ATV prices in 1989.

2/ According to ***, poor craftsmanship of the Polaris ATVs included ill-fitting fenders and misaligned bolt fittings.

in 1987, dropped the brand * * *, but then * * *. * * * explained that he temporarily dropped the Polaris ATVs because the supplier was requiring * * * take his yearly allocation of *** vehicles in a single shipment, during the winter of * * *. Polaris dropped the single-shipment requirement the following year and * * * resumed his purchases of Polaris ATVs in * * *. * * * carried the three Kawasaki product lines since * * *, selling * * * Kawasaki ATVs in 1987, but then dropped all of the Kawasaki products at * * *. He cited three reasons for doing this. First, he felt Kawasaki was not keeping pace with change in the ATV market in that it did not offer a four-wheel drive ATV; second, he lost money on the Kawasaki motorcycles during 1986-87; and third, he found Kawasaki very arrogant to deal with. * * * felt that the Polaris and Kawasaki ATVs were relatively similar and indicated that customers would switch back and forth between the two brands. As an example of competing models * * * cited the Polaris Trailboss 250 2X4 and the Kawasaki KLF 300, both of which carried about the * * * on their 1987 models.

* * *, sold Polaris ATVs during 1985-88, but the firm dropped the brand at * * * because it could not get the Polaris snowmobile franchise. * * *, buyer for * * *, indicated that in early 1989 the firm began carrying Yamaha ATVs, which he considered to be better in quality than the Polaris ATVs. As an example, * * * observed that his customers preferred the Yamaha Big Bear 350FW to the comparably priced Polaris Trailboss 250 4X4 model, which he considered to be similar. * * * also felt the Yamaha Motofour 250 was generally similar to the Polaris Trailboss 250 2X4, although he noted that the engines and transmissions on the Japanese 2X4 and 4X4 models were different from those of the domestic models. 1/ He pointed out, however, that Yamaha has introduced an ATV with an automatic transmission in its 1989 model lineup. Finally, * * * commented that the safety issue has not hurt his sales of ATVs, which are made primarily to men aged 40-55 years old.

* * *, carried Polaris ATVs in * * *, selling *** units in the latter year, before dropping them at * * *. * * *, owner of the firm, explained that he dropped the Polaris ATVs because he could not compete against the brand-name recognition of the long-established Japanese ATVs and because his liability premiums had become too expensive. He noted that in 1986 his insurance premiums on ATVs increased three times. 2/ * * * indicated that he has not sold any other ATVs, but he continues to carry the Polaris snowmobiles, which he started selling in * * *.

* * *, carried Polaris ATVs in * * *, when it sold *** units, but has sold the Polaris snowmobile since * * *. * * * has not sold any other ATVs since * * *. According to * * *, owner of the firm, low sales volume was the major reason he dropped the Polaris ATVs. He attributed the low sales volume to local restrictions that discouraged the recreational use of ATVs in his area. * * * cited legislation that forbids the riding of ATVs on public property within * * * city limits, and noted that the local farmers generally do not allow ATV riders access to their land.

1/ The Yamaha models have four-stroke engines and manual transmissions, whereas the Polaris ATVs have two-stroke engines and automatic transmissions.

2/ * * * felt that sales of both three- and four-wheel ATVs were hurt by the safety concerns about three-wheel ATVs, and that this also made it difficult to sell the Polaris ATVs.

***, has sold Polaris ATVs since ***, selling *** of the vehicles in 1988. In addition, *** has sold Suzuki ATVs since *** and Yamaha ATVs since ***, selling about *** of the Japanese ATVs in 1988. ***, buyer for the firm, stated that his retail experience has led him to conclude that the Japanese models generally perform better and offer more attractive styling, making it difficult to sell the Polaris ATVs. *** explained that, although the Polaris ATVs are well-engineered, they offer only one engine size and their appearance is, according to ***, ugly, which generally does not appeal to the 18-30 year old buyers. He claims that the Polaris two-stroke engine is very noisy (to get the necessary power you need to rev the engine to very high RPMs), a disadvantage to farmers because the noise scares their cattle. On the other hand *** observed that, in the utility models, the Japanese ATVs offer four-stroke engines that are quieter and easier to maintain (need to add only gasoline regularly and change oil infrequently like on their cars). *** asserted that as a retailer he sees inferior product performance and styling, rather than any dumping, as the major reasons why Polaris has not been able to sell more ATVs. 1/ *** commented further that the Polaris Trailboss 250 4X4 was the domestic producer's best ATV model and, although his customers in the market for utility ATVs generally prefer the quieter, easier to maintain four-stroke engine of the Japanese models, he suggested that the following Japanese models are somewhat comparable to the Polaris model: The Yamaha Big Bear 350FW and the Suzuki LT 4WD 250. According to ***, both wholesale and retail prices of the Polaris 4X4 were about *** less than the Yamaha Big Bear and *** less than the Suzuki LT 4WD model. *** stated that despite these price differences he could sell the Polaris 4X4 ***.

***, carried the Polaris ATVs in ***, when it sold about *** units, and has not carried any ATVs since then. According to ***, buyer for the firm, he dropped the Polaris brand because there was too little profit for the amount of after-sales service he encountered on such a low-volume item. He explained that his mechanics were too frequently tied up with servicing the Polaris ATVs, which he felt were of poor quality. 2/ In addition, *** complained that the Polaris warranty was good for only 90 days and this was too short a period of time for defects to be discovered; he noted that most of his farm equipment carries 2-year warranties. *** indicated that he paid for most of the post-warranty service because the buyers of ATVs also purchased *** from him and he did not want to jeopardize this latter business because of dissatisfaction with an ATV.

Preliminary investigation.--During the preliminary investigation, U.S. producers of ATVs did not report any specific lost sales allegations regarding imports of the Japanese ATVs. Polaris, however, provided the names of 16 dealers who either stopped selling the Polaris ATVs, or as potential new dealers declined to carry the Polaris ATVs. The Commission

1/ *** stated that the Polaris dumping complaint was unjustified and he has recently considered dropping the Polaris ATVs as a result of this action by the domestic producer.

2/ As an example of poor quality, *** indicated that of the *** ATVs it sold in 1987 he had to replace cracked gas tanks on three or four of the units. He maintained that poor craftsmanship, not abuse of the machines, led to the split gas tanks.

staff was able to contact 11 of these dealers; conversations with representatives of these companies are discussed below.

***, stopped selling the Polaris ATVs in ***, citing a sharp rise in its liability insurance premiums for ATVs as the principal reason for dropping the Polaris units. *** sold no other ATVs. *** stated that low prices in the ATV market and the uncertainty due to pending Department of Justice/Consumer Product Safety Commission action concerning safety issues have in general discouraged dealers from handling ATVs. 1/ He also felt that the combination of low retail prices and low Polaris-dealer profit margins made it difficult for dealers to carry the Polaris ATVs. *** complained that Polaris has always offered its dealers lower profit margins on its products, including ATVs and snowmobiles, than its competitors offer. He claimed that Polaris offers a 19-percent margin on dealer-direct ATV sales, but, according to ***, dealers selling the Japanese ATVs can obtain 25-28 percent profit margins. 2/ *** further asserted that the lower margins on the Polaris ATVs prevailed despite an historically higher suggested retail price for the Polaris ATVs compared with the imported Japanese products.

***, still sells the Polaris ATVs, but since *** has ordered fewer units than previously. *** has not sold the imported ATVs. *** of the firm cited the following three factors that account for his declining purchases of Polaris ATVs: low prices of the Japanese ATVs, a generally declining market due to safety concerns, and retailer and consumer uncertainty related to the pending Justice Department action.

***, sold only Polaris ATVs until ***, when *** notified the domestic producer that it would not be ordering any more units after **. ***, purchaser of ATVs for the firm, stated that his firm would not be selling any more ATVs because of concern about safety issues and, therefore, potential liability problems. *** indicated that his customers purchased the Polaris ATVs mostly for recreation and reported that they handled better than Japanese ATVs.

***, stopped selling the Polaris ATVs in *** because it did not have sufficient customer interest in this product. ***, purchaser of the product for ***, stated that his firm sold only two or three ATVs in 1987. *** does not sell Japanese ATVs, but in November 1987 began selling a John Deere five-wheel vehicle designed for all-terrain use. *** stated that he has sold two of these latter vehicles so far this year and his customers appear more interested in this machine than the Polaris ATV.

***, sold the Polaris ATVs until *** when it stopped carrying ATVs. According to ***, purchaser of ATVs for ***, his firm sold only the Polaris ATVs, but has stopped selling any of these vehicles because of slow market demand. If his firm ever sells ATVs again, *** indicated he

1/ *** indicated that the sharp fall in demand for ATVs during the last couple of years, which he felt was closely related to concerns about the inherent safety of the product, was a major reason for low prices in the market.
2/ *** also felt that Polaris antagonized many of its midwestern dealers in 1986 when it switched from selling through distributors to selling dealer direct, but did not increase dealer margins.

would purchase the Honda or Suzuki ATVs, because he rates these as better quality and more durable than the Polaris models. * * * complained that the Polaris ATV was of poorer quality than the Japanese ATVs, yet generally carried a higher retail price than the Japanese products.

* * *, stopped selling the Polaris ATVs in * * * because of a slow market. * * * carried only the Polaris ATVs. * * *, purchaser for * * *, estimated that his firm sold about *** Polaris ATVs in 1987. * * * complained that in addition to a general decline in the market for ATVs, the Japanese models were typically priced lower than the Polaris model. He cited in particular the Honda FourTrax, which he stated was consistently priced about \$400 less than the Polaris 250 (4X4) in his market area during 1987. * * * viewed these two models as directly competitive with each other, but indicated that his customers preferred the Polaris ATV because they felt it handled better and was more comfortable to ride than the Japanese model. * * * indicated that motorcycle dealers who carried the Polaris ATVs and were located within 50 miles of his establishment were selling more domestic ATVs than he could. * * *.

* * *, approached Polaris in * * * about selling the domestic ATV in their store. But after checking with three Polaris ATV dealers, * * * decided not to buy the Polaris ATV. * * *, purchaser for the firm, stated that the three dealers told him they had trouble getting parts from Polaris to service its ATVs. * * * said that he is now considering the Honda ATVs. Currently * * * is not selling any imported ATVs, but sells * * *. 1/ * * *. * * * felt this competed with the Polaris and Japanese 4X4 utility ATVs. In his inquiries to Polaris and Honda, however, * * * stated that he is looking for a recreation/sport ATV.

* * *, sold about *** Polaris ATVs in 1986, but dropped the domestic model at the end of 1986. * * * has sold Honda ATVs for about *** years and * * * also began carrying the Yamaha ATVs. * * *, purchaser of ATVs for * * *, stated that he replaced the Polaris ATVs with the Yamaha models because of Yamaha's wider range of products and better construction. * * *. He does not carry the Polaris snowmobile. * * * also indicated that his customers prefer what they feel is the stronger construction of the Honda and Yamaha ATVs compared with the Polaris ATVs.

* * *, sold about *** Polaris ATVs in 1987. Although it has carried the Polaris ATVs since * * *, * * * stopped selling them in * * *. * * * has not sold any other ATVs, but * * *. * * *, purchaser of ATVs for * * *, stated that the major reason he dropped the Polaris ATV line was his concern that a customer might file a liability claim against his firm. * * * also complained that he thought the Japanese were selling at lower retail prices than Polaris, but he could not immediately cite specific competing domestic and imported models or recall approximate price differences. * * * acknowledged, however, that most purchasers would probably still buy the Japanese ATVs even if they and the Polaris ATVs were priced the same. * * * felt that ATV customers generally perceive the Hondas to be better in quality than the Polaris models, largely because the Japanese ATVs are advertised much more heavily than Polaris ATVs.

1/ According to * * *, several years ago his firm sold a domestic ATV called the Avenger, produced in Louisiana, but he no longer carries this model.

* * *, sells both the Polaris ATVs and snowmobiles. * * * indicated that he sold about *** Polaris ATVs in * * *, * * *. * * * indicated that the Polaris ATV has better safety and handling features than the Japanese models. He cited the Polaris foot board and the automatic transmission compared with the Japanese models that have foot pegs and manual transmissions. * * * stated that prices of the domestic and imported ATVs were about the same in his market area. He also indicated that the safety issues surrounding ATVs have not concerned him; his ATV customers are generally 30-55 years old and are familiar with such machines as many also ride snowmobiles without major problems.

* * *, sold about * * * Polaris ATVs in 1987, but dropped the line in January 1988. * * *, purchaser for * * *, indicated that his firm carried only the Polaris ATVs, but dropped them because of too few sales and the uncertainty about the future of ATVs. * * * stated that in his market area the Polaris ATVs retailed for \$50-100 (3-5 percent) more than the Yamaha YFM 225 or the Yamaha Big Bear sold for during 1987, but the Polaris models were generally priced less than comparable Honda models. He indicated that his information was based on conversations with * * * who sells the Honda ATVs and * * * who sells the Yamaha ATVs. As a rider of both the Polaris and Yamaha ATVs, * * * preferred the domestic model over the imported one. He cited the suspension, tight turning radius, automatic transmission, and foot boards of the Polaris model as more desirable features.

Despite repeated phone calls, the Commission staff was unable to contact two firms cited by Polaris--* * *, and * * *. In addition, representatives from two other firms cited, * * *, and * * *, were not available. A fifth firm cited, * * *, indicated that it has never considered selling ATVs.

Price suppression/depression

During the final and preliminary investigations, U.S. producers did not provide any specific allegations of price suppression or depression resulting from competition with imports of the Japanese ATVs. Polaris reported, however, that it has reduced prices and offered its dealers "a number of rebates and retail incentives" to meet allegedly similar practices of its competitors. A more complete discussion of these rebates and retail incentives is found earlier in this report in the price section.

APPENDIX A

FEDERAL REGISTER NOTICES OF
THE COMMISSION AND COMMERCE

35220

Notices

Federal Register

Vol. 53, No. 178

Monday, September 12, 1988

DEPARTMENT OF COMMERCE

International Trade Administration

(A-588-801)

Preliminary Determination of Sales at Less Than Fair Value: Certain All-Terrain Vehicles From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain all-terrain vehicles (ATVs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of certain ATVs from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by November 21, 1988.

EFFECTIVE DATE: September 12, 1988.

FOR FURTHER INFORMATION: Contact Michael Ready or Louis Apple, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230, telephone: (202) 377-2613 or 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that certain ATVs from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our notice of initiation (53 FR 7222, February 29, 1988), the following events have occurred. On March 25, 1988, the ITC determined that there is reasonable indication that a U.S. industry is materially injured by reason of imports of certain ATVs (USITC Publication 2073, March 1988).

On April 8, 1988, we presented questionnaires to four Japanese manufacturers and exporters of ATVs. These companies account for 100 percent of exports of the subject merchandise from Japan to the United States. On May 3, 1988, one of the manufacturers, Kawasaki Heavy Industries, Ltd. (Kawasaki), advised that it would not be replying to the questionnaire. The other three manufacturers were given additional time to reply to the questionnaire.

We received replies to the questionnaire from Honda Motor Co., Ltd. (Honda), on May 2, May 9, and June 3, 1988. Replies were received from Yamaha Motor Co., Ltd. (Yamaha) on April 27, and May 24, 1988. Suzuki Motor Co., Ltd. (Suzuki) submitted replies on April 27 and June 6, 1988.

We sent deficiency letters to the three responding manufacturers during the period from May 11 to June 17, 1988. Additional deficiency letters were sent to respondents during July and August. Responses to all deficiency letters were received by the Department prior to this determination.

On June 22, 1988, and again on July 14, 1988, petitioner requested that the preliminary determination be postponed.

On June 29, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to August 8, 1988 (53 FR 25360, July 6, 1988). On July 20, 1988, in accordance with the above-referenced section of the Act, we further postponed the preliminary determination to September 6, 1988 (53 FR 28031, July 26, 1988).

On July 14, 1988, petitioner requested that the Department initiate a cost of production investigation pursuant to section 773(b) of the Act to determine whether the three respondents were selling their ATVs at prices below the cost of production. On August 23, 1988, after determining from available information that there were reasonable grounds to believe or suspect that sales

of ATVs in Canada were being made at less than their cost of production, we presented the three respondents with a cost of production questionnaire. Replies to this questionnaire will not be received in time to be considered for this preliminary determination. Analysis of the replies may be taken into account for the final determination.

Scope of Investigation

The products covered by this investigation are certain all-terrain vehicles (ATVs), provided for in item 692.1090 of the *Tariff Schedules of the United States Annotated* (TSUSA) and classifiable under subheading 8703.21.0000 of the Harmonized Tariff Schedule.

Certain all-terrain vehicles (ATVs) are motor vehicles designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are non-amphibious, have three or four wheels and weight less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control.

Period of Investigation

The period of investigation is September 1, 1987, through February 29, 1988.

Such or Similar Comparisons

For all respondent companies, pursuant to section 771(16)(C) of the Act, we established two categories of "such or similar" merchandise: (1) Three-wheel ATVs; and (2) four-wheel ATVs. As noted below, none of the three respondents had sufficient home market sales in either such or similar category to serve as the basis for calculating foreign market value. We therefore based foreign market value on sales to a third country, Canada. The percentages of each respondent's total sales to the United States that were used for such or similar comparisons were: 71.2 percent for Honda; 85.6 percent for Yamaha; and, 92.7 percent for Suzuki. We have not made cross-model comparisons of ATVs for purposes of this preliminary determination; instead, we have limited our comparisons to those models sold in both markets.

Fair Value Comparisons

To determine whether sales of ATVs from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below. As noted above, one of the manufacturers, Kawasaki, did not reply to the questionnaire. Therefore, we have determined, consistent with the best information available provisions of section 776(c) of the Act, that it is appropriate for this preliminary determination to assign to Kawasaki the higher of either: (1) The highest margin indicated for Kawasaki in the petition; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this approach, for this preliminary determination, we have assigned Kawasaki the highest margin indicated for Kawasaki in the petition.

United States Price

For all sales by Honda, Yamaha, and Suzuki, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, because in each case the sale to the first unrelated purchaser took place after importation into the United States. We calculated exporter's sales price based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the United States. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, U.S. customs duty and user's fees, inland freight and related expenses to seller's warehouse in the United States, discounts, rebates, assembly and inspection allowance, credit expense, advertising expense, warranty expense, and, pursuant to section 772(e)(2) of the Act, indirect expenses and inventory carrying expenses incurred in both Japan and the United States. An addition was made, where applicable, for interest charged the customer.

Foreign Market Value

In order to determine whether there were sufficient sales of ATVs in the home (Japanese) market to serve as the basis for calculating foreign market value, we compared the volume of home market sales within each such or similar category to the volume of third country sales within each respective such or similar category. For each of the three respondents, for both such or similar categories, we found that home market sales were insufficient to serve as the basis for foreign market value. For each respondent, we found that Canada was

the appropriate third-country market to serve as the basis for foreign market value for both such or similar categories. In accordance with section 773 of the Act, for Honda, Yamaha, and Suzuki, we calculated foreign market value based on packed f.o.b. seller's warehouse or delivered prices to unrelated purchasers in Canada. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, Canadian customs duty, Canadian Federal Sales Tax, inland freight and related expenses to seller's warehouse in Canada, discounts, rebates, inland freight from seller's warehouse to customer, credit expenses, warranty expenses, and advertising expenses. We offset indirect selling expenses incurred on Canadian sales up to the amount of selling expenses incurred on sales in the U.S., in accordance with § 353.15(c) of our regulations. An addition was made, where applicable, for interest charged the customer.

In order to adjust for differences in packing between the two markets, we deducted Canadian packing costs from the foreign market value and added U.S. packing costs.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Regulations.

Currency Conversion

Since all U.S. sales were exporter's sales price transactions, we used the official exchange rates in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

Verification

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain ATVs from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market

value of the ATVs from Japan exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Honda Motor Co., Ltd.	5.11
Yamaha Motor Co., Ltd.	6.75
Suzuki Motor Co., Ltd.	4.01
Kawasaki Heavy Industries, Ltd.	35.43
All Others	10.23

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivilege and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms 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.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination or 45 days after the final determination, if affirmative.

Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 24, 1988, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, pre-hearing briefs in at least ten copies, both public and non-public versions, must be submitted to the Assistant Secretary by October 17, 1988. Oral presentations will be limited

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to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

*Assistant Secretary for Import
Administration.*

September 2, 1988.

[FR Doc. 20626 Filed 9-9-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-801]

**Postponement of Final Antidumping
Duty Determination; Certain All-Terrain
Vehicles From Japan**

AGENCY: International Trade
Administration, Import Administration,
Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received requests from respondents, Honda Motor Co., Ltd., Yamaha Motor Co., Ltd., and Suzuki Motor Co., Ltd., to postpone the final determination as permitted by section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). Based on these requests, we are postponing our final determination as to whether sales of certain all-terrain vehicles from Japan have occurred at less than fair value until not later than January 25, 1989. We are also postponing our public hearing until December 14, 1988.

EFFECTIVE DATE: September 27, 1988.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Louis Apple, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-2613 or (202) 377-1769.

SUPPLEMENTARY INFORMATION: On September 12, 1988, we published a preliminary determination of sales at less than fair value of this merchandise (53 FR 35220).

On September 8, September 9, and September 12, 1988, respectively, Suzuki Motor Co., Ltd., Yamaha Motor Co., Ltd., and Honda Motor Co., Ltd., requested a postponement of the final determination until not later than the 135th day after the publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act. If exporters who account for a significant proportion of exports of the subject merchandise under investigation request a postponement of the final determination following a preliminary affirmative determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing the date of the final determination until not later than January 25, 1989.

Public Comment

In conjunction with this postponement, a public hearing to afford interested parties an opportunity to comment on the preliminary determination, in accordance with 19 CFR 353.47, will now be held, if requested, at 10:00 a.m. on December 14, 1988, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, pre-hearing briefs in at least ten copies, both public and non-public versions, must be submitted to the Assistant Secretary by December 5, 1988. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held,

within seven days after the hearing transcript is available.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act. This notice is published pursuant to section 735(d) of the Act.

Jan. W. Mares,

Assistant Secretary for Import Administration.

September 21, 1988.

[FR Doc. 88-22099 Filed 9-26-88; 8:45 am]

BILLING CODE 3510-05-M

**INTERNATIONAL TRADE
COMMISSION**

(Investigation No. 731-TA-388 (Final))

**Certain All-Terrain Vehicles from
Japan**

AGENCY: International Trade
Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-388 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or 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 certain all-terrain vehicles (ATVs),¹ provided for in item 692.10 of the Tariff Schedules of the United States (TSUS), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Commerce has extended the investigation and will make its final determination on or before January 25, 1988, and the Commission will make its final injury determination by March 10,

¹ The products covered by this investigation are certain ATVs, currently reported under item 692.1090 of the Tariff Schedules of the United States, Annotated (TSUSA) and classifiable in subheading 8703.21.0000 of the Harmonized Tariff Schedule of the United States. Certain ATVs are motor vehicles designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are non-amphibious, have three or four wheels, and weigh less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control.

1980 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207 as amended, 53 FR 33041 *et seq.* (August 29, 1988)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: September 12, 1988.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202-252-1199), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20433. 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 as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain all-terrain vehicles are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on February 9, 1988, by Polaris Industries L.P., Minneapolis MN. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (53 FR 11351, April 6, 1988).

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 twenty-one (21) days after the 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), as amended, 53 FR 33041 *et seq.* (August 29, 1988) 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, 53 FR 33041 *et seq.* (August 29, 1988)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) 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 filed with all the parties that are authorized to receive such information under a protective order.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on January 13, 1989, and a public version will be issued thereafter pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 27, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 18, 1989. All persons desiring to appear at the hearing and

make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on January 24, 1989, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 24, 1989.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a non-business-proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 2, 1989. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 2, 1989.

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 Commission's 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) as amended, 53 FR 33041 *et seq.* (August 29,

1988)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than February 7, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: October 21, 1988.

[FR Doc. 88-24782 Filed 10-25-88; 8:45 am]

BILLING CODE 7020-02-48

Building, 500 E Street SW., Washington DC., and the prehearing briefs are now due on January 23, 1989.

For further information concerning this investigation see the Commission's notice of investigation cited above the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: December 12, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-29292 Filed 12-20-88; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-388 (Final)]

All-Terrain Vehicles From Japan

AGENCY: United States International Trade Commission.

ACTION: Change of the hearing date and of the date prehearing briefs are due in the subject investigation.

EFFECTIVE DATE: December 1, 1988.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202-252-1999), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting 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: On October 26, 1988, the commission instituted the subject investigation and established a schedule for its conduct (53 FR 43275, October 26, 1988). On December 1, 1988, the Commission voted to change the date of the hearing. The hearing is now scheduled for January 26, 1989, beginning at 9:30 a.m., at the U.S. International Trade Commission

Notices

Federal Register

Vol. 54, No. 19

Tuesday, January 31, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

(A-588-801)

Final Determination of Sales at Less than Fair Value: Certain All-Terrain Vehicles From Japan

ACTION: Notice.

SUMMARY: We determine that certain all-terrain vehicles (ATVs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of certain ATVs from Japan as described in the "Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the date of publication of this notice, whether these imports are materially injuring, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: January 31, 1989.

FOR FURTHER INFORMATION:

Contact Michael Ready or Louis Apple, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 377-2813 or 377-1769.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that certain ATVs from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The weighted-average dumping margin for each company is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination (53 FR 35220, September 12, 1988), the following events have occurred.

On September 8, 9 and 12, Honda

Motor Co., Ltd. (Honda), Yamaha Motor Co., Ltd. (Yamaha), and Suzuki Motor Co., Ltd. (Suzuki) requested a postponement of the final determination until not later than 135 days after the date of publication of the preliminary determination pursuant to section 735(a)(2)(A) of the Act. On September 21, 1988, we issued a notice postponing the final determination until January 25, 1989 (53 FR 37618, September 27, 1988).

During the month of September, 1988, Honda, Yamaha and Suzuki replied to our cost of production questionnaire. Verification of both the sales and cost of production questionnaire responses was conducted in Japan, the United States, and Canada during the period between later September and early November, 1988.

A public hearing was held on December 14, 1988. Petitioner and respondents filed pre-hearing briefs on December 8, 1988, and post-hearing briefs were filed on December 21, 1988.

Scope of Investigation

The products covered by this investigation are certain all-terrain vehicles, assembled or unassembled, provided for in item 692.1090 of the *Tariff Schedules of the United States Annotated* (TSUSA) and classifiable under sub-heading 8703.21.0000 of the Harmonized Tariff Schedule.

Certain all-terrain vehicles are motor vehicles designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are non-amphibious, have three or four wheels, and weigh less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control.

Period of Investigation

The period of investigation is September 1, 1987, through February 29, 1988.

Such or Similar Comparisons

Pursuant to section 771(16)(C) of the Act, we established two categories of "such or similar" merchandise for all respondent companies: 1) Three-wheel ATVs; and 2) four-wheel ATVs. As noted below, Honda, Suzuki and Yamaha all lacked sufficient home market sales in either such or similar category to serve as the basis for calculating foreign market value. Therefore, for purposes of the

preliminary determination, we based foreign market value on sales to a third country, Canada. For all three companies, sales to Canada reflect the largest sales volume of any country outside the home market or the United States.

The percentages of each respondent's total sales to the United States that were used for such or similar comparisons were: 61.0 percent for Honda, 79.8 percent for Yamaha; and, 92.6 percent for Suzuki.

Fair Value Comparisons

In order to determine whether sales of ATVs from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below. As noted in our preliminary determination, one of the manufacturers, Kawasaki Heavy Industries, Ltd. (Kawasaki), did not reply to the questionnaire. Therefore, we have determined, consistent with the best information available provisions of section 778(c) of the Act, that it is appropriate for the purposes of this determination to assign to Kawasaki the higher of either: (1) The highest margin indicated for Kawasaki in the petition; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this approach for this determination, we have assigned Kawasaki the highest margin indicated for Kawasaki in the petition.

Another manufacturer, Honda, refused to reply to our cost of production questionnaire as it related to ATV models produced prior to the 1987 model year. As we determined for Kawasaki, we determined for Honda that it is appropriate to assign it the higher of: The highest weighted-average margin found for any responding firm, or the highest margin indicated in the petition for the non-responding firm. Following this approach, we have assigned to Honda's sales of pre-1987 models the highest margin indicated for Honda in the petition.

United States Price

For all sales by Honda, Yamaha, and Suzuki, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, because in each case the sale to the first unrelated purchaser took place

after importation into the United States. We calculated ESP based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the United States. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, U.S. customs duty and user's fees, inland freight and related expenses associated with moving the ATVs to the seller's warehouse in the United States, discounts, rebates, assembly and inspection allowances, credit expenses, advertising expenses, warranty expenses, and, pursuant to section 772(e)(2) of the Act, indirect expenses, including inventory carrying expenses incurred in both Japan and the United States.

Foreign Market Value

In order to determine whether there were sufficient sales of ATVs in the home (Japanese) market to serve as the basis for calculating foreign market value, we compared the volume of home market sales within each such or similar category to the total volume of third country sales within each respective such or similar category. For each of the three respondents, for both such or similar categories, we found that home market sales were insufficient to serve as the basis for foreign market value. Not having any grounds to believe or suspect that respondents' third country sales were below cost of production within the meaning of section 773(b) of the Act, we found that Canada was the appropriate third country market to serve as the basis for foreign market value for both such or similar categories in our preliminary determination.

On July 14, 1988, petitioner alleged that Canadian sales for all respondents were at prices below the cost of producing the merchandise. Having determined that these allegations were sufficiently documented, the Department initiated a cost investigation for Honda, Suzuki and Yamaha. We examined production cost data submitted by the respondents, including costs for materials, fabrication and general expenses. The cost of production (COP) calculation for each respondent was adjusted for those costs which were not appropriately quantified or valued in the response (see adjustments below).

In addition, an amount representing inventory carrying costs for 1987, was included in general expenses for all ATV models produced in that year and sold by the respondents during the period of investigation. The amount was determined as an estimate of the interest expense incurred in holding 1987 ATV models in inventory for an

additional year (i.e.; for both 1987 and 1988). The estimate was based on the same methodology we used for calculating actual inventory carrying costs in 1988. It was calculated by multiplying the cost of carrying in inventory each 1987 ATV by an estimate of the 1987 internal borrowing rate for each of the three respondents. The amount calculated was then included in the cost calculation along with the actual interest expense reported as incurred by each respondent during 1988.

The following adjustments were made to the cost data submitted by each respondent:

A. Honda

(1) General and administrative (G&A) expenses, including research and development (R&D) expenses and interest expenses, were reallocated using the cost of sales percentage (as reported in the Ministry of Finance Report) and the cost of manufacturing for each model)

(2) Reported interest income was excluded from the calculation of net interest expense due to the lack of documentation supporting the company's assertion that interest income was related to working capital and ATV operations.

(3) Foreign exchange gains reported as a credit against selling, general and administrative (S, G&A) expenses were excluded from the COP and constructed value (CV) calculations since it could not be demonstrated that such gains were related to working capital and ATV production.

(4) An adjustment was made to COP/CV to reflect the write-off of certain obsolete ATVs held in inventory.

(5) A portion of R&D expenses included in the cost of manufacturing was reallocated to G&A expenses. The portion reallocated represented R&D of a more general nature and was not considered to be a product-specific cost.

(6) An adjustment was made to the cost of materials in the COP/CV calculation to reflect more fairly the market value of items received from related parties.

(7) Movement expenses, such as ocean freight and maritime insurance, were excluded from the COP/CV calculations.

B. Suzuki

(1) Adjustments to cost variances for all 1987 Canadian models were submitted by Suzuki at verification. These adjustments were accepted since they were both verifiable and represented only slight differences from

the variances submitted in the company's response.

(2) Total R&D expense was recalculated to include not only product specific R&D, but also an allocated portion of other, more general types of R&D expenses.

(3) G&A was adjusted to include legal fees incurred in the dispute over new U.S. ATV safety regulations.

(4) The respondent's adjustment eliminating profit on parts received from related suppliers was not accepted since it was not based on the actual profit realized on such transactions. Instead, no adjustment was allowed for profit on parts received from related suppliers.

(5) Interest expense percentage was calculated using consolidated interest expense and cost of goods sold from the Ministry of Finance Report.

(6) Reported interest income was excluded from the calculation of net interest expense due to the lack of documentation supporting the company's assertion that interest income was related to working capital and ATV operations.

(7) The G&A percentage was calculated using the ratio of total G&A expenses to total sales revenues rather than the ratio of total G&A to total export sales.

C. Yamaha

(1) Certain items included in G&A expenses, such as realized dividend income and gain on sales of marketable securities, were disallowed for the COP calculation as they were unrelated to the ATV manufacturing process.

(2) A portion of rental income was disallowed. The amount of rental income included in the COP calculation was that portion which related directly to rental expense as reported in the records of Shinba, a related company.

(3) Certain income items included in "other income" were disallowed for the COP calculation because they represented reimbursements for prior period expenses.

(4) Actual costs, rather than standard costs, were used for components transferred between related companies.

We compared the Canadian sales prices, net of all applicable movement expenses, Canadian duty, Canadian sales tax, discounts and rebates, to the cost of production. For Suzuki and Yamaha, we found sufficient Canadian sales above the cost of production to allow us to use these prices for foreign market value in accordance with section 773(a)(1)(A) of the Act. Therefore, we calculated foreign market value based on packed f.o.b. seller's warehouse or delivered prices to unrelated purchasers

in Canada. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, Canadian customs duty, Canadian Federal Sales Tax, inland freight and related expenses associated with moving the ATVs to the seller's warehouse in Canada, discounts, rebates, inland freight from seller's warehouse to customer, credit expenses, warranty expenses, and advertising expenses. We offset indirect selling expenses incurred on Canadian sales up to the amount of selling expenses incurred on sales in the U.S. in accordance with § 353.15(c) of our regulations.

In order to adjust for differences in packing between the two markets, we deducted Canadian packing costs from the foreign market value and added U.S. packing costs.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Regulations.

In the case of Honda's Canadian sales, we found an insufficient number above its cost of production. Therefore, foreign market value was based upon constructed value in accordance with section 773(e) of the Act. When calculating constructed value, the respondent's submission was used, except when reported costs were not appropriately quantified or valued. With the exception of certain Canadian selling expenses (such as warranty expenses), cost of materials, fabrication and general expenses were based upon production costs for U.S. sales.

In computing general expenses for constructed value, we added amounts for Canadian warranty expense, advertising, post-sale credit expenses and inventory carrying expenses associated with Canadian sales. Deductions were made for interest charged Canadian customers and, in order to avoid double counting, for the portion of estimated interest expense allocated to accounts receivable and inventory. With the exception of this latter deduction, all additions and deductions were calculated by model using a weighted-average methodology.

Since the calculated amount for general expenses was greater than the statutory minimum of ten percent of the cost of materials and fabrication as specified in section 773(e)(1)(B) of the Act, we used the calculated amount. Additionally, the amount of reported profit was less than eight percent of the sum of the cost of materials, fabrication and general expenses specified in section 773(e)(1)(B). We therefore, used

the statutory minimum of eight percent. Finally, we added U.S. packing costs to arrive at the total constructed value for the product under investigation. We made appropriate deductions from the constructed value for credit expenses, warranties and advertising, in accordance with 19 CFR 353.15(a). In relevant circumstances, we added interest charged to customers to the constructed value. We also made an adjustment to constructed value for indirect selling expenses, in accordance with 19 CFR 353.15(c).

Currency Conversion

Since all U.S. sales were exporter's sales price transactions, we used the official exchange rates in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including examination of relevant accounting records and original documents of the respondents.

Interested Party Comments

Honda

Comment 1

Petitioner argues that Honda's writedown of ATV inventory should be included as an expense in the COP/CV. The respondent advocates allocating only a portion of this total write-off on the basis of additional information submitted subsequent to the cost verification.

DOC Position

The Department agrees in principle that the value of obsolete inventory written off represents one of the costs incurred in producing ATVs. As such, it should be allocated over the period during which obsolescence is assumed to have occurred. An adjustment was made to allocate the cost of ATV inventory write-offs to the period's ATV production. Information submitted subsequent to verification was not considered in such calculations.

Comment 2

The respondent states that the reported cost of materials and components purchased from affiliated companies in which Honda has a 5-49% ownership interest should be accepted

although the "market value" of these components was not fully supported. Respondent further states that it provided all documentation which was reasonably available. Respondent argues that these components were specifically designed for Honda products and, therefore, there are no market prices for identical merchandise. The respondent states that Honda's minority interest in these suppliers does not affect the price of purchased components and, in fact, the prices reflect an "arms length" transaction.

The petitioner argues that since Honda did not provide satisfactory evidence of the market value of components, the Department should base component values on the best information available.

DOC Position

The Department informed all respondents prior to verification of the need to establish that significant component purchases from related companies were conducted at arm's length, and that the prices charged reflected the component's true market value. Honda did not establish the arm's-length nature of the transactions, nor did the company provide adequate documentation of the components' market value. The company did provide financial statements for three of its related suppliers, nothing that each of the suppliers operated at a profit during the period of investigation. However, the financial statements were provided subsequent to our verification and since the suppliers provided parts and components for a number of purchasers, we could not ascertain that the particular parts sold to Honda were at market value. Therefore, the Department reviewed other respondents' direct material costs for similar models, and established a percentage factor representing the higher materials costs incurred by the other companies. This factor was added to Honda's direct materials costs as "best information available".

Comment 3

Respondent contends that the Department should include Honda's foreign exchange "gain" in its COP/CV calculation.

DOC Position

The Department disagrees. Exchange rate gains unrelated to the production of the merchandise under investigation are not properly considered credits to COP/CV. In Honda's case, net foreign exchange gains were not considered an offset against financial expenses since

they were not demonstrated to be directly related to the production of ATVs.

Comment 4

Respondent maintains that G&A expenses are properly functions of the sales value of the products and, therefore, should be allocated based on the c.i.f. value of the merchandise produced.

DOC Position

G&A expense items are normally associated with the cost of producing merchandise and maintaining an organization's structure. For purposes of calculating COP and CV, G&A is determined as a percentage of total cost of manufacturing for all ATV products. This percentage is then applied to cost of manufacturing for each individual product. Calculating G&A expenses as a percentage of c.i.f. value, and then applying that percentage to cost of manufacturing, would be distortive in that it would understate the G&A incurred in producing and selling the ATVs under investigation.

Comment 5

R&D activities carried out by a related company are reimbursed by Honda based on the period's sales results. Honda therefore believes R&D allocated to the subject ATVs should be on the basis of c.i.f. value.

DOC Position

The Department believes that the nature of R&D activities is properly associated with the cost of manufacturing. In this case, the specific repayment terms between the related companies does not change the appropriate method of allocating these costs. Therefore, for the purpose of the COP and CV calculations, these costs were adjusted on a cost of manufacture basis.

Comment 6

Respondent contends that the Department should exclude all three-wheel ATVs from its fair value comparison. Honda contends that these models are obsolete and no longer being imported into, or sold in, the United States. Furthermore, consistent with a consent decree affecting ATV sales, Honda has no plans to resume United States imports or sales of three-wheel ATVs.

DOC Position

We disagree. The antidumping duty law is intended to eliminate unfair price discrimination—that is, the dumping of merchandise in the United States at

prices below those in effect in the foreign producer's home or other export markets. To this effect, the law clearly contemplates that the Department will select a period during which sales of the subject merchandise have occurred and to establish, where justified, an estimated dumping margin which may or may not be reviewed and revised during later periods.

We have determined, and no one has contested, that a petition covering three and four-wheel ATVs was properly filed in this case. Therefore, three-wheel ATVs comprise part of the merchandise subject to investigation.

The Department will, on occasion, exclude certain U.S. sales from its fair value comparisons when those sales are not representative of the respondent's selling practices in the U.S. market, or where those sales are so small that they would have an insignificant effect on the margin. In this case, however, there is nothing particularly unusual about Honda's sales of three-wheel ATVs in the United States. It is not possible to conclude that Honda's pricing practices with respect to three-wheel ATVs are not representative of its behavior in the U.S. market.

In sum, the Department is required to take a snapshot of Honda's pricing practices during the period of investigation and to calculate a dumping margin based upon these sales. Since Honda sold three-wheel ATVs during the period of investigation in the United States, three-wheel ATVs are properly included within our dumping calculation.

Comment 7

The respondent contends that the Department should not use a sale-by-sale interest expense for inventory carrying and post-sale credit expenses in its calculation of COP and CV. It contends that the Department is required to use whatever amount appears in Honda's financial statements and records.

The petitioner states that it is essential for the Department to include so-called "imputed" interest expenses in the COP and CV calculations. In order to measure accurately the relative returns obtained by Honda, the petitioner argues that the Department must calculate credit and inventory carrying expenses on a sale-specific basis. The petitioner further states that the use of sale-specific data is consistent with generally accepted accounting principles.

DOC Position

We cannot accept respondent's argument that no adjustment to the fair

value comparison should be made for *actual differences* in the extension of credit by the firm and the time for which finished merchandise is maintained in inventory. The fact that Honda has essentially chosen not to finance its accounts receivables and inventory carrying costs with short-term borrowings does not dispose of the fact that Honda has had differing credit and inventory carrying experiences in the United States and Canada. See *Silver Reed v. United States*, Slip Op. 88-5 (CIT, January 12, 1988). We also cannot embrace the calculation of interest expenses according to one methodology in the case of U.S. sales (e.g., imputed interest expenses) and another methodology in the case of home or third country sales (e.g., actual interest expense). Therefore, inventory carrying costs and post-sale credit expenses should be calculated (1) on a sale-specific basis, not as an allocation of total actual cash outlays and (2) the same way for both foreign market value (including constructed value) and United States price. The Department has, therefore, followed its usual practice and included an imputed interest expense for these items as part of selling expenses in constructed value. See e.g., *Final Determination of Sales at Less Than Fair Value; Certain Granite Products from Italy*, 53 FR 27187, 27191 (July 19, 1988), and adjusted for the actual differences in the extension of credit by the firm and the time finished merchandise is maintained in inventory. See e.g., *Color Televisions from Korea; Final Results of Administrative Review of Antidumping Duty Order*, 49 FR 50420, 50427, 50430 (Dec. 28, 1984); *Portable Electric Typewriters from Japan; Final Results of Administrative Review of Antidumping Order*, 48 FR 40761 (Sept. 9, 1983). To avoid double counting the portion of reported interest expense attributable to accounts receivable and inventory carrying costs was deducted from total interest charges in CV.

In the case of cost of production calculations, however, price discrimination and relative returns on sales are not at issue. When we calculate COP pursuant to section 773(b) of the Act, we are only interested in determining the actual costs incurred to produce the merchandise under investigation. Once those costs have been determined, the Department compares them with the revenue generated from the sale of the merchandise in the home or third country market to determine whether, in fact, these sales have been made at below cost. See 19 CFR 353.7. Because

we are not comparing COP to United States sales, there is no need to measure the actual differences that may or may not exist between home market or third country selling expenses and U.S. selling expenses. Therefore, the methodology which leads us to impute interest expenses when making fair value comparisons is simply not present when calculating COP. As we explained in *Color Television Receivers from Korea: Final Results of Antidumping Duty Administrative Review*, 53 FR 24975, 24977 (July 1, 1988):

In a cost of production calculation, we are not concerned with costs in the same way we are where there are differences in circumstances of sale and adjustments must be made in order to compare U.S. and home market prices on an 'apple-to-apple' basis. Therefore, whether imputed costs used for a circumstance of sale adjustment are higher or lower than respondents' actual financing costs is not relevant for purposes of determining cost of production.
Id. at 24977.

In certain recent final antidumping duty determinations, the Department did not apply this methodology. See e.g., *Final Determination of Sales at Less Than Fair Value; Certain Internal Combustion, Industrial Forklift Trucks from Japan*, 53 FR 12552, 12555 (April 15, 1988). After extensive consideration of this issue, and after reviewing the lengthy comments of the parties at the hearing and in their written briefs, we have determined to follow the methodology outlined in the Korean TV determination.

Comment 8

Respondent maintains that the Department should limit its COP/CV calculation to the 1987 and 1988 ATV models for which Honda supplied full and complete cost information. Respondent contends that it would have been enormously difficult, if not impossible, to report cost information for pre-1987 models. Petitioner urges the Department to reject this claim. It contends that the COP/CV for pre-1987 models should be based on the cost to produce current models as the best information available.

DOC Position

During the period of investigation, Honda sold in the United States ATVs produced for the model years 1983-1988. Honda only provided cost of production information for 1987 and 1988 models, which accounted for about 90 percent of Honda's sales to the U.S. during the period of investigation. Lacking cost data for the pre-1987 models, we were unable to determine whether or not these models were sold below their cost

of production. Therefore, as noted above, for best information available pursuant to section 776(c) of the Act, we have assigned to Honda's sales of pre-1987 models sold in both the Canadian and U.S. markets, the highest margin indicated for Honda in the petition.

Yamaha

Comment 9

The petitioner raises a number of questions regarding the validity of the processing standards developed from a processing time study which Yamaha failed to retain in its records.

The respondent argues that it is impractical to maintain records of all the time studies on which the standards are based due to the large number of finished products and the number of parts and processing steps involved to produce ATVs. Respondent claims that since the variances among products in the motorcycle factories did not significantly differ, the standards must be fairly accurate to approximate actual costs so closely.

DOC Position

At verification: (1) The methodology for developing the standard costs, (2) the elements (i.e., depreciation, labor) of the standard costs, (3) the relationship of the standard costs to budgeted costs and (4) the use of the standard costs in YMC's normal accounting system, were tested. We determined that sufficient information was available to support the reasonableness of these processing standards.

Comment 10

The petitioner argues that adjusting standard costs for a single month by an annual variance is not an acceptable method for arriving at actual costs. It is not acceptable for Yamaha to submit costs only for the month of March, which is outside the period of investigation.

The respondent argues that Yamaha does not maintain a product-specific/assembly line ATV variance in its normal accounting practice. Yamaha uses full-year, rather than semi-annual variances because of the stability of actual material prices during the fiscal year, and because supplier rebates are included only in the full-year variance.

DOC Position

Shinba, Yamaha's related assembly plant, only accumulates product-specific costs during the month of March. Therefore, to facilitate verification, we accepted Yamaha's March standard cost information, which incorporated the cost data for Shinba. However, we also examined Yamaha's cost information for

several months within the period of investigation to ensure that March standard costs were representative of cost standards during the period of investigation, and were not significantly higher, lower, or otherwise misleading. Since March standard costs were determined to be representative of the full 1988 fiscal year, applying the annual variance to those standards provides an accurate representation of the actual costs incurred.

Comment 11

The petitioner argues that use of factory-wide variance distorts the adjustment from standard costs to actual costs.

The respondent argues that there is little deviation from using a factory-wide variance instead of product-specific variances which the factory does not maintain. When Yamaha repurchases the fully-assembled ATV from Shinba, it reports the assembly cost as its cost of goods sold. Thus, the company feels that it is unnecessary to calculate a product-specific variance for ATV engines.

DOC Position

Although we agree with the petitioner that product-specific variances would be desirable, we verified that the respondent used a weighted average of the finished product variances within the factory, and therefore are satisfied that a factory-wide variance is an acceptable alternative.

Comment 12

The respondent argues that in order to support the "market value" of components obtained from related companies, it submitted adequate component cost information during verification which demonstrated that major components were purchased by Yamaha at prices above their costs.

DOC Position

We verified the cost of production of a number of major components at two related suppliers, and determined that costs were below the transfer price to Yamaha.

Comment 13

The respondent contends that it has adequately clarified that both the net loss on disposal of fixed assets and net interest expenses are included in the general and administrative expenses provided in Shinba's cost response.

DOC Position

We agree. During verification we identified these items as part of general and administrative expenses.

Comment 14

The petitioner argues that Yamaha did not provide a sufficient reason for not submitting Shinba's processing costs for models produced in 1987.

The respondent argues that it was justified in using actual 1988 processing costs as the basis of costs for both 1987 and 1988 model year units. Since the company does not develop information on assembly costs for particular models, the respondent would have had to calculate the cost of production for the year ended March 31, 1987 by developing assembly time for each model produced in 1987. Due to the enormous difficulty of these calculations, the company used 1988 costs as a substitute.

DOC Position

We verified the use of the assembly time study and the fiscal year 1988 processing costs used for the 1987 costs, and determined that fiscal year 1988 processing data provided an acceptable basis upon which to calculate 1987 processing costs.

Comment 15

The respondent argues that the omission of certain items from the general expenses of the two related suppliers which were reviewed, and the various methodologies used to allocate general expenses to product lines, are not issues for consideration since these items have no impact on the investigation. For the submission, Yamaha used an aggregate general expense ratio, which results in figures similar to the actual general expenses.

DOC Position

We determined that calculating general expenses using an aggregate general expense ratio produces virtually the same results as using actual general expenses. Therefore, no adjustment was made to the data in the questionnaire response.

Comment 16

The petitioner argues that material costs transferred to Shinba are based solely on the standard costs in Yamaha's inventory system, and that Yamaha has made no attempt to reconcile these standard costs to Shinba's actual costs or to include related variances. Thus, the petitioner believes the submitted costs are not Yamaha's actual costs.

The respondent argues that products transferred to Shinba for incorporation into a finished ATV are ultimately recorded in its costs of goods sold at the fully-assembled transfer price. For the purposes of Shinba's cost accounting system, as an independent accounting entity, it is impossible to pass through variances as in the case of the accounting methodology used for the so-called independent factories within Yamaha itself.

DOC Position

Although the engines were transferred to Shinba at standard cost, we verified the actual cost of the engines, which capture the variances. It is the actual costs that are included in the Department's COP calculation.

Comment 17

The petitioner argues that the per-unit standard times used in the calculation of Shinba's processing costs were not reconciled to total actual hours worked; therefore, the processing costs in the submission do not necessarily represent fully-absorbed, actual costs.

The respondent argues that it was not necessary to reconcile the per-unit standard times to the total actual hours worked since the basis of the per-second labor cost includes total labor costs, which includes the amount for total actual hours worked.

DOC Position

The Department verified the components included in the per-unit standard time calculation. One of the components verified was actual labor costs, including actual total hours worked. Therefore, if these costs were divided by standard hours, the full costs would be absorbed.

Comment 18

The petitioner argues that since Yamaha could identify those supplier penalties related to ATVs, it could have identified a separate materials-purchase variance for ATVs.

The respondent argues that supplier penalties are accumulated in a specific account and paid on a supplier-by-supplier basis. Isolating ATV-specific penalties is relatively easy. The materials variance is much more complex, and includes more than supplier rebates, such as the pass-through of variances from Yamaha's other factories.

DOC Position

We verified the calculation of the ratio of supplier penalties relating to ATVs to the cost of ATVs sold to determine the amount for supplier

penalties included in general and administrative expenses. After viewing the production process, we agree that the respondent cannot isolate a product specific assembly line variance, even though it may maintain specific records pertaining to supplier penalties.

Comment 19

Respondent contends that the use of imputed interest rather than actual short term interest in calculating COP and CV is illogical and contrary to law. The Department should follow its prior decisions that reflect a preference for actual interest expenses over imputed costs. Furthermore, Yamaha argues that the use of imputed interest in the CV calculation unlawfully inflates the statutory eight percent minimum amount for profit. If the Department insists on using imputed interest expenses, it should account for the revenue that would have been generated by unused capital.

DOC Position

Because a sufficient number of Yamaha's Canadian sales were determined to be above COP, we did not base its foreign market value upon CV. Therefore, respondent's comments with respect to the propriety of utilizing so-called "imputed" interest expenses in CV are moot.

Regarding the use of imputed interest expenses in COP, we explain in response to Honda's comment 7 that the Department based inventory carrying costs and post-sale credit expenses upon each respondent's financial statements and records.

Comment 20

Respondent urges the Department to continue its decision from the preliminary determination and exclude from the fair value comparison all non-standard sales and sales of models with no corresponding Canadian models. Due to the burden placed on the respondent and the extremely small amount of sales involved, the Department should not produce calculations for the handful of accommodation sales, barter sales, promotional sales, sales of damaged merchandise, so-called "safety-education sales", and sales of repossessed models.

DOC Position

We have determined that an adequate number of comparisons are possible by limiting comparisons to those models which were sold in both the U.S. and Canadian markets. Due to the nature of the "non-standard" sales it is difficult and time consuming to find matches

between the U.S. and Canadian markets. For administrative convenience, we have omitted these comparisons. Furthermore, the quantity of such sales is quite small compared to respondent's total U.S. sales. Therefore, we do not believe that omitting comparisons on non-standard sales has any significant effect on our margin calculations.

Comment 21

Respondent also contends that several hundred sales of three-wheel ATVs during the period of investigation should be excluded from the Department's fair value comparison.

DOC Position

We disagree. See our response to Honda's comment 6, above.

Comment 22

Petitioner contends that since information regarding the deduction of corporate income tax from Yamaha's Canadian indirect selling expenses was submitted after the preliminary determination, it should be rejected as untimely.

DOC Position

The information submitted by Yamaha regarding the deduction of corporate income tax from Canadian indirect selling expenses was verified by the Department and was used for this final determination.

Suzuki

Comment 23

The petitioner argues that transfer prices for parts purchased from related suppliers should not be reduced by a percentage based on the related supplier's overall profit. The petitioner argues that the actual profit or loss on the ATV parts may be entirely different from this average.

DOC Position

The respondent provided neither market price nor cost of production data for parts purchased from related suppliers. Consequently, no documentation was available to support the amount of profit deducted by the respondent in adjusting related supplier transfer prices to actual cost. We, therefore, disallowed the company's profit adjustment on parts received from related suppliers.

Comment 24

The petitioner argues that the methodology used to compute variance ratios at the processing department level was questionable. It argues that variance ratios should have been

computed at the motorcycle group level instead of on a company-wide basis.

DOC Position

The Department was unable to verify variance ratios at the product division level since Suzuki's variance statistics are only kept by the processing department at the company level, rather than the division level.

Comment 25

The petitioner argues that general R&D, R&D for future ATV models, and R&D related to new safety features for ATVs, should have been included in the COP for purposes of the final determination.

DOC Position

We agree. R&D for general ATV purposes, for future development, and for new safety features, are all related to ATV production and were included in our calculation of COP.

Comment 26

The petitioner argues that G&A expenses should not be expressed as a ratio of sales revenue and then applied to the cost of manufacture on a per-unit basis.

DOC Position

Because Suzuki does not record cost of sales data on a product-specific basis, we were unable to verify the actual cost of sales for the ATVs under investigation using this method. As an alternative procedure, we compared the company's submitted ratio of general expenses to actual ATV sales to the ratio of general expenses to standard cost of sales for ATVs. The two ratios were approximately equal. We, therefore, accepted the company's ratio.

Comment 27

The petitioner argues that legal expenses incurred by the respondent in order to defend itself against the U.S. Consumer Product Safety Commission should be included in indirect selling expenses and not in G&A expenses.

DOC Position

The legal expenses are not considered related to the actual sale of the product and thus should be included in G&A expenses and not as an indirect selling expense.

Comment 28

The petitioner argues that all interest income should be ignored for the purpose of calculating cost of production for the following reason: a) Information on interest income on a consolidated basis was not provided at verification;

and b) long-term interest income should be considered related to investments rather than to the general operations of the company.

DOC Position

We agree. Interest income was not used as an offset to the interest expense included in the submission.

Comment 29

The petitioner argues that long-term interest expense should be included in the cost of production because it is related to the financing of plant and equipment and, as such, is clearly related to the production of ATVs.

DOC Position

We agree. We have included long-term interest expense in our cost of production calculation.

Comment 30

The respondent contends that the Department should not use a sale-by-sale interest expense for inventory carrying costs and post-sale credit expenses in its calculation of COP and CV. Citing U.S. Department of Commerce, *Treatment of Opportunity Costs in COP Cases*, Policy Paper No. 16 (1982) and U.S. Department of Commerce, *Summary of COP and Constructed Value Principles*, Policy Paper No. 47 (1982), respondent argues that the Department has explicitly repudiated the use of imputed or "opportunity" costs in either COP and CV.

The petitioner states that it is essential for the Department to include so-called "imputed" interest expenses in the COP and CV calculations. In order to measure accurately the relative returns obtained by Honda, the petitioner argues that the Department must calculate credit and inventory carrying expenses on a sale-specific basis. The petitioner further states that the use of sale-specific data is consistent with generally accepted accounting principles.

DOC Position

As we explain in response to Yamaha's comment 19 and Honda's comment 7, we based our calculation of interest expenses in COP upon the books and records of each respondent. Since Suzuki's foreign market value was based upon Canadian selling prices, its comment with respect to CV is moot.

Comment 31

The respondent contends that its sales of model LT125 in the United States during the period of investigation were

APPENDIX B

A LIST OF WITNESSES APPEARING AT
THE PUBLIC HEARING

In opposition to the imposition of
antidumping duties:

Wilmer, Cutler and Pickering and
Gibson, Dunn and Crutcher
Washington, D.C.
on behalf of

American Honda Motor Co., Inc.
(Gibson, Dunn and Crutcher are co-counsel)

Honda Motor Co., Ltd.

Suzuki Motor Co., Ltd.

American Suzuki Motor Corp.

Yamaha Motor Corporation U.S.A.

Quick, Finan and Associates, Inc.
William F. Finan

Econometrica International, Inc.
Richard L. Boyce

Robert C. Cassidy, Jr.)—OF COUNSEL

Milkie, Farr and Gallagher
Washington, D.C.
on behalf of

Yamaha Motor Corporation, U.S.A.

Yamaha Motor Co., Ltd.

William H. Barringer)—OF COUNSEL

In opposition to the imposition of
antidumping duties:

Pettit and Martin
Washington, D.C.
on behalf of

Suzuki Motor Co., Ltd.

American Suzuki Motor Corporation

John H. Korns)—OF COUNSEL

Lemco & Associates
Albany, Oregon

Ed Lemco, President

Gary Surdyke, Retail Dealer,
Surdyke Yamaha Harley Davidson,
Fetus, Missouri

APPENDIX C

UPDATED INFORMATION FROM THE
PRODUCERS, IMPORTERS, AND FOREIGN PRODUCERS

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APPENDIX D

PRODUCT SPECIFICATIONS FOR THE TWO POLARIS ATV MODELS
AND FOR THE OTHER DOMESTIC AND IMPORTED ATV MODELS
CHOSEN BY THE RESPONDING U.S. PRODUCERS AND IMPORTERS
FOR WHICH THEY REPORTED F.O.B. SELLING PRICE DATA

Product specifications for the various domestic and imported Japanese ATVs chosen by U.S. producers and importers are shown in charts 1-5 on the following pages. Some of the more easily-identifiable product features are highlighted, such as the intended use(s) of the models reported, the weight, displacement of the engine, type of transmission, and the amount of travel in the suspension system. Generally, larger engine displacements and greater travel in the suspension will enhance the value of the ATVs. Although not shown, all the models had single cylinder, air-cooled engines, reverse gear, and came equipped with head lights and parking brakes as standard equipment. In addition, the two polaris models were equipped with platform footrests compared to foot pegs on the imported Japanese and U.S. produced Kawasaki ATVs. The 3-digit number following the letter prefix in the model names refers to the nominal engine displacement, measured in cubic centimeters (cc). For instance, the Trailboss 250 (2x4) has a 250cc engine.

Comparison Chart 1:

Specifications of U.S. produced two-wheel drive ATVs

Product specifications	Polaris	Kawasaki		
	Trailboss 250 (2x4)	Bayou 300 A/B series (KLF 300-A1) (KLF 300-A2) (KLF 300-B1)		
Intended use(s)--	Utility/sports- man/recreation	-----Utility-----		
Dimensions:				
Length (")	70.0	72.8	73.8	75.2
Height (")	43.5	43.3	40.0	43.9
Width (")	43.0	41.1	42.5	40.7
Ground Clearance (")	6.2	7.7	6.3	7.7
Dry weight (pounds)	440	492	492	492
Engine:				
Displacement (cc)	244	290	290	290
Transmission:				
Type	Automatic	5-SP Manual	5-SP Manual	5-SP Manual
Drive train	Chain	Shaft	Shaft	Shaft
Suspension:				
Front--Travel (")	6.3	4.5	4.5	4.9
Rear--Travel (")	6.0	4.7	4.7	4.7
Brakes:				
Front (type)	Disc	Drum	Drum	Disc
Rear (type)	Disc	Drum	Drum	Drum
Tire size:				
Front	22x8-10	22x9-10	22x9-10	22x9-10
Rear	22x11-10	24x11-10	24x11-10	24x11-10
Standard equipment:				
Racks	Front/rear	Front/rear	Front/rear	Front/rear
Hitch	Yes	Yes	Yes	Yes
Tool kit	Yes	Yes	Yes	Yes
Storage compartment	Yes	Yes	Yes	Yes

Comparison Chart 2:

Specifications of two-wheel drive ATVs: The Polaris Trailboss 250 2X4
and selected imported Japanese Honda models

Product specifications	Polaris	Honda	
	Trailboss 250 (2x4)	FourTrax 250 (TRX 250)	FourTrax 300 (TRX 300)
Intended use(s)--	Utility/sports-man/recreation	Utility/sports-man	Utility
Dimensions:			
Length (")	70.0	73.8	74.9
Height (")	43.5	40.0	41.5
Width (")	43.0	42.5	43.8
Ground Clearance (")	6.2	6.3	6.3
Dry weight (pounds)	440	481	439
Engine:			
Displacement (cc)	244	246	282
Transmission:			
Type	Automatic	5-SP Manual	5-SP Manual
Drive train	Chain	Shaft	Shaft
Suspension:			
Front--Travel (")	6.3	2.0	5.1
Rear--Travel (")	6.0	4.0	5.1
Brakes:			
Front (type)	Disc	Drum	Drum
Rear (type)	Disc	Drum	Drum
Tire size:			
Front	22x8-10	21x7-10	23x8-11
Rear	22x11-10	25x12-9	25x12-9
Standard equipment:			
Racks	Front/rear	Front/rear	Front/rear
Hitch	Yes	Yes	Yes
Tool kit	Yes	No	No
Storage compartment	Yes	Yes	Yes

Comparison Chart 3:

Specifications of two-wheel drive ATVs: The Polaris Trailboss 250 2X4
and selected imported Japanese Suzuki models

Product specifications	<u>Polaris</u> Trailboss 250 (2x4)	<u>Suzuki</u>		
		Quadrunner 250E (LT 250E)	QuadRunner 300E (LT 300E)	QuadRunner F250 (LTF 250)
Intended use(s)--	Utility/sports- man/recreation	-----Utility-----		
Dimensions:				
Length (")	70.0	77.6	78.3	81.1
Height (")	43.5	40.7	44.1	43.3
Width (")	43.0	42.1	43.7	44.1
Ground Clearance (")	6.2	5.1	5.5	7.5
Dry weight (pounds)	440	434	447	496
Engine:				
Displacement (cc)	244	249	293	246
Transmission:				
Type	Automatic	5-SP Manual	5-SP Manual	5-SP Manual
Drive train	Chain	Chain	Chain	Shaft
Suspension:				
Front--Travel (")	6.3	3.3	3.2	3.3
Rear--Travel (")	6.0	Rigid	3.9	3.7
Brakes:				
Front (type)	Disc	Drum	Drum	Drum
Rear (type)	Disc	Drum	Drum	Drum
Tire size:				
Front	22x8-10	22x8-9	21x8-9	22x8-10
Rear	22x11-10	25x12-9	25x12-9	24x11-10
Standard equipment:				
Racks	Front/rear	Front/rear	Front/rear	Front/rear
Hitch	Yes	Yes	NO	Yes
Tool kit	Yes	Yes	Yes	Yes
Storage compartment	Yes	Yes	No	Yes

Comparison Chart 4:

Specifications of two-wheel drive ATVs: The Polaris Trailboss 250 2X4
and selected imported Japanese Yamaha and Kawasaki models

Product specifications	<u>Polaris</u> Trailboss 250 (2x4)	<u>Yamaha</u> MotoFour 225 (YFM 225)	<u>Kawasaki</u> Bayou 185-A1 (KLF 185-A1)	Bayou 185-A2 (KLF 185-A2)
Intended use(s)--	Utility/sports- man/recreation	--Utility--	Light utility/sportsman/ recreation	
Dimensions:				
Length (")	70.0	73.2	66.9	67.5
Height (")	43.5	39.6	39.4	39.4
Width (")	43.0	43.9	38.8	38.8
Ground Clearance (")	6.2	5.3	5.7	5.7
Dry weight (pounds)	440	452	333	357
Engine:				
Displacement (cc)	244	223	182	182
Transmission:				
Type	Automatic	5-SP Manual	5-SP Manual	5-SP Manual
Drive train	Chain	Shaft	Shaft	Shaft
Suspension:				
Front--Travel (")	6.3	2.8	4.9	4.9
Rear--Travel (")	6.0	3.2	Rigid	Rigid
Brakes:				
Front (type)	Disc	Drum	None	Drum
Rear (type)	Disc	Disc	Drum	Drum
Tire size:				
Front	22x8-10	22x8-10	21x9-8	21x9-8
Rear	22x11-10	25x12-9	22x11-8	22x11-8
Standard equipment:				
Racks	Front/rear	Front/rear	No	Front/rear
Hitch	Yes	Yes	Yes	Yes
Tool kit	Yes	Yes	Yes	Yes
Storage compartment	Yes	Yes	No	No

Comparison Chart 4:--continued

Specifications of two-wheel drive ATVs: The Polaris Trailboss 250 2X4
and selected imported Japanese Yamaha and Kawasaki models

Product specifications	Polaris	Kawasaki	
	Trailboss 250 (2x4)	Bayou 185-A3 (KLF 185-A3)	Bayou 185-A4 (KLF 185-A4)
Intended use(s)--	Utility/sports- man/recreation	Light utility/sportsman/ recreation	
Dimensions:			
Length (")	70.0	67.5	67.5
Height (")	43.5	39.4	39.4
Width (")	43.0	38.8	38.8
Ground Clearance (")	6.2	5.7	5.7
Dry weight (pounds)	440	357	357
Engine:			
Displacement (cc)	244	182	182
Transmission:			
Type	Automatic	5-SP Manual	5-SP Manual
Drive train	Chain	Shaft	Shaft
Suspension:			
Front--Travel (")	6.3	4.9	4.9
Rear--Travel (")	6.0	Rigid	Rigid
Brakes:			
Front (type)	Disc	Drum	Drum
Rear (type)	Disc	Drum	Drum
Tire size:			
Front	22x8-10	21x9-8	21x9-8
Rear	22x11-10	22x11-8	22x11-8
Standard equipment:			
Racks	Front/rear	Front/rear	Front/rear
Hitch	Yes	Yes	Yes
Tool kit	Yes	Yes	Yes
Storage compartment	Yes	No	No

Comparison Chart 5:

Specifications of four-wheel drive ATVs: The Polaris Trailboss 250 4X4
and selected imported Japanese models

	<u>Polaris</u>	<u>Honda</u>	<u>Suzuki</u>	<u>Yamaha</u>
Product specifications	Trailboss 250 (4x4)	FourTrax Foreman 4X4 (TRX 350D)	QuadRunner 4WD (LT-4WD 250)	Big Bear (YFM 350FW)
Intended use(s)--	Utility	-----Utility-----		
Dimensions:				
Length ("	70.0	77.9	76.4	74.2
Height ("	46.0	42.5	41.5	43.7
Width ("	44.5	40.9	47.2	43.1
Ground Clearance ("	6.8	6.3	7.8	7.1
Dry weight (pounds)	490	590	520	549
Engine:				
Displacement (cc)	244	350	246	348
Transmission:				
Type	Automatic	5-SP Manual	5-SP Manual	5-SP Manual
Drive train	Chain	Shaft	Shaft	Shaft
Suspension:				
Front--Travel ("	6.3	4.3	3.3	3.9
Rear--Travel ("	6.5	4.3	3.7	4.3
Brakes:				
Front (type)	Disc	Drum	Drum	Drum
Rear (type)	Disc	Drum	Drum	Disc
Tire size:				
Front	22x8-10	24x9-11	22x8-10	25x8-12
Rear	24x11-10	24x9-11	25x12-10	25x10-12
Standard equipment:				
Racks	Front/rear	Front/rear	Front/rear	Rear
Hitch	Yes	Yes	Yes 1/	Yes
Tool kit	Yes	Yes	Yes	Yes
Storage compartment	Yes	Yes	Yes	Yes

1/ In 1987, the initial year for this model, the hitch did not come as standard equipment. In 1988, however, the hitch was standard equipment on this model.

APPENDIX E

NET F.O.B. SELLING PRICE DATA FOR TWO SPECIFIED POLARIS ATV
MODELS AND SELECTED OTHER U.S.-PRODUCED ATVS CHOSEN BY KAWASAKI

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APPENDIX F

NET U.S. F.O.B. SELLING PRICE DATA FOR SELECTED
IMPORTED JAPANESE ATVS CHOSEN BY THE RESPONDING IMPORTERS

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APPENDIX G

PURCHASER COMMENTS REGARDING DIFFERENCES BETWEEN THE
POLARIS AND IMPORTED JAPANESE ATVS

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