

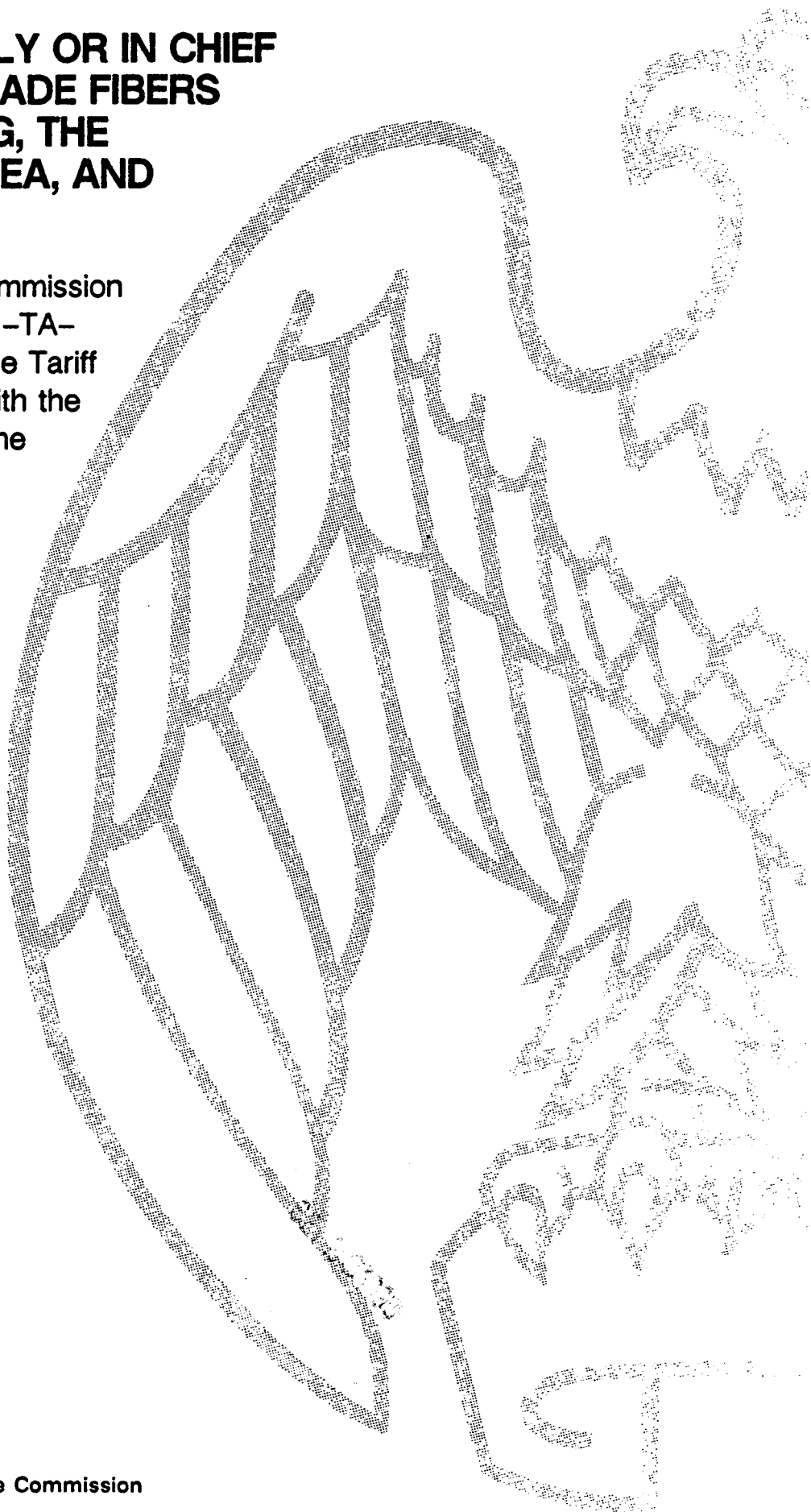
SWEATERS WHOLLY OR IN CHIEF WEIGHT OF MANMADE FIBERS FROM HONG KONG, THE REPUBLIC OF KOREA, AND TAIWAN

Determinations of the Commission
in Investigations Nos. 731-TA-
448-450 (Final) Under the Tariff
Act of 1930, Together With the
Information Obtained in the
Investigations

USITC PUBLICATION 2312

SEPTEMBER 1990

United States International Trade Commission
Washington, DC 20436



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Note.--Information that would reveal business proprietary operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-448, 449, & 450 (Final)

SWEATERS, WHOLLY OR IN CHIEF WEIGHT OF MANMADE FIBERS,
FROM HONG KONG, THE REPUBLIC OF KOREA, AND TAIWAN

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines,² 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 materially injured by reason of imports from Hong Kong, the Republic of Korea ("Korea"), and Taiwan of sweaters, wholly or in chief weight of manmade fibers ("manmade-fiber sweaters"),³ provided for in subheadings 6103.23.00, 6103.29.10, 6103.29.20, 6104.23.00, 6104.29.10, 6104.29.20, 6110.30.10, 6110.30.20, and 6110.30.30 of the Harmonized Tariff Schedule of the United States (HTS), 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 these investigations effective April 27, 1990, following preliminary determinations by the Department of Commerce that imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673).

¹ The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(h)).

² Commissioner Newquist dissenting. Acting Chairman Brunsdale did not participate.

³ For purposes of these investigations, "sweaters of manmade fibers" are defined as knitted or crocheted outerwear garments wholly or in chief weight of manmade fibers, in a variety of forms including jackets, vests, cardigans with button or zipper fronts, and pullovers, usually having ribbing around the neck, bottom, and cuffs on the sleeves (if any), encompassing garments of various lengths. The phrase "in chief weight of manmade fibers" covers sweaters where the manmade fibers predominate by weight over each other single textile material. Sweaters of manmade fibers, as defined here, do not include sweaters 23 percent or more by weight of wool or sweaters for infants 24 months of age or younger. Sweaters of manmade fibers include all such sweaters regardless of the number of stitches per centimeter, but with regard to sweaters having more than nine stitches per two linear centimeters horizontally, only those with a knit-on rib at the bottom are included.

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the appropriate notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register on May 9, 1990 (55 F.R. 19369) and June 15, 1990 (55 F.R. 24331).

The hearing was held in Washington, DC, on August 9, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION¹

On the basis of the record developed in these final investigations, we determine that an industry in the United States is materially injured by reason of imports of sweaters of manmade fibers from Hong Kong, the Republic of Korea, and Taiwan, that the Department of Commerce has determined to have been sold in the United States at less than fair value.^{2 3}

I. Like Product

A. In general. A threshold issue for the Commission in antidumping investigations is the definition of the domestic industry and, concomitantly, the like product. The statute defines domestic industry as "the domestic producers as a whole of a like product...."⁴ "Like product," in turn, is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with" the articles subject to investigation.⁵

The Department of Commerce defines the imported merchandise that is subject to investigation, and the Commission determines the domestic products "like" the imports. In these investigations, Commerce has

¹ Acting Chairman Brunsdale did not participate in these final determinations.

² Commissioner Newquist dissents from the Commission's determinations. See his additional views, infra.

³ Material retardation is not an issue in these investigations and will not be discussed further.

⁴ 19 U.S.C. § 1677(4)(A).

⁵ 19 U.S.C. § 1677(10).

defined the articles subject to investigation as sweaters wholly or in chief weight of manmade fibers, excluding infants' sweaters and sweaters 23 percent or more by weight of wool, but including certain fine-knit garments that have a knit-on rib at the bottom.⁶

The Commission's decision concerning like product is factual and is made on a case-by-case basis.⁷ In making this decision, the Commission traditionally has considered such factors as: (1) physical characteristics, (2) uses, (3) interchangeability, (4) channels of distribution, (5) customer and producer perceptions, (6) manufacturing

⁶ Final Determinations of Sales at Less Than Fair Value; Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong, 55 Fed. Reg. 30733-4 (July 27, 1990); the Republic of Korea, 55 Fed. Reg. 32659 (Aug. 10, 1990); Taiwan, 55 Fed. Reg. 34585-6 (Aug. 23, 1990):

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knit or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber.

The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys' or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

⁷ Asociacion Colombiana de Exportadores de Flores v. United States (ASOCOLFLORES I), 12 CIT ___, 693 F. Supp. 1165, 1169 & n.5 (1988); 3.5" Microdisks and Media Therefor from Japan (Microdisks), Inv. No. 731-TA-389 (Final), USITC Pub. 2170 (Mar. 1989) at 6.

facilities and employees, (7) production process, and (8) price.⁸ No single factor is dispositive, and the Commission may consider other factors. The Commission has not drawn distinctions based on minor physical differences,⁹ and instead has looked for clear dividing lines between articles before considering them to be separate like products.¹⁰

B. Manmade-fiber sweaters v. natural-fiber sweaters. In the preliminary investigations, the Commission adopted a like product definition broader than Commerce's scope determination. The Commission found the like product to consist of sweaters of all fibers, including manmade fibers and natural fibers. The Commission noted that it was a "close question" and stated that --

in the event of any final investigations, we will revisit the question of whether to draw a like product distinction according to fiber.¹¹

⁸ Benzyl Paraben from Japan, Inv. No. 731-TA-462 (Preliminary), USITC Pub. 2303 (Aug. 1990) at 4; Certain All-Terrain Vehicles from Japan (ATVs), Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (Mar. 1989) at 4; see Citizen Watch Co., Ltd. v. United States, 14 CIT ___, 733 F. Supp. 383, 389 (1990) (Court found Commission's like product factors to be "reasonable and justifiable.").

⁹ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁰ Industrial Nitrocellulose From Brazil, Japan, the People's Republic of China, the Republic of Korea, the United Kingdom, and West Germany, Invs. Nos. 731-TA-439-444 (Final), USITC Pub. 2295 (June 1990) at 4.

¹¹ Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-448-450 (Preliminary), USITC Pub. 2234 (Nov. 1989) at 6, 11. In final investigations, the Commission is not bound by the like product definition made in preliminary investigations. See Citizen Watch, 733 F. Supp. at 388, citing National Pork Producers Council v. United States, 11 CIT 398, 661 F. Supp. 633 (1987); see also Citrosuco Paulista, S.A. v. United States, 12 CIT ___, 704 F. Supp. 1075, 1087-88 (1988).

In these final investigations, petitioner argued that the like product should be limited to manmade-fiber sweaters.¹² Petitioner advanced several new arguments and offered new information concerning the analysis of such factors as end uses and channels of distribution. All respondents who addressed the issue argue that the Commission should reach the same like product finding as in the preliminary investigations.

A significant amount of new information relevant to the like product question has been gathered in these final investigations. Among other data, the new information concerns consumer substitutability of sweaters of different fibers, the degree of specialization by firms in production of sweaters of one fiber or another, and the significance of multi-fiber blended sweaters.

In the light of the new information and arguments, we have also more closely examined the information and arguments already on the record from the preliminary investigations. We have rendered our determinations in these final investigations following an investigation period of over four months.¹³ The opportunity afforded in final investigations for more thorough consideration of issues is especially important for issues that are as hotly contested and as factually intensive as the issue of the appropriate like product in these

¹² Prehearing brief of National Knitwear and Sportswear Association (NKSA) at 13-40.

¹³ The statutory standard for antidumping investigations reflects the fundamental difference between preliminary and final investigations. In preliminary investigations the Commission determines whether there is a "reasonable indication" of material injury or threat thereof, as opposed to actual material injury or threat in final investigations. Compare 19 U.S.C. § 1673b(a) with 19 U.S.C. § 1673d(b).

investigations. Moreover, as noted above, in the preliminary investigations we explicitly indicated our intention to revisit the question of fiber distinctions for purposes of like product.

As explained below, we find that the product "like" the subject manmade-fiber sweaters is sweaters made by U.S. producers that are wholly or in chief weight of manmade fibers.

1. Physical characteristics. A sweater is a well known type of knit (or crocheted) outerwear that can be made in any desired size, color, pattern, or level of fashion, regardless of fiber. However, differences in the characteristics of natural-fiber yarn and manmade-fiber yarn mean that manmade-fiber sweaters are more durable and can more easily be washed than natural-fiber sweaters. Cotton, wool, and acrylic sweaters may also differ in warmth, breatheability, moisture absorption, and feel.¹⁴ Although we noted some of these differences in the preliminary investigations,¹⁵ we now view them as meriting weight in comparison to the general similarities among all sweaters, in light of the fact that these differences result in distinctions between manmade-fiber and natural-fiber sweaters in manufacturing processes, end uses, and interchangeability at the consumer level, as is discussed further below.

2. Manufacturing process, employees, and equipment, and producer perceptions. As in the preliminary determinations,¹⁶ we find

¹⁴ There is apparently little or no U.S. production of sweaters of the natural fibers of ramie, silk, or flax. Staff Report to the Commission (Report) at A-9. Therefore, we discuss only cotton and wool.

¹⁵ USITC Pub. 2234 at 6.

¹⁶ USITC Pub. 2234 at 6-8.

that when examined in terms of production processes, equipment, and employees, natural-fiber and manmade-fiber sweaters generally show both broad similarities and significant specific differences. However, in these final investigations, industry witnesses provided further details on differences between manmade-fiber and natural-fiber sweaters in production processes and costs. Moreover, in these final investigations, producer questionnaire responses, which are significantly more numerous than in the preliminary investigations, indicate that many producers specialize in production of sweaters of one type of fiber or the other.

The general process for making sweaters of any fiber is the same: designing the sweater, transmitting the design to a knitting machine, knitting the fabric, cutting it into shapes, sewing the shapes together, and pressing the finished sweater.¹⁷ The major piece of equipment, the knitting machine, is the same for sweaters of all fibers.¹⁸ However, for those U.S. firms that manufacture both types of sweaters, it appears that shifting knitting machines from one fiber to another is not done on a day-to-day basis, but rather, requires some downtime and is more likely to be done seasonally.¹⁹

¹⁷ Report at A-7.

¹⁸ In these final investigations, several firms reported production of small amounts of other items, primarily other types of cut-and-sew knitwear, on the same machinery used to knit sweaters. Report at A-29. This additional fact lessens somewhat the significance of the common knitting process and machines for manmade-fiber and natural-fiber sweaters.

¹⁹ Report at A-9; Affidavit of Ivan Gordon, Prehearing brief of NKSA at Ex. E.

As for production workers, all firms reporting production of both manmade-fiber and natural-fiber sweaters indicated that they used the same production and related workers to make both types of sweaters.²⁰ For producers that make both types of sweaters, production is done at the same facilities.

Nevertheless, differences in production equipment and process are noteworthy. Two U.S. producer representatives who submitted affidavits were strongly of the view that cotton and acrylic sweaters were not the same product because of the added difficulties in making cotton sweaters.²¹ The main equipment difference results from the fact that cotton panels must be washed to control shrinkage. This means that a producer must either invest in washing machines and dryers or contract out for this service.²² Additional capital expenses associated with washing include higher electrical capacity, a high pressure boiler, reinforced floors, and a sewer connection.²³

Apart from these fixed costs, the production of natural-fiber sweaters entails greater marginal difficulty and expense because of the

²⁰ Report at A-40.

²¹ Affidavits of Edward McLaughlin and Ivan Gordon, Prehearing brief of NKSA at Exs. D & E.

²² An industry representative stated that washers cost approximately \$20,000 and that dryers cost from \$6,000 to \$7,000 each. Affidavit of Ivan Gordon, Prehearing brief of NKSA at Ex. E.

²³ One producer stated that in order to obtain a permit to dispose of his washing effluents in the sewers, he was forced to acquire a waste water pretreatment system costing \$300,000. Affidavit of Ivan Gordon, Prehearing brief of NKSA at Ex. E. As noted in the preliminary investigations, at least some firms also wash their acrylic yarn. Report at A-10, n.28.

unique properties of natural-fiber yarn.²⁴ Cotton yarn is more variable in price (both over time and between different colors), is more cumbersome to dye (taking up to 2.5 times as long to dye as acrylic fiber), is of less consistent quality, must be tested for moisture content, and cannot be mixed across different lots.²⁵ When manufacturing cotton sweaters, machines must be run at slower speeds, needles break more frequently and, unlike acrylic sweaters, knitting mistakes cannot be corrected by steaming, resulting in more "seconds."²⁶ One producer witness stated that, depending on the color of the yarn, production and yarn costs for cotton sweater production exceeded those associated with acrylic sweater production by 50 percent or more.²⁷ Differences in production costs of this magnitude appear significant.

In these final investigations, information on whether firms specialize in different fibers is mixed. Just over half of U.S. producers that responded to the Commission's questionnaire reported

²⁴ See generally, affidavits of Edward McLaughlin and Ivan Gordon, prehearing brief of NKSA at Exs. D & E.

²⁵ Report at A-9--A-10.

²⁶ Report at A-10.

²⁷ Transcript of the Final Conference (Tr.) at 142. This estimated difference would appear roughly consistent with what another witness stated: that the least expensive children's acrylic sweater could be made for \$6.50 to \$7.00, whereas the cheapest cotton sweater could be made for \$11.00. Tr. at 62. With regard to relative yarn costs, one producer stated that, in general, the cost of yarn accounted for one-third of the cost of manufacturing an acrylic sweater, but was one-half the cost of making a natural-fiber sweater. Tr. at 143. Although questionnaire responses showed unit labor costs to be higher for manmade-fiber than for natural-fiber sweaters, Report at A-38, Table 9, labor costs are just one component of production costs, and the figure could reflect a difference in product mix.

production of both manmade-fiber and natural-fiber sweaters.²⁸ Of the questionnaire respondents who were contractors,²⁹ just under half made both types, one-third specialized in manmade fibers exclusively, and the remainder produced only natural-fiber sweaters.³⁰ Contractors were somewhat more likely to specialize in manmade fibers than were larger manufacturer/sellers. Thus, there is some evidence to support petitioner's claim that production and equipment differences between natural- and manmade-fiber sweaters may have limited at least to some degree the ability of producers, and contractors in particular, to make both natural-fiber and manmade-fiber sweaters.

To summarize, production equipment and the production process show a large degree of overlap between sweaters of different fibers, but also reveal some significant differences, reflected in the fact that many producers make only natural-fiber or manmade-fiber sweaters; for those producers that do make both types of sweaters, production employees and facilities are the same for sweaters of all fibers; and producer perceptions are that sweaters of manmade- and natural-fibers are not the same. Although the information is mixed, we conclude on balance that the production differences, in relation to overall similarities, are

²⁸ Report at A-19, A-20, A-26, Table 4, n.2. This figure excludes shipments data reported by firms that were exclusively jobbers, because jobbers do not produce sweaters.

²⁹ Contractors are generally smaller firms that produce sweaters but do not procure the yarn or subsequently market the sweaters they make. The different types of players in the sweater "industry" are discussed infra in section II.A.

³⁰ See generally, producers' questionnaires.

substantial and therefore support a like product limited to manmade-fiber sweaters.

3. Channels of distribution. Sweaters of all fibers are distributed in generally the same way: discount stores, department stores, and chain stores generally buy both natural and manmade-fiber sweaters, and display them together.³¹ Petitioner argues that focusing on broad channels of distribution in this case is not helpful because many other types of apparel go through the same general channels.³² Thus, according to petitioner, similarities in broad distribution channels could justify including other garments in the like product, and therefore those similarities "prove too much." In our view, the fact that other apparel items share the same basic distribution channels with sweaters lessens somewhat the significance of these distribution channel similarities between manmade-fiber and natural-fiber sweaters.³³

4. End uses, customer perceptions, interchangeability. In the preliminary investigations, the Commission noted that sweaters of all fibers have "the same general uses."³⁴ Petitioner argues that the

³¹ Report at A-23.

³² Prehearing brief of NKSA at 29.

³³ We also note that a survey cited by petitioner indicates that a higher percentage of manmade-fiber sweaters than natural-fiber sweaters goes to "discount" stores or "chain" stores, and that, with regard to "department" stores, the situation is reversed. Prehearing brief of NKSA at 30. Although we hesitate to place primary weight on petitioner's cited survey without more details, its results would appear consistent with the fact that natural-fiber sweaters are, to some degree, more expensive, higher-prestige items than manmade-fiber sweaters. See also, Tr. at 105 (mail-order houses such as Land's End and L.L. Bean deal primarily in cotton and wool sweaters.).

³⁴ USITC Pub. 2234 at 6.

same flaw concerning channels of distribution is present regarding broad end uses: because nearly all apparel items are worn for the same general purposes of fashion and warmth, this factor would support inclusion of those items as well.³⁵ As with channels of distribution, we believe that the fact that other garments have the same basic end uses does not mean that similarities in basic end use between sweaters of manmade and natural fibers are therefore irrelevant, but does lessen somewhat the overall significance of the basic similarities.

A specific end use difference noted by petitioner is that the vast majority of children's sweaters are of manmade fiber, because of its durability and washability.³⁶ More generally, even outside of the children's sweaters market segment, the fact that acrylic sweaters are machine washable, although not specifically a different "purpose" to which acrylic sweaters are put, is nevertheless a difference in how acrylic sweaters are "used" that is important to many consumers. Another specific end use difference concerns warmth: where the most warmth is required, wool sweaters are more likely to be worn; where greatest coolness and breatheability is needed, light cotton sweaters are more likely to be worn.

In addition to differences in end use, there are differences based on fiber that are more a matter of customer preference than of end use. For example, customers may value cotton for the way it feels against the

³⁵ Prehearing brief of NKSA at 23-4, n.9.

³⁶ Prehearing brief of NKSA at 25; tr. at 34-5, 53-4, 61, 149, 176. One retailer witness argued that use of cotton for children's sweaters has increased recently. Tr. at 175-6. Children's sweaters are only a small segment of the sweater market. See Report at A-34, Table 7.

skin, or may prefer natural fibers generally for prestige or for their natural origin. Of course, other factors may be important to consumers in purchasing a sweater, such as color, style, pattern, and price. In these final investigations, we have viewed the question of interchangeability in the broader sense, encompassing both end uses as well as preferences. This is because sweater purchases are not made on the basis of end use alone; preference-based distinctions contribute to the fact that natural-fiber sweaters, as a group, do not substitute fully with manmade-fiber sweaters (either imported or domestic), as described below.

In the preliminary investigations, the Commission's assessment of the issue of interchangeability was (necessarily) made without the benefit of much information from retailers or any information from purchasers. In the absence of more significant information on the issue, the Commission noted a statement from petitioner's executive director that sales of imported acrylic sweaters affect sales and prices of natural-fiber sweaters.³⁷ The Commission was careful to note, however, that "the precise extent of substitutability between manmade-fiber and natural-fiber sweaters was not made clear in these preliminary investigations."³⁸ The information concerning interchangeability and customer perceptions is much more substantial in these final investigations.

The questionnaire responses and other testimony on the record paint a fairly complex picture of the issue of substitutability across

³⁷ USITC Pub. 2234 at 9.

³⁸ Id.

fiber. This should not be surprising given the massive size and diversity of the sweater-consuming public in the United States.

The questionnaire responses of importers and purchasers on the question of substitutability between natural- and manmade-fiber sweaters range across the spectrum from "highly substitutable," to only "somewhat substitutable," to "not substitutable."³⁹ Other record evidence bears out the mixed picture on substitutability. At the Commission's hearing, several retailers opined that fashion, not fiber, was probably the most important consumer purchase consideration, that cotton and acrylic sweaters compete, but that there has been a noticeable shift toward greater consumption of cotton sweaters.⁴⁰ It appears that more fashionable sweaters are more likely to substitute across fiber.⁴¹ However, for at least some higher-end consumers, such as those buying from certain mail-order houses, fiber appears important.⁴² For children's sweaters, as noted above, fiber is important because of washability and durability. Finally, for many customers, fiber is important because cotton and wool sweaters cost more than acrylic sweaters, as is discussed below.

From the questionnaire data and other information on record, it appears that, overall, consumers will substitute sweaters of different

³⁹ Report at A-10, A-64.

⁴⁰ Tr. at 167, 174-5.

⁴¹ Report at A-64. See also Tr. at 245 (upper-end retailer stated that fashion is most important factor to that retailer's consumers).

⁴² Tr. at 105.

fibers only to a limited degree,⁴³ although the precise extent varies depending on the type of sweater and type of consumer. The information on the record suggesting that for many consumers fiber is not the primary purchase consideration does not mean that fiber may not also be important to those consumers. In fact, the evidence on limited substitutability suggests that fiber is a significant consideration to many consumers.⁴⁴ We believe that the information gathered in these final investigations on end uses, interchangeability, and customer perceptions supports a finding that the like product should be limited to sweaters of manmade fibers.

5. Price. Price differences between sweaters of manmade fibers and sweaters of natural fibers are relevant for two reasons: they may reflect differences in yarn costs and production process, and may reduce the substitutability of sweaters of different fibers to consumers. In the preliminary investigations, all parties agreed that

⁴³ See INV-N-101 (Economic Memorandum) (Sept. 4, 1990) at 17 ("natural fiber sweaters are not perfect substitutes for manmade fiber sweaters").

⁴⁴ One U.S. producer's perspective was as follows: "The fiber is the key element simply because the buyer of the sweater buys the sweater by fiber. If a buyer of a large department store chain or catalogue company comes in and says, 'seventy percent of my money is going to be spent on acrylic sweaters,' you are going to have acrylic sweaters. That's the way the things are budgeted if they have predetermined the market demand." Tr. at 138. A senior buyer for a large retail corporation noted that "cotton sweaters have become a significant fabric of choice." Tr. at 166. Finally, counsel for one respondent noted that "there's been a fundamental change in the sweater market" and that there has been a "shift of consumer preference to cotton, natural fiber sweaters, and fleece." Tr. at 172.

natural-fiber sweaters were generally more expensive than manmade-fiber sweaters, but disagreed over how much more.⁴⁵

The information obtained in these final investigations confirms the existence of a price difference, but it does not resolve the issue of the size of the difference. The available questionnaire price data are mixed.⁴⁶ Several purchasers pointed to price differences as a factor lessening interchangeability between sweaters of different fibers.⁴⁷ The retail price difference between a cotton sweater and a similar acrylic sweater shown at the Commission's hearing was approximately 20 percent.⁴⁸

6. Blends. In the preliminary investigations, the Commission noted that sweaters made from yarns that were blends of both manmade and natural fibers could blur the distinction between the two types of sweaters.⁴⁹ However, there was little direct information on

⁴⁵ See USITC Pub. 2234 at 8-9.

⁴⁶ Report at A-67, Table 21 (Products 1 and 7); Report at A-69, Table 24 (Products 1 & 7, 3 & 8).

⁴⁷ Other information on the record indicates that buyers for retail stores purchase according to fiber primarily because of differences in "price points" among fibers, and that manmade fibers are often included in fashion sweaters to keep down the final price. Tr. at 139, 175.

Petitioner also argues that import unit values illustrate the price difference. Prehearing brief of NKSA at 33-34 and Ex. G. However, this information appears to conflict with official data reported in the staff report, which shows unit values for all sweaters only somewhat higher than for manmade-fiber sweaters. See Report at A-59, 60. In any event, price differences between imported sweaters are of limited relevance because the like product inquiry focuses on U.S. produced sweaters.

⁴⁸ Tr. at 172.

⁴⁹ USITC Pub. 2234 at 10-11, n.24.

the production of blends. In these final investigations, the producers' questionnaire asked producers to indicate the types of blended sweaters they manufactured. Fewer than half of responding U.S. firms indicated that they produced any blends; most firms that did report blends indicated that blends were a minor portion of their production. Moreover, the dominant blends reported were small amounts of manmade fiber blended with wool, which is far less prevalent as a sweater material than cotton.⁵⁰

The apparently small role played by sweaters of blends of different fibers increases the feasibility and appropriateness of drawing a clear dividing line on the basis of fiber.⁵¹

⁵⁰ Report at A-34. A producer witness confirmed the minor role of blends. Tr. at 23. Although importers reported more blends than U.S. producers, this information is less important than U.S. producers' data, because only the latter make the "like product."

The absence of substantial amounts of blends, among other things, distinguishes this investigation from Martial Arts Uniforms from Taiwan, Inv. No. 731-TA-424 (Final), USITC Pub. 2216 (Aug. 1989) at A-3. In that case the uniforms at issue were generally either 100 percent cotton or blends of cotton and manmade-fiber fabric.

⁵¹ As in the preliminary investigations, we have given little weight to the fact that manmade-fiber sweaters are in different subheadings than cotton, wool, or other natural-fiber sweaters under the Harmonized Tariff Schedules (HTS), in the Multifiber Arrangement (MFA), and in the bilateral quota agreements with each of the three subject countries. USITC Pub. 2234 at 9-10, n.21, citing Royal Business Machines, Inc. v. United States, 507 F. Supp. 1007, 1014, n.18 (CIT 1980), aff'd, 669 F.2d 692 (CCPA 1982). There is little direct evidence on the record that separate quota limits and different tariff rates substantially affect the purchasing plans of retailers and importers with regard to natural- and manmade-fiber sweaters, see Prehearing brief of NKSA at 36-38, and in any event, these quota and tariff differences do not apply to domestic sweaters, which are the appropriate focus of the like product inquiry.

A final additional consideration advanced by respondents were the certifications of eligibility to apply for adjustment assistance issued by the Department of Labor to workers in sweater plants. Respondents ascribe significance to the fact that in discussing whether imported

(continued...)

7. Summary. We have gone into some detail on how natural-fiber and manmade-fiber sweaters compare in terms of the Commission's like product factors because of the complexity of the issue as well as the importance attached to it by the parties. If examined at a general level, several of the above like product factors show similarities between natural-fiber sweaters and manmade-fiber sweaters. General physical appearance, end use, channels of distribution, and manufacturing process, are similar for all sweaters. Considered at a more specific level, significant differences emerge. This is particularly so with regard to manufacturing process and equipment, interchangeability, end use, customer perceptions, and price. Also significant is the relatively minor position of blends.

Based on the discussion above, we find the specific differences to be more than "minor differences."⁵² Fiber differences result in differences in production process, equipment, and cost, such that producers do not view the products as similar and often manufacture sweaters of only one type of fiber. The differences in physical characteristics have also meant that substitutability by consumers is limited to a significant degree for various reasons relating to end uses

⁵¹(...continued)

sweaters have adversely affected the sweater plants, the certificates do not distinguish according to fiber. Tr. at 264. As with quota and tariff distinctions, we have not given the Labor determinations weight in our like product analysis, at least in the absence of information on the reasons why the certifications did not draw fiber distinctions.

⁵² S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

and other preferences.⁵³ Therefore, on the basis of the discussion above, we find that the domestic product "like" the subject imports is sweaters wholly or in chief weight of manmade fibers.⁵⁴

C. Other like product findings from the preliminary investigations. In the preliminary investigations, the Commission found that infants' sweaters were within the like product. The Commission noted that despite a few distinctions between infants' sweaters and other sweaters, sweaters for infants were for the most part like other sweaters, only smaller, and that the Commission has not generally drawn

⁵³ Finally, we do not believe that the importance of other attributes that a consumer looks for in purchasing a sweater -- such as size, color, style, and level of fashion -- precludes a like product finding based on fiber. See Prehearing Brief of American Association of Exporters and Importers Sweater Group (AAEI) at 4-6. Apart from certain hand-knit or other specialty sweaters that are not made in significant quantities in the United States, there is little information in the record to suggest that the manufacturing process and firms differ when the above-listed attributes are varied, whereas the production process and firms do differ at least in part when fiber is changed. Moreover, for each attribute such as size, color, and level of fashion, there are sweaters of all conceivable gradations such that it would be impossible to find a "clear dividing line" on the basis of any of those attributes. By contrast, the relative insignificance of blends of different fibers make it possible to draw a dividing line according to fiber.

⁵⁴ We have also determined on balance that the like product does not include sweaters that are in chief weight of manmade fibers but that have 23 percent or more by weight of wool, i.e., sweaters with between 23 and 50 percent wool content. The 23 percent figure corresponds to the treatment of wool sweaters for MFA quota purposes. Report at A-11.

No party advanced any arguments regarding 23-percent wool sweaters in these final investigations. The information on the record does not suggest that sweaters with this precise mixture of wool and manmade fibers are anything more than a minimal percentage of all sweaters that are wholly or in chief weight of manmade fibers. Although there is little record information concerning these precise blends in terms of production process and employees, customer perceptions, and interchangeability, it does appear that small amounts of wool may make a sweater appear to be a wool sweater and may significantly increase the cost of a sweater.

distinctions based on product size alone.⁵⁵ No party challenges this finding, and no information adduced in these final investigations would call this finding into question. Therefore, we again find that sweaters for infants are within the like product.

A second unchallenged Commission like product finding from the preliminary investigations was that the like product encompassed sweaters that are more finely-knit than most sweaters, having more than nine stitches per two horizontal centimeters, provided that such garments contain a knit-on rib at the bottom. The Commission found that the appearance of these "fine knit" sweaters is closer to sweaters than to shirts, and the same manufacturers made these garments as other sweaters, and on substantially the same type of equipment and by the same workers. As with infants' sweaters, no new information has been developed that casts doubt on this finding from the preliminary investigations.⁵⁶ We therefore find that such garments are within the like product in these final investigations.⁵⁷

Finally, in the preliminary investigations, the Commission rejected the argument that sweaters sold as part of ensembles should be treated separately for like product purposes. The Commission noted that the sweater portion of an ensemble is identical to sweaters sold

⁵⁵ USITC Pub. 2234 at 11.

⁵⁶ See Memorandum of Staff Plant Tour, June 1, 1990, at 2 (fine-knit sweaters manufactured on same machines as other sweaters).

⁵⁷ The volume of these garments is believed to represent a minimal percentage of total sweater production. See, e.g., Report at A-24, n.64; A-58.

separately or sold in some other garment combination.⁵⁸ No party has taken issue with that finding, and no contrary evidence has been developed. Therefore, we again conclude that separate like product treatment for ensembles is inappropriate.

In conclusion, the Commission determines that the like product in these final investigations is sweaters wholly or in chief weight of manmade fibers, for persons of all ages, including "fine knit" sweaters having a knit-on rib at the bottom and sweaters sold as part of ensembles, but excluding sweaters having 23 percent or more by weight of wool.

II. Domestic Industry

In accordance with section 771(4)(A) of the Tariff Act of 1930, as amended,⁵⁹ we determine that the appropriate domestic industry consists of U.S. producers of the like product as defined above. Several other domestic industry issues are discussed below.

A. Whether jobbers are part of the domestic industry. There are three types of entities involved in the sweater-producing "industry": (1) "manufacturer/sellers" who procure yarn, knit the sweaters, and sell them to buyers, (2) "jobbers" who procure yarn and supply it to (3) "contractors," who knit the sweaters on their own machines and ship the finished sweaters back to the jobbers for sale to buyers.⁶⁰ Manufacturer/sellers tend to be much larger than contractors

⁵⁸ USITC Pub. 2234 at 13.

⁵⁹ 19 U.S.C. § 1677(4)(A).

⁶⁰ Report at A-20--A-21.

and are completely integrated producers. Contractors are often small operations and apparently number in the hundreds. There is no dispute that manufacturer/sellers and contractors are "producers." An issue is presented as to whether jobbers are producers.

Jobbers vary in the precise activities in which they engage. Most jobbers design the sweaters that the contractors are to make, often in consultation with buyers.⁶¹ According to petitioner, jobbers may invest in the machinery of contractors.⁶² Over half of the questionnaire respondents that reported jobbing also were manufacturers of sweaters.⁶³ These firms often contract out the production of additional orders when their facilities are already operating at full capacity.

The Korean respondents argue that the Commission should not consider jobbers as part of the domestic industry in these investigations because jobbers engage in little or no activities relating to production of sweaters.⁶⁴ At the hearing, counsel for petitioner and petitioner's executive director argued that the Commission should include jobbers. They argued that producers consider them as part of the industry, and that "if you put a jobber and contractor together you have a manufacturer."⁶⁵

⁶¹ Id.

⁶² Tr. at 67.

⁶³ Report at A-21.

⁶⁴ Posthearing brief of Korean respondents, Responses to Commission Questions at 2-4.

⁶⁵ Tr. at 66-68, 82.

In deciding whether a firm qualifies as a domestic producer, the Commission has examined the overall nature of a firm's production-related activities, including the source and extent of its capital investment, technical expertise in production activities, value added, employment, quantity and type of domestically sourced parts, and other costs and activities in the U.S. directly leading to production of the like product.⁶⁶ No single factor is dispositive, and the decision whether to include a producer in the domestic industry is made on a case-by-case basis.⁶⁷

Most of a jobber's activities do not appear to be directly production-related. Marketing and sales efforts would not distinguish a jobber from an importer or distributor.⁶⁸ Moreover, procurement of yarn for use by contractors involves purchase of an input, not production.⁶⁹

⁶⁶ Generic Cephalixin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (Aug. 1989) at 10-11; ATVs, USITC Pub. 2163 at 12-13; Certain Radio Paging and Alerting Receiving Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (Aug. 1983) at 10-11.

⁶⁷ The typical domestic industry issue in which the above factors are applied involves a U.S. firm that imports parts or other materials and performs certain operations to create the finished like product. Here, by contrast, sweaters produced by contractors and sold to jobbers are not imported, but are domestically made. For this reason, at least one of the above-listed factors -- quantity and type of "domestically sourced" parts -- appears less relevant to the question of domestic industry in this case. We believe that examination of production-related activities is nevertheless the appropriate analysis in this case.

⁶⁸ See Radio Paging Devices, USITC Pub. 1410 at 11, n.34. As for any investment by jobbers in a contractor's machinery, we do not believe that merely investing in another company makes one a domestic producer.

⁶⁹ An analogous situation was presented in the brass sheet and strip investigations. In that industry, certain large purchasers would enter into toll arrangements with fabricators in which they would purchase the raw metal and supply it to the fabricators, who would turn
(continued...)

Thus, the only activity undertaken by jobbers that might qualify as production-related is sweater design. It appears that the majority of jobbers, but not all, engage in some design activity.⁷⁰ The evidence of record on jobbers' design activities is not complete in terms of employees, equipment, value added, or technical expertise involved. Staff conversations with jobbers suggest, however, that the design activity of jobbers is not insubstantial and has recently increased.

Although in certain circumstances a company's domestic activities that are production-related, but not strictly classified as "manufacturing," may be relevant to the question of whether to include that company within the domestic industry,⁷¹ in the present case we have found it significant that jobbers do not engage in any actual product

⁶⁹(...continued)

the metal into finished brass sheet and strip and deliver it back to the purchasers. The toll purchasers retained title to the raw product throughout. In that case, no party claimed that the purchasers that supplied the raw material under the toll arrangements were members of the domestic industry producing brass sheet and strip. See Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany, Invs. Nos. 701-TA-270, 731-TA-313, 314, 316, 317 (Final), USITC Pub. 1951 (Feb. 1987), aff'd Wieland Werke, AG v. United States, 13 CIT ___, 718 F. Supp. 50 (CIT 1989), Granges Metallverken AB v. United States, 13 CIT ___, 716 F. Supp. 17 (1989), and IMI - La Metalli Industriale, S.p.A. v. United States, 13 CIT ___, 712 F. Supp. 959 (1989).

⁷⁰ See, e.g., Tr. at 67 (jobbers design sweaters "in many cases"); but see Posthearing brief of Korean respondents at Ex. 12.

⁷¹ For example, in addressing the domestic industry issue in several prior investigations involving high-technology electrical products having imported components or subassemblies, the Commission considered, in addition to product assembly, such activities as research and development, product design and engineering that was tied to specific product manufacturing. Radio Paging Devices, USITC Pub. 1410 at 11, n.34; Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan, Invs. Nos. 731-TA-426-428 (Preliminary), USITC Pub. 2156 (Feb. 1989) at 23, n.44; see also Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 (Dec. 1985) at 9, n.15.

manufacturing. On balance we determine not to include jobbers in the domestic industry.⁷²

B. Related parties. Section 771(4)(B) of the Tariff Act of 1930 provides that in "appropriate circumstances" the Commission may exclude the data from domestic producers who import articles subject to investigation or are related to exporters or importers of the subject articles.⁷³ The purpose of excluding data of a related party from the domestic industry is to avoid distortions in aggregate industry data that would result from inclusion of data from a producer that was shielded from, or being benefitted by, the unfairly-traded imports at issue.⁷⁴

⁷² We also note that inclusion of jobbers in the domestic industry would not have materially altered our analysis of the condition of the U.S. industry or of the effects of imports on that industry. Jobbers supplied questionnaire data on shipments and, to a lesser extent, prices. Trends in shipment data are the same whether or not jobbers' data are included. Compare Report at A-33, Table 6, with Report at B-63, Table E-2. Pricing data exhibit the same mixed trends and the same pattern of underselling/overselling whether the very limited pricing data submitted by jobbers are included or excluded.

We also note that inclusion of shipments data from jobbers together with shipments data from contractors could result in the same sweater shipments being counted twice in some cases. See Report at A-31, n.90.

⁷³ 19 U.S.C. § 1677(4)(B).

⁷⁴ Empire Plow Co. Inc. v. United States, 11 CIT 847, 675 F. Supp. 1348, 1353-4 (CIT 1987); Electrolytic Manganese Dioxide from Greece and Japan (EMD), Invs. Nos. 731-TA-406 and 408 (Final), USITC Pub. 2177 (April 1989) at 8; Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (Jan. 1986) at 10. In several prior cases, the Commission has examined several factors in determining whether "appropriate circumstances" exist such that exclusion is appropriate:

- * the percentage of domestic production accounted for by the related producer;

- * whether the related producer imports in order to benefit from the unfair act, or the foreign producer directs exports to the United States so as not to compete with its related U.S. producer;

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In these final investigations, no party has argued that any domestic producer should be excluded from the domestic industry by virtue of its status as a related party. Questionnaire data reveal that two U.S. producers imported subject sweaters accounting for a substantial percentage of their total sales, and a third firm reported imports but did not specify the percentage of net sales accounted for by imports.⁷⁵ However, there is no evidence that any of the producers have benefited from dumping.⁷⁶ Moreover, none of the producers account for a significant share of the U.S. sweater-producing industry. Thus we determine that "appropriate circumstances" do not exist to exclude any of these producers from the domestic industry as related parties.

III. Condition of the industry⁷⁷

⁷⁴(...continued)

* whether inclusion (or exclusion) of the related producer's data would skew the data for the industry; and

* whether the primary interest of the related producer is domestic production or importation.

ATVs, USITC Pub. 2163 at 17-18; Rock Salt, USITC Pub. 1798 at 11.

⁷⁵ Report at A-22.

⁷⁶ For example, the performance trends of these three companies do not diverge substantially from trends seen for other companies in the industry.

⁷⁷ The Korean and Taiwanese respondents argue that the petitioner interfered with the questionnaire process through contacts with members of the domestic industry. Posthearing brief of Taiwan Man-Made Fiber Sweater Producers and Exporters (Taiwanese respondents) at 10; posthearing brief of Korean respondents at 2-3; supplemental letters filed on August 20 and 21, 1990. Although the Commission is concerned with ensuring the objectivity of its investigations, we do not believe that this is a case in which that objectivity has been compromised. The only contact on record that petitioner made with any producer was apparently with one of petitioner's own members, aimed primarily at exhorting that member to respond to the questionnaire and not at predetermining the type of response.

As a threshold matter, we note that through voluntary responses and the use of the Commission's subpoena power, the Commission has received significantly more questionnaire responses than in the preliminary investigations.⁷⁸ In light of this, and the absence of expressions of opposition to the petition by domestic producers,⁷⁹ we have decided not to draw an inference that the lack of more complete questionnaire data is evidence that the domestic industry is not materially injured.⁸⁰ Rather, although the level of response by U.S. producers was not ideal, we have used this data and data from secondary sources in examining the question of material injury.

Based on official import figures and figures compiled by the Census Bureau, apparent U.S. consumption of manmade-fiber sweaters decreased in quantity terms from 17.1 million dozen in 1987 to 14.4 million dozen in 1988, then increased to 15.0 million dozen in 1989, for an overall decrease of 12 percent from 1987 to 1989.⁸¹

⁷⁸ E.g., compare Report at A-24, with USITC Pub. 2234 at A-15. Of the types of information requested in the questionnaires, production and shipments data provided by domestic firms show the highest industry coverage; data for other indicators of industry condition show lower levels of coverage, but are nevertheless well above levels in the preliminary investigations. Report at A-24; A-26, Table 4; B-63, Table E-2; A-38, Table 9; A-41. We also note that the Commission sent questionnaires to only a sample of domestic producers. Report at A-20. Therefore, one hundred percent industry coverage would not be expected in any event.

⁷⁹ Report at A-20.

⁸⁰ See Alberta Pork Producers' Marketing Board v. United States, 669 F. Supp. 445, 459 (CIT 1987), quoting, International Union (UAW) v. N.L.R.B., 459 F.2d 1329, 1336 (D.C. Cir. 1972).

⁸¹ Report at A-18, Table 3. Unlike data for all sweaters, Census figures for manmade-fiber sweaters cover quantity, but not value. Following the Commission's vote in these investigations and prior to the
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Because questionnaire data from U.S. producers is far less thorough than data compiled by the Census Bureau, we have based our analysis of U.S. production trends on the Census data. According to those data, U.S. production of manmade-fiber sweaters fell from 5.6 million dozen in 1987 to 4.4 million dozens in 1988, a drop of over 20 percent in one year. In 1989, production fell further to 3.8 million dozens, for an overall decline of over 30 percent from 1987 to 1989.⁸²

Production data from questionnaires show a much less severe decline than do the Census figures. Data reported in the Commission's questionnaires show production of manmade-fiber sweaters actually rising from 1987 to 1988, then falling in 1989, for an overall decline of only 4 percent.⁸³ Because we believe the Census figures, which that agency

⁸¹(...continued)

issuance of its determinations, the Commission received revised final figures on U.S. production of manmade-fiber sweaters and all sweaters from the Census Bureau. The revision does not materially affect our determinations. In no year were the figures altered by even 10 percent. The trends in production of manmade-fiber sweaters, apparent consumption, and market share held by subject imports, were not materially altered by the revision.

⁸² Report at A-27. Several respondents argue that the Commission should not compare January-March ("interim") data for 1989 and 1990 because the productive activity of the industry has become increasingly concentrated in the latter part of the year, and because far fewer questionnaire responses contain quarterly data than full-year data. Prehearing brief of Crystal Knitters, Ltd., Comitex Knitters, Ltd., and the Hong Kong Woolen and Synthetic Knitting Manufacturers' Association (Hong Kong respondents) at 27-29; prehearing brief of Korean respondents at 25-26; prehearing brief of Taiwanese respondents at 21. Although we do not believe these factors, if true, completely eliminate the usefulness of these data, our discussion of the condition of the industry is generally limited to full-year data. Trends in the interim 1989 to 1990 data are sharply and uniformly downward; therefore, consideration of the interim periods would add support to our finding that the domestic industry is materially injured.

⁸³ Report at A-26, Table 4.

compiles annually, to be more reliable, the Commission's questionnaire responses appear to have been from firms whose aggregate production trends were more positive than the trends for the industry as a whole.⁸⁴ This suggests that the questionnaire responses might also show better performance than the industry as a whole with regard to other indicators as well, such as shipments, employment, and financial performance.

Capacity to produce manmade-fiber sweaters as reported in Commission questionnaires increased from 1987 to 1989 by 4 percent.⁸⁵ Capacity utilization fell steadily from 63.8 percent in 1987 to 57.5 percent in 1989.⁸⁶

⁸⁴ This divergence would seem to lend support to petitioner's argument that the data collected by the Commission in its questionnaires are upwardly biased because the data include only the "survivors" of the industry and do not capture data of firms that have ceased operations during the period of investigations. Prehearing brief of NKSA at 48. Indeed, if firms leave the industry, surviving firms should be able to improve their market position by filling the void left by the exiting firms. Petitioner (among others) submitted a list of names of firms that had allegedly gone out of business during the period of investigation. The Commission was able to verify only a few closings (and indeed, received information on several plant openings). A significant number of the firms cited by petitioner had their phone service disconnected, which suggests that at least some of those firms had ceased operations. See Report at A-29--A-30. Moreover, given the sharp drop in production, one would expect to see plant closings.

However, it is not necessary for us affirmatively to find that numerous firms have recently shut down in order to conclude that the questionnaire data likely reveal overly favorable trends for the U.S. industry. It is sufficient for us to note the substantial divergence in production trends between Census figures and the questionnaire responses.

⁸⁵ Report at A-26, Table 4. Because of the method of estimation, reported capacity to produce manmade-fiber sweaters is likely overstated, resulting in capacity utilization being understated. However, we believe that trends should not suffer from the same distortion. Report at A-27.

⁸⁶ Report at A-26, Table 4.

Questionnaire data on shipments show an overall decline in quantity of 7 percent, from 2.03 million dozens in 1987 to 1.88 million dozens in 1989.⁸⁷ In value terms, shipments increased from \$201 million in 1987, to \$206 million in 1988, but decreased in 1989 to \$197 million, a level 2 percent below 1987 levels.⁸⁸ Producers' end-of-period inventories increased absolutely by 35 percent from 1987 through 1989.⁸⁹ Inventories as a percentage of shipments rose from 1987 to 1989, from 9.2 percent to 13.1 percent.⁹⁰

Most employment indicators were steady or exhibited slightly rising trends.⁹¹ The number of production and related workers increased steadily by 7 percent from 1987 through 1989.⁹² Hours worked, wages, and total compensation all increased from 1987 to 1988, but fell back in 1989 to near 1987 levels.⁹³

⁸⁷ Report at B-63, Table E-2.

⁸⁸ Id. This excludes data from jobbers. As noted above, the trends are the same if one includes jobbers' shipments data.

⁸⁹ Report at A-36, Table 8.

⁹⁰ Id.

⁹¹ A number of firms that made both manmade-fiber and natural-fiber sweaters were unable to report data separately for manmade-fiber sweaters. Nevertheless, information provided for manmade-fiber sweaters is sufficient to allow us to discern trends in the data.

We note that employment figures of the Bureau of Labor Statistics on "Knit Outerwear Mills" show falling levels of employment. However, these figures are of limited value because they also include firms producing other products such as knit shirts and sweatshirts, as well as natural-fiber sweaters. Report at A-39.

⁹² Report at A-38, Table 9.

⁹³ Id.

To a greater extent than with employment data, many producers who made both manmade-fiber and natural-fiber sweaters were not able to provide profitability data on their operations on manmade-fiber sweaters only.⁹⁴ However, we do not believe that the coverage of manmade-fiber sweaters is so limited, nor the coverage of all sweaters so much better, such that we should disregard the financial data on manmade-fiber sweaters altogether and instead evaluate profitability on a "product line" basis of all sweaters.⁹⁵ Significantly, though, we find that profitability information supports a finding of material injury whether financial data for producers of manmade-fiber sweaters or for producers of all sweaters are examined.⁹⁶

For manmade-fiber sweaters, net sales increased sharply from 1987 through 1989.⁹⁷ However, because cost of goods sold and selling,

⁹⁴ Firms reporting data on financial indicators for manmade-fiber sweaters accounted for approximately 15 percent of total U.S. production of manmade-fiber sweaters; for all sweaters, the coverage is higher, approximately 35 percent. Report at A-41.

⁹⁵ See 19 U.S.C. § 1677(4)(D):

The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

⁹⁶ Again, it is likely that the financial data represents information for "surviving" firms and does not capture data of firms that have ceased operations during the period of investigation.

⁹⁷ Report at A-45, Table 11. Part of this increase is likely due to a change in product mix toward fancier (and thus more expensive) sweaters. See Report at A-33, Table 6.

general and administrative costs also showed a significant rise, operating income increased only slightly in absolute terms over the period. Most telling, operating income as a share of net sales of manmade-fiber sweaters was very low throughout the period: 0.8 percent in 1987, 2.3 percent in 1988, and 1.5 percent in 1989.⁹⁸

Financial data for producers of all sweaters exhibit a similar steady upward trend in net sales, from \$264 million in 1987 to \$342 million in 1989.⁹⁹ However, increased costs were such that operating income declined absolutely by nearly 20 percent from 1987 to 1989. Operating margins suffered during the period, sliding from 6.4 percent of net sales in 1987 to 4.1 percent in 1989.¹⁰⁰

For manmade-fiber sweaters, the value of productive facilities, the level of capital expenditures, and research and development expenditures all showed slight increases over the period of investigation.¹⁰¹

We find the domestic industry producing sweaters wholly or in chief weight of manmade fibers to be materially injured. We base this

⁹⁸ Report at A-45, Table 11.

⁹⁹ Report at A-42, Table 10. In light of the sharp drop in production value seen in the Census' Bureau's figures, a rise in net sales of this magnitude appears unrepresentative of the industry as a whole. Although the Census Bureau does not publish production value figures for manmade-fiber sweaters, it is likely that there is a similar discrepancy between questionnaire net sales data and actual net sales data for the manmade-fiber sweater industry as a whole, given the similarity in trends in Census' production quantity figures for manmade-fiber sweaters and all sweaters.

¹⁰⁰ Id. For both manmade-fiber sweaters and all sweaters, data for interim 1990 exhibited substantial operating losses, in comparison with positive operating margins in interim 1989. Id.

¹⁰¹ Report at A-46, Table 12, A-47.

finding primarily on the precipitous drop in production over the period of investigation, and the poor financial performance of the industry. In addition, shipments have fallen, inventories of manmade-fiber sweaters have increased, and capacity utilization has fallen.

We recognize that questionnaire responses indicate that a few indicators -- productive capacity and employment -- were steady or displayed small increases over the period.¹⁰² For the reasons described above, however, we believe that the questionnaire data may be upwardly biased and therefore may not be representative of the true state of the domestic industry.¹⁰³ When this apparent positive bias is taken into account, the fact that the questionnaire responses nevertheless revealed a precarious financial condition for the U.S. industry becomes even more indicative of material injury.

¹⁰² At the Commission's hearing, one industry representative noted: "Many mills have already exited the business entirely. In fact, it is one of the ironies of this process, that those of us who have survived thus far, may get some short-term benefit, as there are fewer domestic companies competing for the crumbs leftover after the United States buyers buy most of their requirements overseas." Tr. at 30.

¹⁰³ For example, it is difficult to reconcile a 7 percent increase in the number of production and related workers based on questionnaire responses from the Commission's sample with a 31 percent decline in production based on Census data, given that available information shows no major declines in labor productivity. We note, however, that even without the possibility that the questionnaire responses were unrepresentative, we would find material injury in light of the production and profitability information on the record.

IV. Cumulation

Section 771(7)(C)(iv) of the Tariff Act of 1930, as amended by the Trade and Tariff Act of 1984,¹⁰⁴ provides that --

the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

In prior investigations, the Commission has cumulated the volume and effects of imports from more than one country in cases in which the imports satisfy the following criteria:

- (1) they must compete with other imported products and with the domestic like product¹⁰⁵;
- (2) they must be marketed within a reasonably coincidental period; and

¹⁰⁴ 19 U.S.C. § 1677(7)(C)(iv), as amended by section 612(a)(2)(A) of the Trade and Tariff Act of 1984 (Public Law 98-573, 98 Stat. 3033).

¹⁰⁵ The Commission has looked to several factors in deciding whether there is competition among imports and between imports and the like product. These are:

(1) the degree of fungibility of imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product;

(4) whether imports are simultaneously present in the market. See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 12 CIT ___, 678 F. Supp. 898, aff'd, 859 F.2d 915 (Fed. Cir. 1988; Industrial Nitrocellulose, USITC Pub. 2295 at 12; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Invs. Nos. 303-TA-19 & 20, 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989) at 62.

(3) they must be subject to investigation.¹⁰⁶

In the preliminary investigations, the Commission determined to assess cumulatively the volume and price effects of imports of the three countries subject to investigation.¹⁰⁷ The Commission noted that all three countries were subject to investigation and that firms from all three countries sold sweaters in the United States along with domestic sweaters during the period of investigation (thus satisfying the "reasonably coincident" requirement). The Commission found that domestic and subject imported sweaters were sold nationwide through the same channels of distribution, and that "there appears to be significant competition between imports and domestic sweaters."¹⁰⁸

In these final investigations, petitioner asserts that the above-cited requirements for cumulation are again satisfied. No respondent challenges that finding directly. Nearly all respondents argue in the context of causation that imports from the three countries have advantages because of superior quality or because the imports contain specialty features not found on U.S.-made sweaters. Apparently, however, no respondent believes that these differences are substantial enough to warrant a finding that the subject imports from any of the countries do not compete with domestic sweaters. Nor do we believe that there is significant evidence adduced in these final investigations that would call into question the Commission's earlier conclusion that there

¹⁰⁶ Antifriction Bearings, USITC Pub. 2185 at 61.

¹⁰⁷ USITC Pub. 2234 at 16.

¹⁰⁸ Id.

is competition between the subject imports from each of the three countries and domestically produced sweaters.¹⁰⁹

The Hong Kong respondents argue that imports from that country satisfy the "negligible imports" exception and thus should not be cumulated with other imports.¹¹⁰ Section 1330(b) of the Omnibus Trade and Competitiveness Act of 1988 added a provision to title VII that provides that the Commission may choose not to cumulate imports from a particular country if imports from that country are "negligible and have no discernible adverse impact on the domestic industry."¹¹¹

We do not believe that imports from Hong Kong would qualify under any definition of "negligible." Manmade fiber sweater imports from Hong Kong totalled over 3 million dozen from 1987 through 1989, and were valued at over a quarter of a billion dollars.¹¹² In each of the years 1987 through 1989, subject imports from Hong Kong accounted for over 6 percent of the quantity of apparent U.S. consumption of manmade-fiber sweaters.¹¹³

¹⁰⁹ See Report at A-7, A-23; INV-N-101 at 13; see also, Certain Telephone Systems and Subassemblies Thereof from Korea, Inv. No. 731-TA-427 (Final), USITC Pub. 2254 (Jan. 1990) at 11 ("the degree of fungibility is relevant to the cumulation inquiry, but a finding of absolute fungibility is not required.").

¹¹⁰ Prehearing brief of Hong Kong respondents at 7-12.

¹¹¹ Section 1330(b) of Public Law 100-418 (August 23, 1988), added at 19 U.S.C. § 1677(7)(C)(v).

¹¹² Report at A-59.

¹¹³ Report at A-62, Table 19.

For the above reasons, we have determined to evaluate cumulatively the effects on the domestic industry of imports from Hong Kong, Korea, and Taiwan.

V. Material injury by reason of the subject imports

A. In general. In these final investigations, the Commission determines whether a domestic industry is materially injured or threatened with material injury "by reason of" the imports under investigation.¹¹⁴ The statute directs the Commission to consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers.¹¹⁵ In doing so, the Commission is to consider whether import volumes or increases in volume are significant, whether there has been significant underselling by imports, whether imports significantly depress or suppress prices for the like product, and the impact of imports on such factors as domestic production, sales, capacity utilization, inventories, employment, and profits.¹¹⁶ The Commission may in its discretion examine additional economic factors.¹¹⁷

¹¹⁴ 19 U.S.C. § 1673d(b)(1). This contrasts with preliminary investigations, in which the Commission determines whether there is a "reasonable indication" of material injury or the threat thereof "by reason of" the subject imports. 19 U.S.C. § 1673b(a).

¹¹⁵ 19 U.S.C. § 1677(7)(B)(i).

¹¹⁶ 19 U.S.C. § 1677(7)(C).

¹¹⁷ 19 U.S.C. § 1677(7)(B)(ii).

The Commission may consider alternative causes of injury, but it is not to weigh causes.¹¹⁸ The Commission should not seek to determine whether imports are the principal or a substantial cause of material injury: "Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; industries that are often the most vulnerable to less-than-fair-value imports."¹¹⁹ Rather, the Commission is to determine whether imports are a cause of material injury.¹²⁰ Before analyzing the facts of the present investigations in terms of the statutory criteria, we briefly discuss an issue raised by several parties concerning the significance of the Multifiber Arrangement to our analysis.

¹¹⁸ Citrosuco Paulista, S.A. v. United States, 12 CIT ___, 704 F. Supp. 1075, 1101 (1988); Alternative causes may include: the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

¹¹⁹ S. Rep. No. 249, 96th Cong., 1st Sess. 74-75 (1979).

¹²⁰ LMI - La Mettali Industriale, S.p.A. v. United States, 13 CIT ___, 712 F. Supp. 959, 971 (1989), citing, British Steel Corp. v. United States, 8 CIT 86, 96, 593 F. Supp. 405, 413 (1984); Hercules, Inc. v. United States, 11 CIT 710, 743, 673 F. Supp. 454, 481 (1987); See also, Maine Potato Council v. United States, 9 CIT 293, 301, 613 F. Supp. 1237, 1244 (1985) (The Commission must reach an affirmative determination if it finds that imports are more than a "de minimis" cause of injury.).

B. The Multifiber Arrangement. The Multifiber Arrangement (MFA)¹²¹ is an international agreement whose goals include the achievement of orderly development of trade in textiles and apparel and the prevention of market disruption in importing countries. The United States has entered into bilateral agreements under the MFA with each of the countries subject to these investigations.¹²² Those agreements set quotas on a number of textiles and apparel products, including sweaters wholly or in chief weight of manmade fibers and sweaters of other fibers.¹²³

As noted in the preliminary investigations,¹²⁴ the Commission has made numerous material injury determinations in investigations involving products under MFA quotas and other quotas.¹²⁵ Nevertheless, several

¹²¹ Arrangement Regarding International Trade in Textiles, 25 U.S.T. 1001, T.I.A.S. No. 7840. The MFA first went into effect in 1974. There have been three protocols extending the life of the MFA, the most recent of which extended the MFA from August 1, 1986 until July 31, 1991.

¹²² In addition, Article 3 of the MFA provides that in the absence of an agreement, an importing country may impose unilateral restrictions on textile and apparel imports from individual countries under certain circumstances.

¹²³ The 1989 quota limits on man-made fiber sweaters from Taiwan, Korea, and Hong Kong were 4.1 million, 3.8 million, and 1.3 million dozens, respectively. The most recent agreements with Korea and Taiwan have been concluded, but not yet formally signed. Report at A-14.

¹²⁴ USITC Pub. 2234 at 24, n.74.

¹²⁵ See, e.g., Sewn Cloth Headwear from the Peoples' Republic of China, Inv. No. 731-TA-405 (Final), USITC Pub. 2183 (May 1989); Sugar from the European Community, Inv. No. 104-TAA-7, USITC Pub. 1247 (May 1982) (article covered by a quota under the International Sugar Agreement); see generally, lists of countervailing and antidumping duty actions and outstanding orders concerning MFA articles in The Multifiber Arrangement, 1980-1984, Inv. No. 332-189, USITC Pub. 1693 (May 1985) at 18-20.

respondents argue that because one of the main goals of the MFA is the elimination of "market disruption" or the risk thereof in importing countries, the Commission should render a negative determination in these investigations.¹²⁶ One respondent claims that the quotas prevent import volumes from being "significant," as that term is used in the statute.¹²⁷ Another respondent asserts that the Commission must find a higher degree of causation -- absolute causation -- in order to render affirmative determinations in these investigations.¹²⁸

We do not agree with these arguments. There is no basis in the statute or case law for applying a higher "absolute causation" standard for articles covered by quotas negotiated under the MFA. Moreover, title VII imposes a duty on the Commission to reach its own determinations on material injury, including an assessment of the significance of import volume and market share.

We have, however, considered the MFA quotas as part of the conditions of competition affecting trade in sweaters.¹²⁹ Although the quotas place a ceiling on the level of subject imports, this has not prevented those imports from occupying a substantial and increasing share of the U.S. market for manmade-fiber sweaters, as discussed below. Moreover, the bilateral agreements at issue do not control the prices at

¹²⁶ Prehearing brief of Hong Kong respondents at 35-37; prehearing brief of AAEL at 55-57; prehearing brief of Sweaters Coalition at 25-26; posthearing brief of Sweater Importers and Retailers Coalition (Sweaters Coalition) at 2-4.

¹²⁷ Prehearing brief of Hong Kong respondents at 35. See 19 U.S.C. § 1677(7)(C)(i).

¹²⁸ Tr. at 210.

¹²⁹ See 19 U.S.C. § 1677(7)(C).

which the subject articles are sold in the United States, and therefore do not prevent the possibility of import price effects in the United States.

C. Analysis of causation. The quantity of imports of sweaters wholly or in chief weight of manmade fibers fell from 8.43 million dozens in 1987 to 7.51 million dozens in 1988, then rose to 7.93 million dozens in 1989, for an overall decline of approximately 6 percent.¹³⁰ The value of subject imports was very high in all three years of the period of investigation, although they decreased approximately 8 percent over the period.¹³¹

However, market penetration by imports reveal a substantial increase during a period of declining U.S. consumption. Subject imports increased market share from 49.2 percent of apparent consumption of manmade-fiber sweaters in 1987, to 52.2 percent in 1988, then rose slightly to 52.7 percent in 1989.¹³² Over the same period, market share held by U.S. producers fell sharply from 32.4 percent in 1987, to 30.6 percent in 1988, and to 25.3 percent in 1989. We find an import volume that accounts for one-half of the U.S. market to be significant.¹³³ We also find significant the subject imports' increase in market share over

¹³⁰ Report at A-59, Table 17. Commerce excluded two Hong Kong firms and one Taiwanese firm from its final dumping determinations. Report at A-3. We have not considered imports from those firms as imports subject to investigation. See Certain Telephone Systems and Subassemblies Thereof from Japan & Taiwan, Invs. Nos. 731-TA-426 & 428 (Final), USITC Pub. 2237 (Nov. 1989) at 31, n.82.

¹³¹ Report at A-59, Table 17. The exact figures for the value of subject imports are confidential.

¹³² Report at A-62, Table 19.

¹³³ See 19 U.S.C. § 1677(7)(C)(i).

the period of investigation, an increase that was accompanied by a substantial decline in the market share held by the domestic industry.

In addition to volume and market share of imports, the statute directs the Commission to consider the effects of imports on prices for the domestic like product.¹³⁴ In these investigations, the Commission collected data from producers, importers, and purchasers on prices for several basic sweaters. While many domestic producers, importers, and purchasers did not complete the pricing section of the questionnaires, we have used the pricing data from questionnaires as the most reliable available indicators of price.

No discernible price trends either for the like product or for subject imports are present in the questionnaire data. For most of the products, prices reported by U.S. producers, by importers, and by purchasers fluctuate over the period.¹³⁵ Although the Commission attempted to structure its questionnaire so that the sweaters compared would be as similar in attributes as possible, it may be that the price variations probably reflect differences in style, quality, or weight.¹³⁶

Several respondents argue that increased unit values of shipments of U.S.-produced sweaters are evidence of rising U.S. sweater prices.¹³⁷ We believe that any increase in unit values would reflect changes in

¹³⁴ 19 U.S.C. § 1677(7)(B)(i)(II), 19 U.S.C. § 1677(7)(C)(ii).

¹³⁵ Report at A-67, Table 21; A-71, Table 26.

¹³⁶ Report at A-67.

¹³⁷ E.g., Prehearing brief of Taiwanese respondents at 30-1; prehearing brief of AAET at 42-4.

product mix, not higher prices for the same sweaters.¹³⁸ There has been a shift in demand toward sweaters of more intricate designs or features,¹³⁹ which would be expected to cost more than sweaters of basic designs.

We have examined the price information in the record to determine whether it reveals significant underselling by subject imports in comparison with prices for the domestic like product.¹⁴⁰ Price comparisons differ depending on which data are compared. This is because subject imported sweaters are by and large imported either by wholesalers for subsequent resale to retailers, or are imported directly by retailers.¹⁴¹ In general, sales by (and purchases from) importer/wholesalers reveal higher prices than do direct import purchases by retailers. This difference is not surprising. Retailers purchase in large volume and may therefore hold some degree of market power in extracting a lower price.¹⁴² Moreover, importer/ wholesaler

¹³⁸ Moreover, any inflation during the period of investigation would tend to reduce any "real" increase in unit values for shipments of manmade-fiber sweaters.

¹³⁹ Tr. at 47, 65 (industry witnesses); posthearing brief of NKSA at 8; prehearing brief of AA EI at 26-29; Prehearing brief of Sweater Coalition at 12.

¹⁴⁰ 19 U.S.C. § 1677(7)(C)(ii)(II). Although we have found jobbers not to qualify formally as domestic producers, the prices jobbers have reported in questionnaires are arguably relevant for price comparisons, because the prices they report are at the same level of trade as reported import prices. In any event, the price comparisons reveal a pattern of underselling whether or not the limited pricing data of jobbers are included.

¹⁴¹ Report at A-22--A-23.

¹⁴² Memorandum INV-N-101 at 2; Report at A-23.

sales to retailers incorporate mark-up by the wholesalers, something absent when retailers import directly.

A comparison of retailers' direct import purchase prices reported in the importers questionnaires with the selling price reported by U.S. producers for their sales of sweaters to retailers reveals that imports undersold comparable domestic sweaters in over 80 percent of the comparisons, by margins of over 50 percent in some cases.¹⁴³

By contrast, questionnaire data comparing importer/wholesalers' and U.S. producers' sales prices to retailers show a preponderance of overselling by the imported sweaters.¹⁴⁴ A third set of data on prices of subject imported sweaters, retailers' purchase prices reported in purchasers' questionnaires, show overselling in the majority of comparisons with purchase prices for U.S.-made sweaters.¹⁴⁵ However, purchasers' questionnaire import data reflect a mixture of imports purchased directly from foreign producers as well as imports purchased from importer/wholesalers. Because of this mix, we have accorded less

¹⁴³ Report at A-69, Table 24. In addition, one could compare the above-cited data on direct import purchases by retailers with prices reported by purchasers for their purchases of U.S.-produced sweaters. In such a comparison, the data again show underselling in a substantial majority of comparisons. Compare Report at A-68, Table 22 (retailers' direct import prices), with Report at A-71, Table 26 (purchase prices for U.S.-produced sweaters). These two comparisons would be expected to show a similar pattern because the prices for U.S. sweaters in the two cases represent simply different sides (i.e., purchase vs. sale) of the same type of transaction.

We also note that the number of comparisons using these data from Tables 22 and 26 is substantial (over 100). Compare Report at A-71, Table 27 (fewer than 80 comparisons for purchaser questionnaire prices of imports and U.S.-produced sweaters).

¹⁴⁴ Report at A-69, Table 23.

¹⁴⁵ Report at A-71, Table 27.

weight to these comparisons as evidence of prices for sweaters imported directly by retailers. Rather, we believe that the data specifically limited to direct retailer imports in the importers' questionnaires are a more reliable indicator of true prices for those imports.¹⁴⁶ As noted above, the importers' questionnaire data show underselling in comparison both with selling prices of U.S. producers and with the retailer purchase prices of U.S.-made sweaters. As further evidence of underselling, a buyer for a retailer that accounted for a substantial percentage of reported purchases of U.S.-produced manmade-fiber sweaters confirmed the existence of a significant price advantage enjoyed by the subject imports.¹⁴⁷

We find the evidence of underselling at the level of direct purchases of subject imported sweaters by retailers to be important in the context of the manmade-fiber sweater market as a whole.¹⁴⁸ Direct retail import purchases accounted for the majority of all sweater

¹⁴⁶ Moreover, we note that although Tables 22 (importers' questionnaire data for direct retail imports) and Table 26 (purchaser questionnaire data for purchases of subject imports) each contain data from firms accounting for a significant percentage of total imports, data from a larger number of firms are represented in Table 22. Compare, importers questionnaires with purchasers questionnaires. The broader sampling of firms in Table 22 means that even if most of the import prices in Table 26 were for direct retail imports, the significance of those prices in comparison with those in Table 22 may be limited.

¹⁴⁷ Report at A-74. See also, Report at A-73.

¹⁴⁸ We have noted above that the price data collected in the Commission's questionnaires fluctuate over the period of investigation. Nevertheless, we find that the price data is useful given the pattern of underselling observed, despite the fluctuations. In other words, even though the prices reported for U.S. and subject imported sweaters were not steady, prices for the subject imports, when compared at the level of direct retail imports, were lower than prices for U.S.-produced sweaters.

imports reported in questionnaire responses.¹⁴⁹ A pattern of underselling at this principal level of trade indicates that the subject imports have adversely affected the sales and/or prices of U.S. producers.¹⁵⁰ This underselling is particularly noteworthy in that it was accompanied by a significant increase in the share of the market held by the subject imports over the period of investigation. Moreover, both of those facts are even more meaningful in light of the substantial drop in U.S. production of manmade-fiber sweaters over the period and the poor financial performance by the domestic industry.¹⁵¹

We note that the U.S. sweater industry is characterized by many buyers and sellers.¹⁵² Some buyers such as Liz Claiborne, May Company, K-Mart and Sears, however, are large and may possess some market power.¹⁵³ This consolidation of buying power allows these firms to gain bargaining power over manmade fiber sweater suppliers, both domestic and

¹⁴⁹ See generally, importers' questionnaires.

¹⁵⁰ We also note that some of the information concerning lost revenues allegations would tend to corroborate a finding of adverse price effects of subject imports. Report at A-75--A-78. We do not place substantial weight on this information on lost revenues, however, because the firms most often contacted by staff were jobbers, and not the ultimate purchasers of the finished sweaters.

¹⁵¹ 19 U.S.C. § 1677(7)(B)(i)(III)(impact of imports on domestic producers). Commissioner Lodwick also notes the assertions that the effects of imports on the U.S. industry have been the loss of high volume contracts and the depression of mill profits. Tr. at 28-29. U.S. producers also listed increased overhead costs, curtailed investment expenditures, increased difficulty in obtaining financing, loss of a customer base, difficulty in developing new accounts, shorter and less profitable production runs, and employee layoffs as actual and potential negative effects of imports of manmade-fiber sweaters from Hong Kong, Korea and Taiwan. Report at B-74.

¹⁵² Memorandum INV-N-101 at 2.

¹⁵³ E.g., Tr. at 149-150, 218-219, 230. See also Tr. at 55.

imported.¹⁵⁴ Large retailers with their own design departments are able to effectively bargain with many suppliers for the best contract possible including components of size of the order, delivery date and price for the design desired.¹⁵⁵ In addition, there is an added incentive for knitters to win large volume orders that allows them to achieve economies of scale and reduce their per unit production costs.¹⁵⁶ While there is some disagreement on how directly the imports and domestic man-made fiber sweaters compete on design and price¹⁵⁷, it is estimated that their substitutability is moderate.¹⁵⁸ The availability of a significant volume of subject imports to large retailers suggests a possibility of a price suppressing effect on domestic suppliers.

Respondents offer a number of alternative explanations for whatever difficulties the domestic industry may be experiencing. Several of respondents' arguments concern shifts in market conditions

¹⁵⁴ E.g., Tr. at 26, 133-136.

¹⁵⁵ E.g., Tr. at 163-164, 179. See also Tr. at 190 (Testimony indicating existence of price/quality tradeoff. Retailers are willing to pay a premium for better sweaters in order to maintain their sales volumes; sweaters sold at lower margins because of price pressures in a declining market.).

¹⁵⁶ E.g., Tr. at 24, 65. While there is dispute as to what constitutes a "core program", there are indications that large retail buyers do presently place large orders. Tr. at 162, 177, 224.

¹⁵⁷ E.g., Tr. at 27, 170.

¹⁵⁸ Memorandum INV-N-101 at 13 (elasticity of substitution estimated at between 2 and 4).

that they assert have adversely affected the domestic industry.¹⁵⁹ First, some respondents cite a shift in demand away from manmade-fiber sweaters to other garments, such as cotton sweaters, sweatshirts ("fleecewear"), or knit shirts.¹⁶⁰ We do not believe such a shift could completely explain the material injury in this case. It is not disputed that demand for manmade-fiber sweaters fell over the period of investigation.¹⁶¹ However, this does not account for the fact that in the context of this decline, the market share of subject imports rose significantly, and the market share of the domestic industry declined substantially.¹⁶²

Second, several respondents argue that U.S. producers have experienced difficulties with shorter production lead-times demanded by

¹⁵⁹ To put the discussion in some context, we note that petitioner had argued that the domestic industry has lost its main money-maker -- its "core" programs of large-run, long turn-around sweaters -- to LTFV imports. Petitioner and industry witnesses argued that the core programs were important to the domestic industry because they kept mills operating year-round. Prehearing brief of NKSA at 3, 42-44; Tr. at 47. Through their assertions described above, respondents dispute petitioner's claim that the "core" programs have been captured by the subject imports; rather, they argue, as a result of market shifts the core programs no longer exist. See, e.g., posthearing brief of AAEI at 8-10; posthearing brief of Hong Kong respondents at 5-8. We believe that the more important question is whether any changes in market conditions mean that the substantial volume and increased market share of subject imports have been solely the result of reasons other than price, and we address that question below.

¹⁶⁰ E.g., prehearing brief of AAEI at 19-26; prehearing brief of Taiwanese respondents at 53-57.

¹⁶¹ Report at A-18, Table 3.

¹⁶² Report at A-62, Table 19. Given this market share trend, the Taiwanese respondents' claim that the poor fortunes of the U.S. industry are the result of a trough in a business cycle for sweaters is equally unavailing. See prehearing brief of Taiwanese respondents at 19. In any event, it is doubtful that there is any discernible and predictable "sweater cycle." See Tr. at 103, 186-7.

retailers. However, lead-times of domestic producers are generally shorter than those of producers in the subject countries.¹⁶³ Moreover, although in general lead-times appear to have decreased, the testimony of several retail buyers at the Commission's hearing showed that purchase orders for fourth-quarter sales are still often placed relatively early in the year.¹⁶⁴

Third, we have carefully considered respondents' argument that there has been a shift in demand to types of sweaters the domestic industry is unable to supply, such as those requiring significant handwork (such as hand knitting, appliques, embroidery, leather trim), special production equipment (such as is used for full-fashion sweaters, linking or looping of collars, hand intarsias), or specialty or novelty yarns.¹⁶⁵ Thus, respondents argue, subject imports are being purchased for reasons other than price.

U.S. firms generally possess sophisticated and costly knitting machinery that enables them to produce sweaters having complicated patterns and styles.¹⁶⁶ Moreover, it appears that U.S. manufacturers

¹⁶³ See, e.g., Report at A-65; tr. at 164.

¹⁶⁴ Tr. at 182; see also id. (four to six month lead times); but see tr. at 222.

¹⁶⁵ E.g. Prehearing brief of AAEL at 26-37; prehearing brief of Sweater Coalition at 11-14.

¹⁶⁶ E.g., Tr. at 49, 236. Such sweaters include fancy jacquards, sweaters with cable stitching, and at least in some cases fully-fashioned sweaters and machine-made intarsia sweaters. Tr. at 73, 151, 179; memorandum of staff field visit, June 13, 1990, at 1.

produce some sweaters having details requiring hand sewing or other handwork.¹⁶⁷

However, purchasers responding to the Commission's questionnaire were generally of the opinion, and U.S. producers largely concede, that U.S. producers' capability to produce sweaters requiring significant handwork is more limited than producers in the subject countries.¹⁶⁸ Although it appears that demand for such sweaters has increased, the information on the record does not clearly establish how significant sweaters requiring intensive hand-work are in comparison with all manmade-fiber sweaters.¹⁶⁹ However, if most subject imports were sweaters having intricate handwork features the domestic industry could not produce, one would expect these imports generally to command a premium, and not undersell the like product.¹⁷⁰

¹⁶⁷ See, e.g., Tr. at 74; memorandum of staff field visit, June 14, 1990, at 2.

¹⁶⁸ We note that the claim that the domestic industry lacks certain production equipment appears to be part of the same alleged difficulty, in that several of the pieces of equipment cited by respondents as lacking by the domestic industry require more manual labor to operate than other knitting machinery. Tr. at 195-6 (intarsia sweaters); memorandum of staff field visit, July 19, 1990 at 2 (linking and looping machines).

¹⁶⁹ Several retailer representatives testified that embellished sweaters and sweaters with hand touches represent a significant portion, even a majority, of their imports from the subject countries. Tr. at 214-5; see also Posthearing brief of AAEL at Ex. 1. The experience of other retailers, however, may differ.

¹⁷⁰ See Mechanical Transfer Presses from Japan, Inv. No. 731-TA-429 (Final), USITC Pub. 2257 (Feb. 1990) at 29. Other alleged "quality" differences such as better assembly and finishing details are also inconsistent with the pattern of underselling we have found and, if they do exist, may be the result of cheaper labor costs in the subject countries.

There is information on the record, moreover, that indicates that retailers turned to subject imports for special handwork features because U.S. producers could not supply these sweaters at a competitive price.¹⁷¹ This role played by price is consistent with purchasers' questionnaire responses, in which purchasers indicated that price was an important factor in sweater purchase decisions generally.¹⁷² Therefore, even if sweaters having significant handwork are a major portion of the market as a whole, and it is not clear that they are, it simply means that producers in the subject countries are able to supply sweaters with additional features at a more competitive price.¹⁷³ We also note that if a more decorative imported sweater is offered at the same price as a less decorative domestic sweater, the imported sweater could put downward pressure on the domestic product.

In any event, given the massive volume of subject imports, their increasing market share, underselling by subject imports, and the importance of price in the buying decisions of purchasers, we simply cannot conclude that any market shift toward sweaters requiring handwork, specialty yarns, or other specialty features fully explains the injury being experienced by the U.S. manmade-fiber sweater industry.

¹⁷¹ Tr. at 159, 179, 202-3. See also tr. at 163; Posthearing brief of AAIE at 7.

¹⁷² Report at A-69. See also tr. at 167.

¹⁷³ Thus, the "inability" of U.S. producers to make such garments may be viewed as a question of price: U.S. firms are not able to participate substantially in this segment of the market because the price they could earn for these garments is too low. Relative labor costs in the United States and the subject countries may explain in large part why production of those garments in the United States is inordinately expensive in comparison with the subject countries. See e.g., Tr. at 179.

Nor do we believe that there are any other "non-price" advantages for subject imports or producers that would completely explain the significant presence of subject imports in the U.S. market. Several respondents argue that U.S. producers lack sufficient productive capacity to handle large orders.¹⁷⁴ However, even taking into account that reported U.S. manmade-fiber sweater capacity is somewhat overstated, the average capacity to produce manmade-fiber sweaters of a firm from Hong Kong, the Republic of Korea, or Taiwan, does not appear appreciably higher, if at all, than average capacity of a U.S. firm.¹⁷⁵ Moreover, U.S. producers' focus on "core" programs of large orders suggests significant capacity.

Finally, the claim that injury is solely the result of the increased role of non-subject imports of low unit values is not valid.¹⁷⁶ Although non-subject imports have gained market share, so have the subject imports.¹⁷⁷ As for the alleged low prices of non-subject imports, we have found underselling by the subject imports.

¹⁷⁴ Prehearing brief of AAEI at 38-40; prehearing brief of Sweater Coalition at 18-23.

¹⁷⁵ Compare Report at A-26, Table 4, with Report at A-52, Table 14; A-53 Table 15; A-55, Table 16.

¹⁷⁶ Prehearing brief of Korean respondents at 35-36; prehearing brief of AAEI at 40-42.

¹⁷⁷ Report at A-62, Table 19.

CONCLUSION

On the basis of the foregoing discussion, we find that an industry in the United States is materially injured by reason of imports of sweaters wholly or in chief weight of manmade fibers that the Commerce Department has determined to have been sold in the United States at less than fair value.

DISSENTING VIEWS OF COMMISSIONER DON E. NEWQUIST

I dissent from the Commission's affirmative determinations in these investigations. I determine that a domestic industry in the United States is not materially injured, or threatened with material injury, by reason of imports of manmade-fiber sweaters from Hong Kong, the Republic of Korea, and Taiwan.

I. Like product/Domestic Industry

Petitioner, the National Knitwear and Sportswear Association ("NKSA"), contends that the like product in these investigations should be man-made fiber ("MMF") sweaters. In the preliminary phase of these investigations, the Commission unanimously determined the like product to be sweaters of all fibers. That determination was based on substantial similarities in the general appearance and use, in the manufacturing equipment and processes, and in distribution channels, and on the degree of substitutability of all sweaters, whether they be of manmade and/or natural fiber.¹ In these final investigations, no new information has come to light that persuades me to depart from the Commission's preliminary analysis of this issue. Accordingly, I find the like product to be all sweaters, regardless of fiber, and define the domestic industry as domestic producers of all

¹ See Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, The Republic of Korea, and Taiwan, Invs. Nos. 731-TA-448-450 (Preliminary), USITC Pub. 2234 (November 1989) at 3-10.

sweaters.²

II. Condition of the Domestic Industry³

Official census data show that over the period of investigation, apparent U.S. consumption of all sweaters declined from 37.7 million dozen in 1987, to 30.0 million dozen in 1988. In 1989, consumption rebounded to 34.1 million dozen, a level 10 percent below that in 1987.⁴ U.S. production of all sweaters also declined, from 10.8 million dozen in 1987 to 9.0 million dozen in 1988, and to 7.7 million dozen in 1989. The value of U.S. production fell from \$1.3 billion in 1987, to \$1.1 billion

² I join my colleagues' analysis and determination regarding the related parties issue, the exclusion of jobbers from the domestic industry, and the treatment of infants' sweaters, finely knit "sweaters" with a knit-on rib, and ensembles.

³ There are estimated to be more than 1,000 U.S. firms currently engaged in manufacturing sweaters. Because of the extremely large number of domestic producers, the Commission attempted to obtain information from a cross-section of the industry, derived from a list of 200 firms provided by Petitioner and a listing of approximately 600 additional firms obtained from Dun and Bradstreet. In these final investigations, producer questionnaires were sent to 197 domestic firms (the majority of which are NKSA members). Eighty-three firms filed responses. Twenty-five reported that they did not produce sweaters over the period of investigation. Staff Report at A-24. Thus, information collected from domestic producers on production, shipments, capacity, capacity utilization, inventories, employment, and financial performance is based on responses from no more than 58 firms, reflecting a significant, yet minor, portion of the industry. However, public data on U.S. production, total imports (both those subject to investigation and those that are not) and on apparent U.S. consumption are available in Current Industrial Reports, published by the U.S. Census Bureau, Department of Commerce. See Staff Report at A-16.

⁴ Staff Report at A-17.

in 1988, and to \$1.0 billion in 1989.⁵

Questionnaire data on domestic shipments show that while total U.S. shipments fell by some 5 percent from 1987 to 1989, the value of reported shipments increased by approximately 10 percent, due to consistent increases in reported unit values.⁶ U.S. producers' reported yearend inventories, however, increased over the period of investigation, from 368,000 dozen in 1987 to 471,000 dozen in 1989.⁷

Forty-two producers provided usable employment data. These data show that the number of production and related workers, the number of hours worked by these employees, and their hourly compensation were higher in 1989 than in 1987.⁸

Petitioner argues that these reported data on employment understate employment losses within the industry, as several firms have gone out of business.⁹ Petitioner notes that since May 1988, the Department of Labor has issued determinations of eligibility to apply for Worker Adjustment Assistance to 18

⁵ Id.

⁶ Staff Report at A-32.

⁷ As a share of total U.S. shipments, inventories increased from 8.3 in 1987 to 10.7 in 1990. Staff Report at A-35.

⁸ Production and related workers increased from 8,754 in 1987 to 9,306 in 1988, then declined to 9,194 in 1989. The number of hours worked increased by 7 percent in 1988, then fell 3 percent in 1989. Hourly compensation increased throughout the period of investigation, from \$6.85 in 1987 to more than \$7.00 in 1989. Staff Report at A-37-A-38.

⁹ See Staff Report at A-29-A-30. Also, it is reported that temporary layoffs have increased in recent years. A-40.

firms; the determinations are based upon a finding by Labor that imports have "contributed importantly" to workers' separation from employment and to their employers' declines in production or sales. ¹⁰ The Commission staff report observes that "many firms [are] entering and exiting the market." ¹¹

Twenty-eight firms (accounting for roughly 35 percent of U.S. production of all sweaters in 1989) provided usable financial data on their operations producing all sweaters. These data show that net sales increased from \$264.2 million in 1987 to \$313.5 million in 1988, an increase of 18.7 percent. In 1989, reported net sales rose again, to \$342.4 million, an increase of 9.2 percent. ¹² Operating income levels, however, declined from \$17.0 million in 1987 to \$13.0 million in 1988, and then

¹⁰ See 19 U.S.C. § 2272. I note, however, that these determinations relate to the impact of all sweater imports, not just imports of manmade-fiber sweaters or just imports originating from the countries under investigation here. In addition, the total number of firms found eligible for import adjustment assistance over the period of investigation is actually fairly small in relation to the estimated number of domestic producers, and a number of adjustment assistance applications have been denied, either because the customers of the affected firms did not reduce their purchases or because it was not shown that layoffs were tied to import competition. See Posthearing Statement of the Taiwan Man-Made Fiber Sweater Producers and Exporters, at A-4, Tab 6.

¹¹ Staff Report at A-19. There is little in the record to suggest that this pattern of entering and exiting the market is a recent or uncharacteristic development for this industry. Nor does this pattern by itself suggest injury for an industry characterized by low barriers to entry, such as low capital requirements and unskilled labor.

¹² Net sales data for 1987 were reported by 26 firms; net sales data for 1988 and 1989 were reported by 28 firms. Staff Report at A-41.

increased in 1989, to \$14.0 million.¹³

Over the past several years, many domestic producers have made substantial capital investments in new production equipment and facilities.¹⁴ The questionnaire data, based on responses from just five (and in the case of 1988 and 1989 data, six) firms, indicate substantial declines in capital investment.¹⁵ This trend, however, is attributable to major investments in new production facilities by two of the largest producers which occurred in 1987.¹⁶ Combined capital investment by the other firms reporting such expenditures increased over the period of investigation.¹⁷ Reported R&D investment also increased throughout the period of investigation.¹⁸

¹³ Given petitioner's claim that there is limited substitutability between manmade and natural fiber sweaters, one would anticipate that domestic producers' manmade-fiber sweater operations would be most severely affected by the imports under investigation. As noted, a number of firms producing MMF sweaters have exited the market. However, the reported income and loss experience of U.S. producers on operations producing manmade fiber sweaters show significant increases in net sales, operating income, and cash flow in 1989 over 1987. Staff Report at A-45. Further, it appears that MMF sweater producers are doing better than other sweater producers. See Comments on APO information on Behalf of Korean Respondents at 5-6.

¹⁴ See, e.g., Tr. at 46, 48; Posthearing Brief on Behalf of Crystal Knitters, Ltd., App. D (1983 Congressional testimony of NKSA Executive Director).

¹⁵ Staff Report at A-64.

¹⁶ [***]

¹⁷ Reported fixed asset values also showed increases throughout the period of investigation. Staff Report at A-46.

¹⁸ Staff Report at A-47 (12 firms reporting for 1987 and 13 for 1988-1989.)

Thus, while this industry has enjoyed certain positive trends, such as reported increases in net sales, unit values, employment, capital investment, and the entry of new firms into the market, it also has experienced a slowdown in production, an increase in reported inventories, a number of plant closures, and declines in reported shipments and profitability.

III. Material injury by reason of the subject imports

In determining whether the negative trends in the performance of the domestic industry producing all sweaters are "by reason of" MMF sweaters imported from Hong Kong, the Republic of Korea, and Taiwan, I have considered the volume and value of these imports (both actual and relative to total U.S. consumption), as well as the information available on their effect on prices for the domestic like product and their impact on domestic producers. ¹⁹ ²⁰

¹⁹ 19 U.S.C. § 1677(7)(B)(i)(I), (II), (III).

²⁰ As in the preliminary phase of these investigations, I determine that the conditions for cumulatively assessing the volume and effect of combined imports from Hong Kong, the Republic of Korea, and Taiwan are met. Imports from all three countries are subject to investigation and sold in the United States in competition with domestic producers. The subject imports and the domestic like product are marketed nationally, through the same channels of distribution. Further, while I agree with respondents' contention that the imports often contain specialty features not commonly found on U.S.-made sweaters, and are perceived by many clothing retailers to be of superior quality, no one has contended that these differences are so substantial or widespread that there is no "reasonable overlap" in competition between imports from each of the countries under investigation and between those imports and the domestic like product. Finally, I do not believe that the imports from Hong Kong should be considered negligible and thereby exempt from cumulation under the "negligible imports" provision. See 19 U.S.C. §

(continued...)

Imports of manmade fiber sweaters from Hong Kong, the Republic of Korea, and Taiwan declined from 8,433 thousand dozen in 1987 to 7,512 thousand dozen in 1988, a decline of 11 percent. In 1989, subject imports increased by roughly 6 percent, to 7,926 thousand dozen. As a share of total U.S. consumption of all sweaters, the imports under investigation were relatively stable, accounting for 22.4 percent in 1987, 25.1 percent in 1988, and 23.3 percent in 1989. Measured by value, they accounted for [***] percent of apparent consumption in 1987, [***] percent in 1988, and [***] percent in 1989.²¹

Although these imports account for a substantial share of the market, market penetration alone is not dispositive of the question whether declines in the domestic industry's performance are "by reason of" the subject imports. As pointed out in the legislative history:

the significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor ... shall necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide.²²

²⁰ (...continued)

1677(7)(C)(v). Subject imports from Hong Kong exceeded 3 million dozen over the period of investigation and, in each full year under investigation, accounted for roughly 3 percent of apparent U.S. consumption of all sweaters, measured both by quantity and value. See Staff Report at A-59, A-63.

²¹ Staff Report at A-63.

²² S. Rep. 249, 96th Cong., 1st Sess. at 88.

In considering the significance of the substantial market share accounted for by these imports, and its relationship to the performance of the domestic industry,²³ I have examined the extent to which these imports have captured market share from the domestic industry. The record shows that, notwithstanding evidence of declining domestic production and shipments, from 1987 to 1988, the domestic industry actually increased its share of the market.²⁴ In 1989, the industry lost significant market share, as U.S. production (measured by value) fell from 28.9 percent of apparent domestic consumption in 1988, to 23.2 percent in 1989. This loss in market share, however, was not due to manmade fiber sweaters from Hong Kong, the Republic of Korea, and Taiwan, as these imports also lost market share, falling (in value) from [***] to [***] percent. By contrast, imports not subject to these investigations increased their market share, from [***] percent in 1988 to [***] percent in 1989.²⁵

In determining whether there has been significant underselling by the subject imports, and whether these imports significantly depress or suppress prices for the like product,²⁶

²³ I note that the subject imports are not a newly emerging source of supply in this market.

²⁴ The gain in market share by the domestic industry exceeded the gain recorded by the subject imports. Staff Report at A-63, B-79.

²⁵ Staff Report at A-63, B-79.

²⁶ 19 U.S.C. § 1677(7)((C)(ii)).

two considerations have led me to give less probative weight to the available pricing data. First, the overall response rate to Commission requests for pricing data is quite low, particularly by the domestic industry. As noted above, 83 of 197 firms responded to Commission producer questionnaires, 58 of which produced sweaters over the period of investigation. Of these 58, only seven producers, accounting for only 19 percent of U.S. producers' reported shipments of man-made fiber sweaters in 1989, provided pricing data.²⁷ Based on this extremely low percentage of responding producers that provided any price data whatsoever, I hesitate to rely extensively on these data as representative of "industry" pricing.

A second difficulty in ascertaining the extent of underselling and the price effects of these imports involves the matter of product differentiation. Although the Commission staff requested comparative price data on products of comparable size, style, and color patterns, the reported prices -- both for a particular product from one country compared with the same product from another country and for a product from a single country at different points in time -- vary substantially. This suggests that there may well be significant differences in

²⁷ I note that the pricing section of the producers' questionnaire was designed after extensive consultation with Petitioner and after contacting selected producers, importers and retailers to confirm that they could provide the sorts of data requested. Some 39 importers (accounting for approximately two-thirds of reported subject imports in 1989) responded to the Commission's request for pricing data.

quality or style among sweaters falling within the same product category.²⁸ Based on these factors -- that is, the extremely poor response rate by domestic producers to the Commission's requests for pricing data and the fact that there may be considerable product differentiation in the sweaters for which prices are being compared -- I have given less probative weight in this investigation to the pricing data. I also note, however, that even when viewed most favorably, these data do not, at least in my view, demonstrate significant price suppression or depression.

The evidence reveals no apparent general price trends. In those few instances where a product price series was complete, prices generally fluctuated over the period of investigation.²⁹ ³⁰

Price comparisons, as noted, varied widely. Questionnaire

²⁸ Of course, there is substantial evidence elsewhere in the record that MMF sweaters have become much less of a commodity-type product, due to the proliferation of new styles and designs, particularly in the sweaters being imported.

²⁹ In one instance, the price of the product was substantially lower at the end of the period of investigation than at the beginning. In two instances (involving natural fiber sweaters), prices were significantly higher. Only one price series was complete on a product imported from both Hong Kong and the Republic of Korea, which showed stable prices on the Hong Kong product and fluctuating prices for the Korean product. In general, the price series on products imported from Taiwan showed no consistent downward trend. Staff Report at A-67-A-68.

³⁰ Production and net sales data indicate that the weighted average unit values of both domestically produced sweaters and the cumulated imports have increased consistently over the period of investigation. Staff Report at A-60, A-32, B-62-B-63. It is unclear, however, to what extent this reflects changes in the mix of products being produced, as all parties acknowledge that there has been a trend toward fancier, more highly fashioned sweaters.

responses from retail purchasers,³¹ covering purchases from domestic producers, from U.S. importers, and directly from foreign exporters, show 26 instances of underselling and 51 instances of overselling.³²

Additional information concerning petitioner's claim of injury by reason of low-priced LTFV imports was provided in the form of lost sales and lost revenue allegations.³³ While the Commission's investigation of these allegations did reveal some instances in which the subject imports enjoyed a price advantage, several of the specific sales allegedly lost on the basis of price underselling by the subject imports could not be substantiated. A number of the lost revenue allegations, which primarily involve instances where contract knitters claimed to have reduced their price quotes in order to obtain orders from jobbers, were "confirmed" by the jobber. No specific evidence,

³¹ The response rate by purchasers was higher than that for U.S. producers, as 11 of 38 questionnaires received from purchasers contained pricing data. These data, which were received from several of the largest U.S. purchasers, including [***], account for a substantial share of reported imports and provide broader coverage of domestic shipments than the producers' data. See Staff Report at A-69-A-71.

³² Staff Report at A-71-A-78, Commission Staff Memorandum INV-N-100.

³³ The seven lost sales alleged by petitioner were valued at approximately \$3.9 million. I note that in 1989 alone, the value of domestic shipments of man-made fiber sweaters reported in questionnaire responses totalled some \$288.4 million, and for all sweaters, \$643.9 million. See Staff Report at A-71, A-33 (Table 6). Petitioner also alleged roughly \$3 million in lost revenue resulting from having to reduce prices on 12 sales transactions totalling some \$7 million.

however, was adduced concerning the prices of the competing imports and the extent to which the jobbers were required to lower their prices to the retailer in order to meet those competing import prices.

The foregoing information may indicate that certain domestic producers may have encountered stiff price competition from imports. Nevertheless, the issue is whether the domestic industry generally has suffered material injury by reason of these imports and, as noted, the information available simply does not show any general sustained price trends.

Moreover, I believe it is particularly important in these investigations "to focus on [certain] conditions of trade, competition, and development" within this industry,³⁴ because important changes in the conditions of competition have occurred which have adversely affected many domestic producers but which, in my view, cannot be said to have been caused by the subject imports. First, there has been a significant decline (by roughly 10 percent) in apparent domestic consumption of all sweaters.³⁵ Second, manmade-fiber sweaters now account for a declining share of sweater sales in this country, as natural fiber (particularly cotton) sweaters have become more popular. This trend has undoubtedly had a severe impact on the small contract producers,

³⁴ S. Rep. 249, 96th Cong., 1st Sess. at 88.

³⁵ Staff Report at A-17. This decline is due in part to the increased demand for knit shirts and fleecewear. See, e.g., Tr. at 218-219.

many (if not most) of whom only manufacture sweaters of manmade fiber. ³⁶ It also has had a negative impact on producers of all sweaters, who rely on obtaining orders for acrylic sweaters months in advance of the Fall season to keep their equipment running, and employees working, on a year-round basis. ³⁷

Third, there has been a significant shift in the market toward more varied, more colorful, more intricate, and more "fully fashioned" sweaters. ³⁸ In many cases, these new styles are embroidered, handloomed, or handlooped, which are labor-intensive production methods that domestic producers simply cannot provide. ³⁹ Various sorts of fabrics (e.g., ramie) and

³⁶ Petitioners Prehearing Brief at 44.

³⁷ As one witness for Petitioner testified: "What we need is a completely balanced mix of product, and the acrylic usually provided the early incentive programs that we were able to garner from our customers and give us a longer manufacturing base." Tr. at 126. Another producer testified: "[I]n today's world, ... sweater manufacturers must make large and continuing investments in evolving models of knitting and other machines and in their labor force. In order for us to get a decent return on this investment, we simply must keep these machines and employees operating on a reasonably full-time basis throughout the year." Tr. at 48.

³⁸ Several witnesses testified that due to an increase in competition among retailers, retail buyers are delaying their purchases until later than ever in the year, to ensure that their product lines reflect the very latest fashion trends. This shorter production leadtime requires greater flexibility on the part of domestic producers, and has certainly contributed to reduced profitability and employment fluctuations associated with being unable to operate production equipment throughout the year. See, e.g., Tr. at 161.

³⁹ See, e.g., Tr. at 151, 214-215. Other sweater styles require the latest automated production technology, which certain domestic producers also lack. See, e.g., Prehearing Brief on Behalf of Korean Respondents at 33-34.

novelty yarns that have increased in popularity in recent years also are simply not available (at least not in sufficient volume) from domestic producers.

Another important condition of competition is the extent to which major retailers' selection of suppliers is due to factors other than price. As a corollary to consumers' growing demand for more fashionable and elaborate sweater styles, the evidence shows that retail buyers place great importance on quality, styling and availability.⁴⁰ And, in addition to problems in obtaining supplies of certain styles from domestic producers, a majority of the purchasers responding to Commission questionnaires commented that the quality of U.S. produced sweaters is often inferior to the quality of the subject imports, especially in the consistency of the workmanship.⁴¹

The evidence indicates, therefore, that in many instances the domestic industry has been unable to meet changing market demand. In their effort to respond to these changes in the conditions of competition in the market, many domestic producers have no doubt encountered difficulties (or, indeed, gone out of business). These difficulties, however, cannot be said to be "by reason of" LTFV imports.⁴²

⁴⁰ Staff Report at A-70.

⁴¹ Commission Memorandum INV-N-101 at 15, n. 33; Staff Report at A-65.

⁴² I do not suggest, and the evidence does not suggest, that there are not a number of firms in the domestic industry that have succeeded in responding to this changing, more competitive
(continued...)

Finally, the evidence of frequent differences in the design and quality of the subject imports versus domestically produced sweaters, when coupled with the mixed pattern of reported underselling and overselling and the absence of any apparent domestic price trends, persuades me that MMF sweater imports from Hong Kong, the Republic of Korea, and Taiwan, have not been a cause of significant price depression or suppression within the domestic industry.⁴³

Based on my consideration of the volume of imports, their prices, and evidence concerning their relationship to the performance of the domestic industry over the period of investigation, I conclude that the domestic industry is not materially injured by reason of imports of manmade-fiber sweaters from Hong Kong, the Republic of Korea, and Taiwan.

⁴² (...continued)
market. Indeed, several U.S. producers have recorded significant increases in net sales over the period of investigation. See Staff Report at B-70, B-72.

⁴³ Each Title VII investigation is sui generis, to be decided on the basis of the specific facts relating to the particular industry involved. See 19 U.S.C. § 1677(7)(C)(iii); *Copperweld Corp. v. United States*, 682 F. Supp. 552 (CIT 1988). I note, therefore, that the evidence of substantial differentiation in both the characteristics and quality of the imports as compared to the like product, makes this case quite different from cases involving the cement, steel, agricultural, or chemicals industries, where a "commodity" product under investigation may be completely fungible with the like product, and where slight underselling by a relatively small volume of imports can cause material injury to a domestic industry. Compare *Certain Granite from Italy and Spain*, Invs. Nos. 701-TA-289, 731-TA-381 and 382 (Final), USITC Pub. 2110 (1988) with *Industrial Phosphoric Acid from Belgium and Israel*, Invs. Nos. 731-TA-365 and 366, 701-TA-286 (Final) (aff'd, *Negev Phosphates Inc. v. USITC*, 699 F. Supp. 938 (CIT 1988)).

IV. Threat of Material Injury

With regard to threat of material injury, it appears highly unlikely that either the absolute volume or market share of the subject imports will experience an imminent significant increase. I note, again, that the volume and value of imports under investigation were at a lower level in 1989 than in 1987, and that these imports also lost U.S. market share in 1989. Further, the value of the imports under investigation, relative to the value of all sweater imports, has fallen from [***] percent in 1987 to [***] percent in 1989. ⁴⁴

Hong Kong's exports to the United States reached, on average, 98.1 percent of its quota limit from 1987-1989. Korean exports to the United States reached, on average, 98.5 percent of its quota limit from 1987-1989. In the case of Taiwan, subject imports fell from 98.9 percent of the quota limit in 1987 to 73.9 percent in 1989. ⁴⁵ Taiwanese producers, however, have been devastated by a combination of rising labor costs and labor shortages, as well as adverse exchange rate fluctuations, which have also made Korean imports less price competitive. ⁴⁶

More important, I note that the current quota agreement with Hong Kong, as well as the new quota agreements which will soon be formally adopted governing imports from Korea and Taiwan, do not

⁴⁴ Staff Report at A-63.

⁴⁵ See Staff Report at A-15, Tr. at 48.

⁴⁶ See Staff Report at A-79; Posthearing Statement of the Taiwanese Producers and Exporters.

permit imminent, significant increases in MMF sweater imports. Indeed, the basic objective of the Multifiber Arrangement is "ensuring the orderly and equitable development of [textile] trade and avoidance of disruptive effect in individual markets and on individual lines of production in both importing and exporting countries." ⁴⁷

Finally, there is evidence that imports from countries not under investigation, which in 1989 increased their share of the U.S. market at the expense of both the subject imports and the like product, are the price leaders in this market. ⁴⁸

Based on this information, I conclude that the domestic industry is not threatened with material injury by reason of imports of manmade fiber sweaters from Hong Kong, the Republic of Korea, and Taiwan.

⁴⁷ Arrangement Regarding International Trade in Textiles, art.I, para. 2. See also, American Ass'n of Exporters and Importers -- Textile Group v. United States, 751 F. 2d 1239, 1241 (Fed. Cir. 1985).

⁴⁸ See Prehearing Statement of Taiwanese Producers and Exporters at 47; Prehearing Brief on Behalf of Korean Respondents at 35-36.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On April 27, 1990, the U.S. Department of Commerce (Commerce) notified the U.S. International Trade Commission (Commission) of its preliminary determinations that sweaters wholly or in chief weight of manmade fibers ("sweaters of manmade fibers" or "manmade-fiber sweaters")¹ from Hong Kong, the Republic of Korea (Korea), and Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV). Accordingly, the Commission instituted investigations Nos. 731-TA-448, 449, and 450 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) 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 such imports. Notice of the institution of the Commission's investigations and the establishment of a schedule for their conduct, including a public hearing to be held in connection with the investigations, 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 (55 F.R. 19369, May 9, 1990).² The hearing was held in Washington, DC, on August 9, 1990.³

In its final determinations, as published in the Federal Register on July 27, 1990 (55 F.R. 30733), August 10, 1990 (55 F.R. 32659), and August 23, 1990 (55 F.R. 34585), Commerce determined that imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan, respectively, are being, or are likely to be, sold in the United States at LTFV. The applicable statute directs that the Commission notify Commerce of its final injury determinations by September 10, 1990.⁴ The Commission voted on these investigations on September 5, 1990.

¹ For purposes of these investigations, "sweaters of manmade fibers" are defined as knitted or crocheted outerwear garments wholly or in chief weight of manmade fibers, in a variety of forms including jackets, vests, cardigans with button or zipper fronts, and pullovers, usually having ribbing around the neck, bottom, and cuffs on the sleeves (if any), encompassing garments of various lengths. The phrase "in chief weight of manmade fibers" covers sweaters where the manmade fibers predominate by weight over each other single textile material. Sweaters of manmade fibers, as defined here, do not include sweaters 23 percent or more by weight of wool or sweaters for infants 24 months of age or younger. Sweaters of manmade fibers include all such sweaters regardless of the number of stitches per centimeter, but with regard to sweaters having more than nine stitches per two linear centimeters horizontally, only those with a knit-on rib at the bottom are included.

² Copies of the Commission's Federal Register notices are presented in app.

A. Copies of Commerce's notices are presented in app. B.

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

⁴ This date is the statutory deadline for notification of Commerce in the investigation concerning Hong Kong, and the administrative deadline in the investigations concerning Korea and Taiwan (the statutory deadlines in the investigations concerning Korea and Taiwan are September 24, 1990, and October 9, 1990, respectively).

Background

On September 22, 1989, the Commission and Commerce received petitions from counsel on behalf of the National Knitwear and Sportswear Association (NKSA), New York, NY, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of imports from Hong Kong, Korea, and Taiwan of sweaters of manmade fibers that are alleged to be sold in the United States at LTFV. Accordingly, the Commission conducted preliminary antidumping investigations Nos. 731-TA-448, 449, and 450 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. §1673b). On November 15, 1989, the Commission published its determinations in the Federal Register (54 F.R. 47585) that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of sweaters of manmade fibers from Hong Kong, Korea, and Taiwan.

The Commission has not conducted previous or related investigations concerning sweaters of manmade fibers.

Nature and Extent of Sales at LTFV

On July 27, 1990, August 10, 1990, and August 23, 1990, Commerce published in the Federal Register its final determinations that sweaters of manmade fibers from Hong Kong, Korea, and Taiwan, respectively, are being, or are likely to be, sold in the United States at LTFV. Commerce's determinations were based on examinations of sales of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan during the period April 1, 1989 through September 30, 1989. The weighted-average LTFV margins are presented in the following tabulation (in percent):

Countries and exportersLTFV margins

Hong Kong:

Comitex Knitters, Ltd.....	5.86
Crystal Knitters, Ltd.....	0.00 1/
Laws Fashion Knitters, Ltd.....	0.22 1/
Prosperity Clothing Co., Ltd./Estero	
Enterprises, Ltd.....	115.15
All others.....	5.86

Korea:

Chunji Industrial Co., Ltd.....	1.20
Hanil Synthetic Fiber.....	3.17
Shinwon Tongsang.....	1.11
Young Woo & Co., Ltd.....	0.73
Yurim Company, Ltd.....	0.92
All others.....	1.30

Taiwan:

Bay/Joy Flower Knitting Co., Ltd.....	24.02
Bonanza Industries Co., Ltd.....	23.72
Chen Hwa Knitting Factory, Ltd.....	24.02
Chung Ling Co., Ltd.....	24.02
Chung Tai Industries Co., Ltd.....	4.75
Goodman Knitting Co., Ltd.....	24.02
Jia Farn Manufacturing Co., Ltd.....	0.00 1/
Knitwear Express Co., Ltd.....	24.02
Modern Knitting Mills, Inc.....	5.68
New Northern Knitting Co., Ltd.....	24.02
Nicewear Knitting Co., Ltd.....	24.02
Oriental Knitting Co., Ltd.....	24.02
Supertex Knitting Co., Ltd.....	24.02
Taih Yung Enterprise Co., Ltd.....	24.02
All others.....	21.38

1/ Excluded from the final LTFV determination.

For each of the companies listed above, Commerce compared the United States price with the foreign market value of such or similar merchandise. Further details concerning the methodologies used by Commerce in calculating margins are presented in its Federal Register notices, copies of which appear in appendix B.

Commerce's LTFV determination on imports from Hong Kong

Commerce made affirmative determinations on sales of two of the four Hong Kong producers from whom it requested data: Comitex Knitters, Ltd. (Comitex), and Prosperity Clothing Co., Ltd./Estero Enterprises, Ltd. (Prosperity/Estero).⁵ U.S. sales of these companies examined by Commerce for the period April 1, 1989 through September 30, 1989 amounted to * * * dozen, valued at

⁵ For Laws Fashion Knitters, Ltd., Commerce found de minimis margins, and for Crystal Knitters, Ltd., Commerce found no margins.

\$* * *. Commerce found that * * * percent, by volume, and * * * percent, by value, of these sales were made at LTFV.

For two of the four companies (Crystal and Laws Fashion Knitters, Ltd. (Laws)), Commerce based U.S. price exclusively on purchase price, because all sales were made to unrelated purchasers prior to importation into the United States. For certain sales by Comitex, Commerce used exporter's sales price (ESP), because those sales were made to unrelated purchasers after importation into the United States.

For Prosperity/Estero, U.S. price was based on the best information available, because that firm did not allow Commerce to conduct an on-site verification of its submission. As a result, Commerce based its margin calculation for this firm on information provided in the petition. Commerce, however, elected not to include Prosperity/Estero in calculating the weighted-average margin for "all other" Hong Kong firms. Accordingly, the final "all other" margin is identical to that of the only other Hong Kong exporter examined that was found to be selling at LTFV, i.e., Comitex (5.86 percent).

Commerce based foreign market value on constructed value for all companies except Prosperity/Estero, where, as noted above, Commerce used the best information available. Commerce used constructed value because all three responding firms had no or insufficient sales in the home market and because the volume of these firms' sales to third countries was less than 5 percent of their sales to the United States.

Commerce's LTFV determination on imports from Korea

Commerce made affirmative determinations on sales of all five Korean producers investigated. U.S. sales by these firms examined by Commerce for the period April 1, 1989 through September 30, 1989 amounted to * * * dozen, valued at \$* * *. Commerce found * * * percent of these sales, by volume, and * * * percent, by value, to have been made at LTFV.

For Hanil Synthetic Fiber (Hanil), Commerce based U.S. price on both purchase price and ESP, because certain sales by Hanil, although made prior to importation, were carried in the inventory of Hanil's U.S. subsidiary prior to delivery in the United States. For the four other companies, Commerce used purchase price as a basis for U.S. price. For all five firms, Commerce used sales to third countries to establish foreign market value, because sales in the home market (Korea) constituted less than 5 percent of sales to the United States.

Commerce's LTFV determination on imports from Taiwan

In order to account for at least 30 percent of exports to the U.S. of the subject merchandise during the period of investigation, Commerce requested data from 14 companies. It made affirmative LTFV determinations on 13 of those companies, Jia Farn Manufacturing Co., Ltd. (Jia Farn) excepted. Sales of the 14 companies investigated by Commerce during the period of

investigation totaled * * * dozen, valued at \$* * *, * * * percent of which (by volume), were made at LTFV.⁶

For all companies except Bonanza Industries Co., Ltd. (Bonanza), Chung Ling Co., Ltd. (Chung Ling), and Jia Farn, Commerce used the best information available for some or all of these companies' U.S. sales. For Goodman Knitting Co., Ltd.; Knitwear Express Co., Ltd.; Nicewear Knitting Co., Ltd.; Bay/Joy Flower Knitting Co., Ltd.; Taih Jung Enterprise Co., Ltd.; Chen Hwa Knitting Factory, Ltd.; New Northern Knitting Co., Ltd.; Oriental Knitting Co., Ltd.; and Supertex Knitting Co., Ltd., Commerce used the best information available in lieu of these companies' entire responses. Best information available was based on the highest weighted-average rate calculated for any Taiwanese respondent that submitted adequate and verified responses. Unlike its determination concerning the subject merchandise from Hong Kong, Commerce included margins based on best information available in the calculation of the "all others" rate.

For Bonanza, Chung Ling, Jia Farn, and Modern Knitting Mills, Inc. (Modern) Commerce based U.S. price on purchase price. For certain sales by Chung Tai Industries Co., Ltd. (Chung Tai), Commerce used exporter's sales price (ESP) as a basis for U.S. price, because sales were made to unrelated purchasers after importation.

For Chung Ling, sales in the home market were used to determine foreign market value, because home market sales exceeded 5 percent of aggregate sales to third countries. For Bonanza and Chung Tai, Commerce based foreign market value on sales to Canada because home market sales did not meet this criterion. For Jia Farn and Modern, because this criterion was not met and because sales to third countries also failed to exceed 5 percent of sales to the United States, foreign market value was based on constructed value.

The Products

Description and uses

The imported articles under investigation are sweaters for men, women, and children, wholly or in chief weight of manmade fibers, and are defined in the scope of the investigations as knitted or crocheted outerwear garments wholly or in chief weight of manmade fibers, in a variety of forms including jackets, vests, cardigans with button or zipper fronts, and pullovers, usually having ribbing around the neck, bottom, and cuffs on the sleeves (if any), encompassing garments of various lengths. Excluded from the scope of Commerce's investigations are sweaters that are of manmade fibers but that

⁶ Excludes companies found to be out of business or who failed verification. In terms of value, * * * percent of such sales were made at LTFV.

contain 23 percent or more by weight of wool,⁷ and sweaters for infants, that is, garments for young children of a body height not exceeding 86 centimeters.⁸

Under the Harmonized Tariff Schedule of the United States (HTS), sweaters are defined as being constructed essentially with nine or fewer stitches per two centimeters, measured in the horizontal direction.⁹ Sweaters may be of various lengths, but most typically end at the waist. Virtually all sweaters commercially produced in the United States today are knitted rather than crocheted.¹⁰ Also included in these investigations are garments having more than nine stitches per two centimeters horizontally if they have a knit-on rib at the bottom. For purposes of clarity, the latter garments will be referred to as "fine-knit sweaters." According to the petitioner, fine-knit sweaters are included in the definition of a sweater as it is known to domestic producers.

The vast majority of the items under investigation by Commerce are believed to be sweaters, not fine-knit, of a spun manmade-fiber yarn known as acrylic. Manmade-fiber sweaters accounted for approximately 49 percent of domestic production of all sweaters, by quantity, during 1989.¹¹ Of these, approximately 71 percent were for women or girls and 29 percent were for men or boys.¹² According to industry sources, however, production of manmade-fiber sweaters, as a share of domestic production of all sweaters, is believed to have declined in 1990.¹³

⁷ Such items are treated as wool sweaters rather than manmade-fiber sweaters, both for purposes of classification and duty and for purposes of implementation of the quota program. Under the HTS, they are subject to a column 1-general tariff rate of 17 percent ad valorem as are wool sweaters, rather than the 34.2 percent assessed on sweaters of manmade fibers. In addition, under the quota program, sweaters of manmade fibers containing 23 percent or more by weight of wool are classified in the quota categories for wool sweaters (categories 445/446) rather than those for manmade-fiber sweaters (categories 645/646).

⁸ Such garments, both for purposes of classification/duty assessment under the HTS and for purposes of implementation of the quota program, are considered separately from all other sweaters. Imports of sweaters for infants (referred to as sweaters for "babies" by the HTS) are primarily imported as sets rather than as individual sweaters. In addition, a witness for the petitioner indicated that garments for the 0-24 month size range are primarily sold as sets with hats or booties and that 80 to 85 percent of these items are purchased as gifts. Infants' sweaters may generally be knit on the same machinery as sweaters for children and adults. Telephone conversation with * * *, Oct. 13, 1989.

⁹ HTS, ch. 61, statistical note 3.

¹⁰ Field visit with * * *, June 1, 1990. According to * * *, almost no sweaters produced in the United States today are crocheted.

¹¹ Calculated by the Commission staff from official Census data for 1989.

¹² Bureau of the Census, Industry Division, Current Industrial Reports: MA-23A, 1990.

¹³ Field visits with * * *, June 1, 1990; * * *, June 13, 1990; and * * *, June 14, 1990. Officials interviewed in all three mills reported that overall domestic production of manmade-fiber sweaters has declined sharply in 1990 and that they anticipate the downward trend to continue for the rest of the year.

Manmade-fiber sweaters are worn both for warmth and for fashion. They are relatively less expensive than cotton and wool sweaters and are to a large extent substitutable for cotton sweaters.¹⁴ Although most consumption of manmade-fiber sweaters is seasonal, primarily being purchased and worn during the fall and winter, some sweaters are purchased and worn year-round. A large number of styles are produced for each season during each year and a good percentage of the styles change completely each year, making it extremely difficult to keep inventory from year to year.¹⁵

Manmade-fiber sweaters from Hong Kong, Korea, and Taiwan are generally comparable in style and function to domestically produced manmade-fiber sweaters, use the same yarn, and compete in the same marketplace. Domestic industry sources reported that the imported manmade-fiber sweaters are largely fungible with domestic sweaters, having no significant difference in quality, finish, or availability, other than price. Such sources also acknowledged, however, that even though imported manmade-fiber sweaters from Hong Kong, Korea, and Taiwan may be comparable to domestic products in terms of overall quality, foreign producers can provide such additional intricate details as embroidery and crochet work for the same price so as to render them more competitive. Parties in opposition to the petition claimed that the quality of imported manmade-fiber sweaters is superior to that of the domestic product in workmanship and that the imported sweaters include handknits, intarsias, sweaters with appliques and hand embroidery, ramie-cotton blends, and more recently, sweaters with specialized thick and thin yarns, none of which are commercially produced in the United States.¹⁶

Manufacturing processes

The manufacture of manmade-fiber sweaters (including fine-knit sweaters) generally involves design, transmittal of the design to knitting machines, knitting, cutting, assembly, and pressing. In the United States, the design, design transmittal, and knitting are done on equipment of varying age and sophistication. For the more modern knitting equipment, the stitch and yarn-color designs can be worked on a computer, then transferred by computer tape or electronic methods to the knitting machine. For the older knitting equipment, the design must be hand-punched into a series of metal or plastic pattern cards.

There are two basic types of knitting machines: flat-bed knitting machines and circular knitting machines. In flat-bed machines, the yarn goes back and forth from side to side, and the needles are reset automatically with the changes in stitch. These machines can produce knitted panels of various

¹⁴ The petitioner argues that the important factors in the "like product" analysis of manmade-fiber and natural-fiber sweaters are physical characteristics and production processes, not end use per se. See Gibson, Dunn, & Crutcher prehearing brief, p. 23.

¹⁵ Field visit with * * *, June 13, 1990. * * * generally comes up with over 300 designs and styles in a typical spring season. In addition, manufacturers cannot stockpile these fancy sweaters from year to year, because the styles change each year. See prehearing statement of Gary Kovie, senior buyer, K-Mart Corp., p. 4.

¹⁶ Transcript of the hearing (transcript), p. 159.

sizes, which are separated by nylon threads that bind them. In the circular knitting machines, the yarn goes around the knitting needles continuously; this produces fabric knit in tubular form which eliminates the need for sewing one or both sideseams on the finished garment. Flat-bed machines are more versatile, and can produce more intricate stitching. Circular knitting machines are faster and are therefore used for the high-volume knitting of less intricate designs.¹⁷

The yarn used by domestic producers to knit sweaters is generally bought undyed. The required yarn is either dyed in the company's dyeing facilities or sent out for dyeing. The intensity and the color specifications for the yarn are computer controlled. The principal method of producing sweaters in the United States is the "cut-and-sew" method in which the yarn is knitted into sweater sections, or panels, in the color and stitch patterns specified on the cards or computer tape, with the panels being held together by separating nylon threads that are knit into the material. Each of the sections, i.e., backs, fronts, or sleeves, is knit in separate panels. The panels are separated by cutting the nylon thread that binds them and cut to shape for armholes and other features. The pieces are then sewn together with overlock stitching, and buttons, labels, and other accessories are added. The sewn garment is then inspected, steamed, pressed to specified dimensions, packed, and shipped.¹⁸

In addition to the cut-and-sew method, manmade-fiber sweaters in Hong Kong, Korea, and Taiwan, and to a much lesser extent in the United States, are produced by the "full-fashioned" method, in which each piece is knit-to-shape, a much slower method of knitting that eliminates the need to cut panels to shape. The pieces are then "looped" together by a process similar to knitting (rather than being sewn together), which produces less bulky collar and section attachments. The looping operation is highly labor-intensive, which reportedly explains why U.S. producers of full-fashioned sweaters may find it difficult to compete with those from Hong Kong, Korea, and Taiwan. Also, in Hong Kong, Korea, and Taiwan some of the sweaters are knit on hand-powered knitting machines, where the flat-bed mechanism moves back and forth by hand operation. Looping and linking operations can also be performed on

¹⁷ Older circular knitting machines are used only for simple interlock stitching, and must generally be shut down and retooled when the stitch changes. The new generation of circular knitting machines, some of which cost over \$200,000 each, is a vast improvement over the older ones, in which the needles automatically change with the change in the stitches. Such machines can do all types of stitches except cable stitching, or where the stitches need to be "racked" or raised up. Still, the versatility of the new circular machines is limited compared with that of the flat-bed machines. Certain flat-bed machines can do intarsia knitting, a purer sort of knitting where color patterns are identical on the front and back of the garment; thus, the sweater resembles a hand-knit. Even so, one domestic producer commented that production of such sweaters in the United States, although done to a limited extent, is not cost effective. A witness in opposition to the petition claimed that intarsia sweaters are not commercially produced in the United States.

¹⁸ At * * *, all garments are thoroughly inspected through banks of fluorescent lights, which point up knots, misaligned seams, and the like. Field visit with * * *, June 14, 1990.

cut-and-sew sweaters, but such operations are highly labor intensive, more expensive, and require skilled labor.¹⁹

Substitute products

Sweaters can also be made of natural fibers such as cotton, wool, ramie, flax, and silk. Of these, there is virtually no commercial U.S. production of ramie, flax, or silk sweaters. Of 1989 U.S. production reported by fiber by the Census Bureau, sweaters of manmade fibers accounted for approximately 49 percent; the majority of the remainder was made of cotton.²⁰

The petitioner argues that the appropriate "like" product in these investigations consists of manmade-fiber sweaters only (i.e., excluding cotton and other natural-fiber sweaters), given the allegedly significant differences between manmade-fiber and natural-fiber sweaters in terms of physical characteristics, production process and facilities involved, customer requirements and perceptions, price, and their treatment under the MFA and the HTS.²¹ With regard to fiber differences, petitioner argues that manmade-fiber yarn has a more consistent quality, including dimension, strength, and very importantly, colorfastness.²² The dyeing of cotton yarn is more cumbersome and takes as much as 2.5 times longer than the dyeing of acrylic yarn.²³ Manmade-fiber yarn also has lower and more stable prices than natural-fiber yarns and, therefore, purchasing decisions are more routine.²⁴

With regard to manufacturing, parties generally agreed that natural-fiber and manmade-fiber sweaters may be knitted on the same machinery, although shifting from one fiber to another requires some downtime.²⁵ When asked whether other products could be manufactured on the same machinery as that used for production of manmade-fiber sweaters, 25 out of 42 producers responding to the question indicated that they did produce alternate products, including, for the most part, natural-fiber sweaters, on the same equipment.²⁶ Moreover, the production of natural-fiber sweaters requires additional

¹⁹ * * * is equipped with several looping and linking machines which are used to provide quality stitching and finishing on cut-and-sew sweaters. Officials at the mill stated that the increased investment and cost of producing these sweaters are offset by the improved quality of the finished product. Field visit with * * *, July 19, 1990.

²⁰ Officials interviewed in the context of field visits indicated that the proportion of manmade-fiber sweater production in the United States has declined significantly since 1988.

²¹ Petitioner's prehearing brief, p. 20.

²² Ibid.

²³ An official of * * * stated that in addition to taking more time, colorfastness of cotton yarn is less reliable; in addition, winding and unwinding of the coils generates cotton dust and consequently creates additional expenditure because of testing requirements of the Occupational Safety and Health Administration (OSHA).

²⁴ Petitioner's prehearing brief, p. 22.

²⁵ Field visits with * * *, June 1 and 14, 1990.

²⁶ Also, of those producers responding in the negative, several produced manmade-fiber sweaters exclusively.

processing steps which add to the product cost.²⁷ For instance, cotton sweater panels require washing and drying and, therefore, additional capital investment in such items as washing equipment and water-waste control systems.²⁸ Also, natural-fiber yarns require that knitting machines be run at slower speeds than when running manmade-fiber yarns, and must be separated by barriers to prevent fibers and lint of one color yarn from migrating into the machinery being used to knit a different color.²⁹ Because of the extra pulling of needles that is required in order to allow for shrinkage of natural-fiber garments, knitting of natural-fiber yarns causes more wear and tear of needles, resulting in costly needle breakage.³⁰ Accordingly, such expertise and capital requirements are formidable barriers for the domestic knitters, mainly the small contract knitters, attempting to shift from acrylic to other fibers.³¹

In terms of consumer perceptions and price, retail buyers specify sweaters by fiber and make their yearly and seasonal import and domestic buying plans in terms of fibers, fashion, and price. In the Commission's importers' questionnaire, respondents, including several large retail stores, were asked to characterize the degree of current substitutability between manmade-fiber sweaters and natural-fiber sweaters. Respondents were fairly evenly split on this issue, with slightly more firms indicating that, in their view, manmade-fiber and natural-fiber sweaters were not substitutable from the consumer's perspective. The most frequent reasons given for this conclusion were price distinctions, quality perceptions, and, most importantly, a strong recent trend toward purchase of cotton sweaters. Several of the firms claiming that such sweaters were substitutable also characterized such substitutability as limited at best.

According to the petitioner, manmade-fiber sweaters are less expensive than sweaters of cotton or wool, and unlike the cotton and wool sweater market, the "manmade-fiber sweater market is a targeted market at the low end of the cost spectrum."³² Parties in opposition to the petition contend that

²⁷ The majority of domestic producers queried on this issue indicated that production of natural-fiber sweaters, particularly cotton sweaters, entails additional processing steps and higher costs than does production of manmade-fiber sweaters. The additional steps cited most frequently were the need to wash and tumble dry the knitted fabric; a higher cost factor frequently cited was the slower knitting speeds involved in cotton sweater production. Also see notes on field visits with * * *, June 1, 13, and 14, 1990.

²⁸ Some producers, however, also wash their acrylic yarns before knitting. Field visit with * * *, Oct. 5, 1989.

²⁹ In addition, a witness for the petitioner stated that natural fiber yarns necessitate more technical knowledge to select, and are less easily dyed than acrylic yarns. Affidavit of Ivan Gordon, prehearing brief of Gibson, Dunn, & Crutcher, app. E.

³⁰ Needle breakage also tends to occur more with cotton fabric because of the inherent inflexibility of the fiber, when compared to acrylic fiber. Such inflexibility also means that any sewing problems detected on cotton sweaters cannot be corrected by steaming, as with acrylic.

³¹ Prehearing statement of Ivan Gordon, Gloray Knitting Mills, p. 6.

³² Petitioner's prehearing brief, p. 31. Petitioners presented a "MRCA Consumer Diary Panel" survey of 1989 retail sweater sales by fiber type which
(continued...)

consumers' purchase decisions currently are based on fashion and novelty features rather than fiber contents and many of the manmade-fiber sweaters sold today are priced competitively with natural-fiber sweaters.³³ Prices of many cotton and acrylic sweaters are allegedly sufficiently close at retail so that it is the fashion, not the fiber, that is the determining factor in consumers' purchase decisions.³⁴

Both the HTS and the quota program treat manmade-fiber sweaters separately from sweaters of natural fibers.³⁵ Under the HTS, sweaters of manmade fibers receive higher rates of duty (34.2 percent ad valorem) than sweaters of other fibers. Under the quota program, separate categories are provided for sweaters of manmade fibers (categories 645/646), for those of cotton (categories 345/346), those of wool (categories 445/446), those of other vegetable fibers such as ramie and flax (category 845), and those of silk blends (category 846).

U.S. tariff treatment

The sweaters under investigation are classified for tariff purposes in chapter 61 of the HTS, which covers knit or crocheted apparel and clothing accessories. The precise tariff classification depends on whether the garments are imported as parts of ensembles or as separate garments, and on the fiber composition.

Sweaters are classified under the HTS headings for ensembles if entered as parts thereof, or under the HTS heading for sweaters, pullovers, sweatshirts, waistcoats (vests), and similar articles if entered separately (table 1). The vast majority of manmade-fiber sweaters covered by the investigations are reported as separate garments under HTS statistical reporting numbers 6110.30.3010-6110.30.3025, which cover sweaters of manmade fibers other than those containing 23 percent or more by weight of wool or 30 percent or more by weight of silk. Fine-knit manmade-fiber sweaters are recorded primarily under HTS statistical reporting numbers 6110.30.3050-6110.30.3055, which cover garments with a similar fiber definition having more

³²(...continued)

indicated that sweaters of manmade fibers were more frequently sold to discounters and chain stores, and less frequently sold to department stores, than sweaters of natural fibers. Prehearing brief of Gibson, Dunn, & Crutcher, app. F.

³³ A witness in opposition to the petition exhibited two sweaters of similar pattern and style, one of cotton and the other of manmade fiber, both of which were priced closely.

³⁴ Prehearing statement of Gary Kovie, senior buyer, K-Mart Corp., p. 2.

³⁵ See the following sections on "U.S. tariff treatment" and "Quota restrictions" for detailed descriptions of the HTS classifications and quota program.

Table 1

Sweaters of manmade fibers: HTS subheadings, 1989 most-favored-nation (MFN) tariff rates, and U.S. imports in 1989 from Hong Kong, Korea, and Taiwan

HTS subheading	Description	1989 imports from--			1989 MFN tariff rate Percent ad valorem
		Hong Kong	Korea	Taiwan	
		-----1,000 dollars 1/-----			
	<u>Men's or boys' sweaters:</u>				
	Imported as parts of ensembles:				
6103.23.0070	Of synthetic fibers...	0	0	0	2/
6103.29.1040	Of artificial fibers...	0	0	0	2/
6103.29.2062	Of other textile materials, subject to manmade fiber restraints.....	0	0	0	2/
	Other, of manmade fibers:				
6110.30.1010	Containing 25 percent or more by weight of leather.....	0	257	569	6.0
6110.30.2010	Containing 30 percent or more by weight of silk or silk waste..	4	23	27	6.3
	Other:				
6110.30.3010	Men's.....	24,954	198,424	67,533	34.2
6110.30.3015	Boys'.....	3,343	20,555	16,211	34.2
	Total or average..	28,301	219,259	84,340	34.2
	<u>Women's or girls' sweaters:</u>				
	Imported as parts of ensembles:				
6104.23.0040	Of synthetic fibers..	107	0	157	2/
6104.29.1060	Of artificial fibers..	0	0	6	2/
6104.29.2060	Of other textile materials, subject to manmade fiber restraints.....	0	0	0	2/
	Other, of manmade fibers:				
6110.30.1020	Containing 25 percent or more by weight of leather.....	25	177	678	6.0
6110.30.2020	Containing 30 percent or more by weight of silk or silk waste..	149	135	80	6.3
	Other:				
6110.30.3020	Women's.....	121,787	227,603	288,949	34.2
6110.30.3025	Girls'.....	1,523	6,758	7,570	34.2
	Total or average..	123,591	234,673	297,440	34.2

1/ C.i.f., duty-paid value.

2/ The tariff rate for items imported as parts of ensembles is the rate applicable to each garment in the ensemble if separately entered.

Source: Harmonized Tariff Schedule of the United States, (1990), (USITC Publication 2232, as supplemented) and official statistics of the U.S. Department of Commerce.

than nine stitches per two centimeters horizontally.³⁶ Included in the same tariff provisions as fine-knit sweaters are knit shirts, which are believed to account for the vast majority of the trade under these provisions. The weighted-average duty rate for imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan during January-December 1989 was 34.2 percent ad valorem.³⁷

Imports of manmade-fiber sweaters are not eligible for preferential duty treatment other than that provided for garments from Israel and Canada, both small suppliers, and insular areas.³⁸ Duties on certain sweaters assembled in Guam have been temporarily suspended through October 31, 1992.³⁹ Until June 29, 1990, imports of sweaters assembled in the Commonwealth of Northern Mariana Islands (CNMI) and other insular possessions of the United States that did not contain foreign materials accounting for more than 50 percent of the total value were accorded duty-free entry under HTS general note 3(a)(iv).⁴⁰

Until recently, two rules of origin applied to imported apparel. The assembly of a garment (including sweaters) in one country from pieces cut or otherwise manufactured in another country generally resulted in the assignment of origin to the country of assembly for tariff purposes. Effective June 29, 1990, however, Customs' rules of origin criteria relating to such products, which until then applied only for quota purposes, would also apply for assessing the duty and the country-of-origin marking on imported articles. The origin rules, finalized in 1985 for quota purposes, state that the country of origin for all purposes for garments made or processed in or incorporating components of more than one country or insular possession is that country or possession where the garments last underwent a substantial transformation, and that a textile product is not substantially transformed merely by undergoing assembly of otherwise completed parts.

³⁶ Prior to the implementation of the HTS in 1989, some fine-knit sweaters, those having 12 stitches per inch (9.4 stitches per two centimeters) and certain other features were classified as sweaters. These garments are believed to have accounted for a very small percentage of total sweater imports during the period covered by the investigations.

³⁷ In addition, pursuant to the Omnibus Budget Reconciliation Act of 1986, a user fee is charged on most U.S. imports to cover the cost of the U.S. Customs Service's processing of imports. The user fee is currently 0.17 percent ad valorem.

³⁸ Preferential rates of duty in the special rates subcolumn of the HTS are followed by the symbol "(IL)" for eligible products of Israel under the United States-Israel Free-Trade Area Implementation Act of 1985 and the symbol "(CA)" for eligible products from Canada under the United States-Canada Free-Trade Agreement, as provided in general notes 3(a) and (c) of the HTS.

³⁹ See HTS heading 9902.61.00.

⁴⁰ A bill (H.R. 4685) has recently been introduced in the Congress providing for temporary duty-free entry of certain sweaters assembled in the CNMI from knit-to-shape components of foreign origin.

Quota restrictions

U.S. imports of sweaters wholly or in chief weight of manmade fibers are subject to restraint under the Multifiber Arrangement (MFA).⁴¹ The MFA covers trade in textiles and apparel of cotton, wool, manmade fibers, and, since August 1, 1986, other vegetable fibers, such as linen and ramie, and certain silk blends. It provides the framework for the negotiation of bilateral agreements between importing and exporting countries, or for unilateral action by importing countries in the absence of an agreement, to control textile and apparel trade among its signatories and prevent market disruption. During 1989, the United States had bilateral import restraint agreements with 42 countries and insular areas, including Hong Kong, Korea, and Taiwan, as well as with other major suppliers.

All three agreements involving Hong Kong, Korea, and Taiwan have specific limits, or quantitative quotas, on exports to the United States of manmade-fiber sweaters (quota categories 645/646) and knit shirts and blouses (quota categories 638/639, which include fine-knit sweaters), as well as provisions for annual growth rates of 0.5 percent or less. All three agreements provide for individual product categories as part of product groups which have aggregate restrictions. Product group or aggregate limits are restricted to an annual growth of 1 percent, by quantity. Import quotas on individual product categories can be increased within certain guidelines through the use of flexibility provisions in the agreements.⁴²

The bilateral agreements with both Korea and Taiwan, which expired on December 31, 1989, have been renegotiated. Notes of memorandum of agreements have been exchanged and finalized and are ready to be signed formally by the United States and the respective governments of Korea and Taiwan. The new agreement with Korea, retroactive to January 1, 1990, covers a period of two years, expiring December 31, 1991, and that with Taiwan, also retroactive to January 1, 1990, covers a 6-year period, expiring December 31, 1995.⁴³ The new agreements with Korea and Taiwan continue to provide a 0.5 percent annual growth rate for manmade-fiber sweaters. With regard to fine-knit manmade-fiber sweaters, which are included with knit shirts and blouses of manmade fibers, both agreements are more restrictive, providing for lower quotas and/or annual growth rates than the 1989 levels. The 1990 quota on manmade-fiber knit shirts and blouses from Korea has been set 8.8 percent below the 1989 level, with only a 0.3 percent growth rate provided for 1991. The new

⁴¹ The MFA, formally known as the Arrangement Regarding International Trade in Textiles, is an international agreement negotiated under the auspices of the General Agreement on Tariffs and Trade (GATT). The MFA was implemented in 1974 and was extended in 1986, for a third time, through July 1991.

⁴² Flexibility includes (1) "swing" or shifting unused quota from one category to another, (2) "carryover" of unused quota for the same category from the previous year, and (3) "carryforward" or borrowing quota from the next-year limit for the same category. A specific limit may not be increased by more than 5 percent with swing, or may not be increased at all in the case of manmade-fiber sweaters from Taiwan. Carryforward and carryover for sweaters and knit shirts are restricted to a maximum of 2 percent, of which carryover cannot represent more than 1 percent of the total.

⁴³ The current bilateral agreement with Hong Kong, which took effect on January 1, 1986, is scheduled to expire on December 31, 1991.

agreement with Taiwan provides no growth for manmade-fiber knit shirts and blouses for the duration of the agreement.

During 1987-89, most of the quotas on imports of the product categories under investigation from Hong Kong, Korea, and Taiwan were filled, as seen in the following tabulation compiled from the U.S. Department of Commerce, Office of Textiles and Apparel, Performance Report: Textile and Apparel Bilateral Agreements and Unilateral Import Restraints:

<u>Item/country</u>	<u>Final adjusted</u>	<u>Percentage filled</u>		
	<u>quota level, 1989</u> <u>(Dozen)</u>	<u>1987</u>	<u>1988</u>	<u>1989 1/</u>
Manmade-fiber sweaters, categories 645/646:				
Hong Kong.....	1,261,751	100.5	97.8	96.1
Korea.....	3,760,159	99.5	96.4	99.7
Taiwan.....	4,106,818	98.9	79.1	73.9
Manmade-fiber fine-knit sweaters and knit shirts, categories 638/639:				
Hong Kong.....	4,549,242	100.0	98.7	100.5
Korea.....	5,756,299	98.1	90.7	99.0
Taiwan:				
Men's and boys'.....	1,926,292	98.7	86.2	97.0
Women's and girls'.....	5,116,897	98.6	92.5	97.2

1/ Census data as of May 31, 1990, for Hong Kong, and Customs data as of Aug. 6, 1990, for Korea and Taiwan. Quotas are based on the date of export, and, therefore, goods shipped from the foreign ports during 1989, but entered in 1990, will be charged to the quota for 1989.

The petition states that the "use-or-lose" aspect of the quota system employed for the subject countries creates enormous import pressure on domestic sweater prices. Quota holders in these countries risk losing their quota if they do not ship up to their quota limits.⁴⁴ The petition claims that the main effect of the quota allocation policy in the three countries is to encourage manufacturers to fill their quota allotments, notwithstanding poor market conditions in the United States, by reducing prices. According to the petitioner, although a quota holder might prefer not to export its products at low prices, it nevertheless feels compelled to do so for a variety of reasons, including the expectation or hope that the market will turn around, making its quota rights once again more valuable.⁴⁵

Witnesses in opposition to the petition contended that historically there were many cases when quotas were not filled. Nevertheless, those quotas were reinstated because the bilateral agreements establishing them are generally for a five-year period. In addition, they argued that the longstanding

⁴⁴ Prehearing brief of Gibson, Dunn, & Crutcher, p. 93.

⁴⁵ Ibid.

bilateral agreements and quota restrictions under the MFA, by definition and in practice, effectively preclude the ability of manmade-fiber sweater imports from Hong Kong, the Republic of Korea, and Taiwan to materially injure or to threaten injury to the domestic industry.⁴⁶

The U.S. Market

Apparent U.S. consumption

Because of the limited response to the Commission's questionnaires from U.S. producers and importers of sweaters,⁴⁷ apparent U.S. consumption is presented using U.S. production of all sweaters (table 2) and manmade-fiber sweaters (table 3) as published by the U.S. Census Bureau, U.S. Department of Commerce, in its Current Industrial Reports,⁴⁸ and U.S. imports of all sweaters and manmade-fiber sweaters as compiled from Commerce's official statistics. Census data on production value are available only for the aggregate category of all sweaters; accordingly, for manmade-fiber sweaters, consumption data are presented only in terms of quantity. In addition, Census data are unavailable on an interim (i.e., January-March) basis.

All sweaters.--Apparent U.S. consumption of all sweaters, both in terms of quantity and value, declined from 1987 to 1988, followed by a substantial upturn in 1989. The overall decline in the market between 1987 and 1989 amounted to 10 percent in quantity terms, and 5 percent in value terms. The decline in consumption in 1988 was accounted for by imports somewhat more than by U.S. production. The recovery in 1989, however, was not; in terms of value, imports increased their share of the market to nearly 77 percent, from 72 percent in 1988, whereas U.S. producers' share fell 6 percentage points to 23 percent.

⁴⁶ Posthearing brief of Sweater Importers and Retailers Coalition, pp. 1-2.

⁴⁷ As noted in the section entitled "Consideration of alleged injury to an industry in the United States," reported U.S. production is estimated to account for 51 percent of total U.S. production of manmade-fiber sweaters, and for 48 percent of U.S. production of all sweaters, based on 1989 data.

⁴⁸ For 1988, a number of establishments were added to the annual survey conducted by the Bureau of the Census. These establishments were identified as a result of the 1987 Census of Manufactures, and most began operating after the 1982 Census. Census did not adjust the data either for product level detail or for fiber level detail for 1987 to account for the additions to the survey. Accordingly, Commission staff made adjustments, both at the product and fiber levels, to 1987 data based on the portion of 1988 value (18.9 percent) and quantity (21.7 percent) of production accounted for by these establishments, based on data provided to the Commission by the Bureau of the Census. Throughout the period, however, adjusted data for manmade-fiber sweater production may be somewhat understated as no estimates were made to account for production not reported by fiber for firms in the original survey base.

Table 2

All sweaters: U.S. production, imports, and apparent consumption, 1987-89

Item	1987	1988	1989
<u>Quantity (1,000 dozen)</u>			
U.S. production.....	10,805	9,010	7,722
Imports.....	26,904	20,964	26,362
Apparent consumption.....	37,709	29,974	34,084
<u>As a share of the quantity of apparent U.S. consumption (percent)</u>			
U.S. production.....	28.7	30.1	22.7
Imports.....	71.3	69.9	77.3
Apparent consumption.....	100.0	100.0	100.0
<u>Value (1,000 dollars)</u>			
U.S. production.....	1,304,000	1,119,000	1,022,000
Imports.....	3,310,605	2,757,211	3,382,814
Apparent consumption.....	4,614,605	3,876,211	4,404,814
<u>As a share of the value of apparent U.S. consumption (percent)</u>			
U.S. production.....	28.3	28.9	23.2
Imports.....	71.7	71.1	76.8
Apparent consumption.....	100.0	100.0	100.0

Source: U.S. production: Bureau of the Census, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census. Imports: Official statistics of the U.S. Department of Commerce.

Table 3

Sweaters of manmade fibers: U.S. production, imports, and apparent consumption, 1987-89

Item	1987	1988	1989
	Quantity (1,000 dozen)		
U.S. production.....	5,558	4,408	3,808
Imports.....	11,585	9,977	11,218
Apparent consumption.....	17,143	14,385	15,026
	As a share of the quantity of apparent U.S. consumption (percent)		
U.S. production.....	32.4	30.6	25.3
Imports.....	67.6	69.4	74.7
Apparent consumption.....	100.0	100.0	100.0

Source: U.S. production: Bureau of the Census, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census. Imports: Official statistics of the U.S. Department of Commerce.

Sweaters of manmade fibers.--Apparent U.S. consumption of manmade-fiber sweaters fell from about 17.1 million dozen in 1987 to 14.4 million dozen in 1988, before recovering in 1989 to 15.0 million dozen, for an overall decrease of 12 percent. The reversal in market direction in 1989 occurred primarily because imports increased in 1989 by 12 percent from their 1988 level, while domestic production continued to decline. Imports captured 1.8 percentage points of market share from domestic producers in 1988, and gained an additional 5.3 points in 1989.

Estimates of apparent U.S. consumption of sweaters, regardless of fiber (all sweaters), and of manmade-fiber sweaters based on data received in response to Commission questionnaires are presented in appendix D.

Parties providing data to the Commission generally agree that current demand and consumption levels in both the domestic and world sweater markets have been considerably depressed since 1987, because, among other factors, demand has shifted from sweaters to other types of outerwear such as sweatshirts and "cut-and-sew knits."⁴⁹ The current decline in the overall market for sweaters is primarily represented by lower levels of orders from retail stores, reflecting this apparent change in consumer preference. The decline in sweater demand has been particularly acute in the ladies' market, with mens' sweater sales holding their own or increasing.⁵⁰

⁴⁹ Transcript, p. 88. Questionnaire respondents were virtually unanimous in predicting that 1990 would be a bad year for the sweater trade.

⁵⁰ Transcript, p. 137. Parties differed as to whether the changes in consumption patterns could be characterized as cyclical; petitioner argued
(continued...)

Further, within the sweater market there has been a switch in consumer preference from manmade-fiber sweaters to sweaters of other fibers, particularly cotton.⁵¹ For the most part, domestic producers and importers agree that consumption patterns have shifted in the last few years toward increased demand for natural-fiber sweaters, such as cotton sweaters, and away from manmade-fiber sweaters.⁵² Parties also agreed that consumers have become much more conscious of style and fashion trends; thus, sweaters have become more of a fashion item and less of a commodity.⁵³

East Asian producers, notably those in Hong Kong, Korea, and Taiwan, have historically dominated not only the U.S. market, but also the world market. Parties have depicted the industries in those countries as similar to the U.S. industry in that they are made up of hundreds of small firms. Notwithstanding the small size of many of the sweater producers in those countries, East Asian companies are apparently the only world producers that concentrate on serving export markets. On the other hand, U.S. manufacturers, as seen in the section of this report entitled "U.S. producers' shipments," have to date not generally produced for export.

U.S. producers

Because of the fluid nature of the sweater industry, with many firms entering and exiting the market, and because of the extremely small size of many domestic firms, the exact number of companies currently producing sweaters in the United States is not readily determinable.⁵⁴ Although there is no generally accepted listing of U.S. sweater manufacturers, business databases and publications estimate that there are over 1,000 U.S. firms currently engaged in manufacturing sweaters.

⁵⁰(...continued)

that there are no definable cycles in sweater demand. Transcript, p. 103. Also see table 7, below.

⁵¹ See, e.g., interview with * * *, June 14, 1990.

⁵² See, e.g., interview with * * *, May 31, 1990; questionnaire response of * * *.

Of 27 responding domestic producers who produced both manmade-fiber and natural-fiber sweaters, 16 produced a greater percentage of natural-fiber sweaters in 1989 than in 1987. Overall, as seen in the section of this report entitled "U.S. production, capacity, and capacity utilization," production of manmade-fiber sweaters, based on Census data, constituted 49 percent of total sweater production in both 1988 and 1989, down from 51 percent in 1987.

⁵³ Importers testifying at the hearing noted that the consumer dollar which a few years ago would have been spent on basic commodity-type acrylic sweaters is now being spent on sweatshirts, rugby shirts, or other types of knit garments. Transcript, p. 167. Parties generally agreed with the proposition that today's "core programs" for manmade-fiber sweaters, which in the past consisted of basic varieties, now are made up of more highly differentiated, high-fashion sweaters. Transcript, p. 65.

⁵⁴ Information on producers that have exited the market is provided in the section of this report entitled "U.S. production, capacity, and capacity utilization."

As a result of the extremely large number of firms involved, in order to develop information on the condition of the industry, the Commission selected a sample of these firms to receive producer questionnaires. In the preliminary investigations, this sample was derived from a list of 200 firms supplied by the petitioner, combined with an additional 70 firms obtained from TRINET, a marketing research company.⁵⁵ These firms were then classified into "large," "medium," and "small" companies. The Commission sent questionnaires to all of the "large" category firms, and to 50 percent of the "medium" and "small" category firms.⁵⁶ In these final investigations, in an attempt to increase coverage of U.S. production and shipments, the Commission obtained a listing of approximately 600 additional firms from Dun and Bradstreet, also separated by firm size. The Commission sent producer questionnaires to all 33 firms classified on that listing as "large" (100 employees or more), to half of the firms classified as "medium"-sized (between 50 and 100 employees), chosen at random, and to randomly selected "small" firms (between 40 and 50 employees). On the basis of a combination of this list and the list used in the preliminary investigations, the Commission sent questionnaires to 197 producers known to produce or believed to be producing manmade-fiber sweaters, natural-fiber sweaters, infants' sweaters, or blended manmade-fiber sweaters containing 23 percent or more of wool.

Of the 197 questionnaire recipients, 83 provided timely responses. Twenty-five firms reported that they did not produce or sell either manmade-fiber sweaters, sweaters of natural fibers, or infants' or blended manmade-fiber sweaters during the period of investigation. Only 58 firms provided data, 44 of which are members of the petitioning organization.⁵⁷ Forty-six of the 58 companies providing data stated support for the petition; seven took no position, three of which were not members of the petitioner.⁵⁸ Forty-seven of the 58 companies providing data reported production and/or shipments of manmade-fiber sweaters, 40 reported production and/or shipments of sweaters of natural fibers, and 27 reported production of both types of sweaters.

There is a considerable concentration of responding firms in the Northeast region, particularly in New York, New Jersey, and Pennsylvania. Forty-six of the 58 firms reporting data on shipments indicated that their facilities were located in one of these three states. Of the remaining firms, six were located in Southern states, an additional four on the West Coast, * * *.

Firms responding to the Commission's producer questionnaire can generally be classified in one of three categories: (1) manufacturer/sellers; (2)

⁵⁵ The proportion of the universe of sweater manufacturers represented by the petitioner, NKSA, is unknown. In October 1989, NKSA consisted of 243 "regular" members. In a letter to the Commission, petitioner indicated that at least 195 of these companies were believed to have some production of manmade-fiber sweaters. See letter from Seth M. Bodner to Kenneth R. Mason, Oct. 17, 1989.

⁵⁶ These firms were chosen randomly.

⁵⁷ Accordingly, 114 companies, or 58 percent of the firms receiving questionnaires, failed to respond to the producers' questionnaire.

Responding NKSA producers accounted for 81 percent, by quantity, of reported 1989 shipments of manmade-fiber sweaters.

⁵⁸ Five firms did not respond to the question.

contractors; and (3) jobbers. Manufacturer/sellers produce sweaters in their own facilities and also market the sweaters themselves using their own sales force; these firms tend to be relatively large, usually with more than 100 employees. Contractors produce sweaters in their own plants, but do not have sales capability, nor do they procure supplies (for example, yarn) independently. Rather, contractors are usually provided with raw materials and are paid only for their labor; thus, they work strictly under "contract." These firms are usually very small, often with only a handful of employees. Finally, jobbers are firms which sell sweaters, either under their own label or on a private-label basis for their customers, but have no production facilities. They obtain yarn and often create the sweater designs, but rely exclusively on contractors for actual production.⁵⁹ Of the 58 firms supplying data to the Commission, 27 acted exclusively as contractors, 9 exclusively as manufacturer/sellers, and 10 exclusively as jobbers. Twelve firms, generally large companies, performed more than one role at various times during the period of investigation.

Manufacturer/sellers, jobbers, and contractors differ in several important respects. The market radius served by manufacturer/sellers and jobbers is primarily national in scope, whereas contractors tend to produce for manufacturer/sellers (or jobbers) in their immediate geographical area. In addition, manufacturer/sellers generally handle ancillary production steps, such as washing and drying of natural-fiber sweaters, themselves; contractors usually subcontract out these processes. Both types of firms generally use the same types of machinery, such as flat-bed and circular knitting machines; larger manufacturer/sellers, however, tend to own a larger variety of, and more technically advanced, equipment.

Several responding producers indicated that they are subsidiaries of larger firms. Those firms and their corporate parents are listed in the tabulation below:

<u>Producer</u>	<u>Parent company</u>	<u>Percent ownership</u>
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*

Five domestic firms indicated that they imported manmade-fiber sweaters during the period of investigation. Importing firms, the percent of their sales of sweaters made up of imports, and their share of U.S. production are listed in the following tabulation:

⁵⁹ Shipment data for U.S. producers excluding jobbers are presented in app. E. Petitioners' witnesses pointed out at the hearing that the jobbers retain legal title to the yarn throughout the production process, and also may be involved in financing the contractors' equipment. Transcript, pp. 32, 67.

<u>Firm</u>	<u>Ratio of imports to sales (percent)</u>	<u>Share of U.S. production 1/</u>
***.....	*** 2/	***
***.....	***	*** 3/
***.....	***	***
***.....	***	***
***.....	***	***
***.....	***	***
***.....	***	***

1/ 1989 reported production of manmade-fiber sweaters.

2/ Includes * * *.

3/ Share of 1989 U.S. shipments; this firm is a jobber.

U.S. importers

According to data provided to the Commission by the U.S. Customs Service, over 500 firms imported manmade-fiber sweaters under the HTS and TSUS items reserved for such merchandise during the period of investigation. From this group, the Commission staff selected 130 firms that made significant imports under these tariff items, and sent questionnaires to those firms.⁶⁰ The Commission received usable data from 60 firms. Seven additional firms responded that they did not import products subject to the investigations during the periods covered.⁶¹ Companies responding to the Commission's questionnaire accounted for 45 percent, by quantity, and 44 percent, by value, of cumulated 1989 imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan. Two of the firms reporting data, * * *, are members of the petitioning organization, NKSA; these firms both produce and import sweaters.

As with U.S. producers, importers of manmade-fiber sweaters, or at least their home buying offices, are highly concentrated in the New York-New Jersey-Pennsylvania area, reflecting the historical role of that region as a fashion hub. Nevertheless, because many of these firms are large retail stores that distribute and sell the sweaters nationwide, imports tend to be distributed fairly evenly across the United States.⁶² Parties generally agree that there is no great degree of concentration of imports in any particular region.

Importers of manmade-fiber sweaters can be classified into three categories: (1) "wholesaler/resellers" who buy the goods from foreign

⁶⁰ The Commission staff determined that a firm had made "significant imports" if it imported over 10,000 dozen manmade-fiber sweaters per quarter. The percentage of total imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan accounted for by the firms selected is not known.

⁶¹ Accordingly, 63 firms did not respond to the questionnaire. Non-responding companies believed to be major importers of the subject merchandise from Hong Kong, Korea, and Taiwan are, for example, large discount retail chains such as * * *, along with certain specialty stores chains such as * * *. * * *, a large retailing group * * *, could not be reached with a questionnaire.

⁶² Thus, it cannot be assumed that the bulk of manmade-fiber sweater imports enter through the port of New York, for example.

producer/exporters and then resell them, generally to retail outlets, (2) large mass-market retail stores that import the sweaters for their own account and ship the merchandise directly to their own company stores, and (3) catalog houses, that sell via direct mail. The second group includes virtually all the well-known chain and department store retailers, such as * * *, and so forth. In addition, several retailers operate their own catalog business, such as * * *. Only one catalog house, * * *, reported direct imports during the period of investigation; in general, catalog houses such as * * * tend to buy their imported stock from middlemen or wholesalers. Of 60 firms reporting data on imports, 36 were wholesaler/resellers, 20 were retailers, 1 was exclusively a catalog house, and 3 performed more than one role.

A number of responding importers noted the establishment of foreign plants wherein manmade-fiber sweaters are manufactured. * * * both plan to commence operations in * * * later in 1990. * * * has a * * *, and * * *, a large specialty store chain, has a * * *. Finally, * * * has an ownership interest in * * *, a company manufacturing sweaters in the * * *.

Several firms, most of them wholesaler/resellers, are subsidiaries of larger companies. These firms, and their parent companies, are presented in the tabulation below:

<u>Importer</u>	<u>Parent company</u>	<u>Percent ownership</u>
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*

Channels of distribution

Sweaters of manmade and natural fibers are sold by U.S. producers and by importers through the same channels of distribution: retailers, wholesalers, and outlet stores. The majority of sweaters are sold to retailers that include discount stores, department stores, and chain stores. Wholesalers are primarily firms that purchase specially designed sweaters for their private-label brands for resale to retailers.

Mail-order catalogs are also used to sell sweaters by both wholesalers and retailers. U.S. producers reported that they are selling more sweaters to these purchasers with catalogs primarily because the producers have an order lead time advantage over imported products. This enables these catalog houses to reduce the risk of being caught without merchandise or being unable to fill reorders quickly on popular merchandise.

U.S. producers and importers were requested to report the number of sweaters of manmade fibers and of all sweaters that were shipped to retailers, wholesalers, and outlet stores during 1989. According to questionnaire responses from producers, approximately 73 percent of manmade-fiber sweaters were shipped to retailers, 21 percent were shipped to wholesalers, and

6 percent were shipped to outlet stores.⁶³ As for importers, the distribution percentages for such sweaters were 95 percent, 2 percent, and 3 percent, respectively.

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

For the most part, the information in this section of the report is based on data received from responses to Commission questionnaires. With regard to U.S. sweater production, the Commission originally sent questionnaires to 197 firms that it had a reason to believe may have produced sweaters, either of manmade or natural fibers, during the period of investigation.⁶⁴ Of these firms, 25 responded that they did not manufacture such products. The Commission received usable responses from 58 producers or sellers of sweaters, accounting for 48 percent, by quantity, of U.S. production in 1989.⁶⁵ Of the 114 firms that did not respond to the Commission's questionnaire, 36 firms are members of the petitioner, the NKSA.⁶⁶

⁶³ With regard to all sweaters, producers reported 27 percent shipped to wholesalers, 65 percent shipped to retailers, and 8 percent shipped to outlet stores.

⁶⁴ The Commission gathered information on both manmade-fiber and natural-fiber sweaters because of the Commission's definition in the preliminary investigations of the domestic industry as the industry producing all sweaters, regardless of fiber. Of producers reporting data on production of sweaters, 12 reported exclusive production of manmade-fiber sweaters, 9 reported exclusive production of natural-fiber sweaters, and 27 reported production of both types of sweaters.

In its questionnaire, the Commission also requested domestic firms to provide information, to the extent possible, on production of infants' sweaters, sweaters in chief weight of manmade fibers but 23 percent or more of wool, and sweaters having greater than 9 stitches per 2 horizontal centimeters, provided they have a knit-on rib at the bottom. The Commission received no information on production of infants' sweaters, or on sweaters in chief weight of manmade fibers but 23 percent or more of wool, but did receive information from one company, * * *, regarding production and shipments of sweaters having greater than 9 stitches per 2 horizontal centimeters, and having a knit-on rib at the bottom. Such information is presented in app. F.

⁶⁵ Based on U.S. Census Bureau, Current Industrial Reports: Apparel 1988: October 1989, as adjusted and updated by Commission staff, based on revised information made available to the Commission by the Industry Division, Bureau of the Census. With regard to U.S. shipments, 1989 coverage represented by questionnaire responses is considerably higher; 70 percent, in quantity terms, of U.S. sweater production, as reported by the Census Bureau. This results from the fact that jobbers (firms without production facilities) reported shipments of production they had contracted, which may also have been reported as shipments by the contractors they had employed. Such double-counting is minimal, however, owing primarily to the fact that most contractors worked for several jobbers, and some of those jobbers employed many different contractors. Data on the quantity and value of U.S. shipments of sweaters, excluding shipments by jobbers, are presented in app. E.

⁶⁶ On July 16, 1990, the Commission issued administrative subpoenas to

(continued...)

In light of the response rate from domestic sweater manufacturers, available public data are also presented here regarding production and employment levels. As no public data are compiled concerning U.S. producers' capacity and inventory levels, data on these indicators consist of information compiled from responses to Commission questionnaires.

One reason for the lack of response on the part of domestic sweater producers may be the extremely small size of many of the firms investigated, particularly the contractor segment of the industry. Many firms apparently do not keep the kind of financial and accounting records necessary to produce a quick response to a detailed document such as the Commission's questionnaire.⁶⁷ A particular difficulty for such producers was the need to provide data by fiber; many producers producing both manmade-fiber and natural-fiber sweaters indicated that they could report data on "all sweaters," but had no way even of estimating the percentage allocable to sweaters of manmade fibers.⁶⁸

U.S. production, capacity, and capacity utilization

Reported U.S. end-of-period capacity to produce manmade-fiber sweaters increased from 3.4 million dozen in 1987 to nearly 3.6 million dozen in 1988, then decreased slightly in 1989 (table 4). Capacity, however, declined by 11 percent between January-March 1989 and January-March 1990. Movements in U.S. capacity to produce all sweaters were similar in direction and amplitude, except that the decline in the interim periods was not as marked.

Production of all sweaters, as reported by responding firms, dipped slightly in 1988 from its 1987 level, and then rebounded in 1989 to a level of 3.7 million dozen, for an overall increase of 4 percent over 1987. By contrast, manmade-fiber sweater production increased in 1988, by 2 percent,

⁶⁶(...continued)

10 nonresponding firms in an attempt to obtain responses to the questionnaire; the Commission eventually received varying amounts of data from all 10 firms. The reported quantity of U.S. shipments by these firms constituted 17 percent of 1989 domestic sweater production, based on Census data.

Of the 114 firms not responding, 16 firms could not be contacted either by questionnaire or by follow-up calls by Commission staff, either because they had gone out of business and their phone service had been disconnected, or because they had left no forwarding address.

⁶⁷ It should be noted, however, that at petitioner's request, the questionnaire issued to domestic producers was simplified where possible. In light of the Commission's decision in the preliminary investigations to define the industry as that producing all sweaters, regardless of fiber, Commission staff attempted to frame as many questions as possible in terms of total sweater production. Moreover, financial data were requested at a far more basic level of detail than is usual.

⁶⁸ E.g., conversation with * * *, May 24, 1990. Petitioner also suggested that many firms were reluctant to respond, or provided limited information, because they were wary of providing any information to U.S. government agencies. Transcript, p. 130.

Table 4

Sweaters: U.S. capacity, 1/ production, 2/ and capacity utilization, by products, 1987-89, January-March 1989, and January-March 1990

				<u>January-March--</u>	
<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1989</u>	<u>1990</u>
	<u>End-of-period capacity (1,000 dozen)</u>				
Sweaters of manmade fibers...	3,423	3,595	3,568	1,016	909
All sweaters.....	4,268	4,498	4,481	1,193	1,122
	<u>Production (1,000 dozen)</u>				
Sweaters of manmade fibers...	2,017	2,053	1,944	481	286
All sweaters.....	3,575	3,520	3,713	819	619
	<u>Capacity utilization 3/ (percent)</u>				
Sweaters of manmade fibers...	63.8	61.3	57.5	52.9	37.8
All sweaters.....	82.7	76.9	81.5	69.7	56.2

1/ For 1987-89, 41 firms reporting for sweaters of manmade fibers; 47 firms reporting for all sweaters; for the interim periods, 40 firms reporting for sweaters of manmade fibers; 46 firms for all sweaters.

2/ For 1987-89, 39 firms reporting for sweaters of manmade fibers; 48 firms reporting for all sweaters; for the interim periods, 31 firms reporting for sweaters of manmade fibers; 43 firms for all sweaters.

3/ Computed from responses of firms providing both capacity and production.

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

then decreased in 1989 to 4 percent below its 1987 level. Overall sweater production fell in January-March 1990 from the corresponding 1989 period, as did production of manmade-fiber sweaters; the reported drop in production of manmade-fiber sweaters was more striking, at 41 percent.

With regard to reported capacity utilization, facilities producing manmade-fiber sweaters saw this ratio decline steadily to 58 percent in 1989 from 64 percent in 1987. Capacity utilization continued to drop markedly in interim 1990 to 38 percent from 53 percent in the corresponding period of 1989. Overall, however, capacity utilization for sweaters of all fibers first fell to 77 percent in 1988 from 83 percent in 1987, then increased to 82 percent in 1989. As with capacity utilization of facilities producing manmade-fiber sweaters, first quarter 1990 saw a notable decline in this ratio when compared to first quarter 1989.

Because of the unique nature of sweater manufacturing, characterized by frequent use of contractors, the capacity utilization of facilities producing all sweaters may be somewhat overstated. Several of the large firms reporting capacity and production data produced sweaters both in their own mills and by using contractors. Such firms' usual practice is to book more orders than they can handle in their own facility, thus providing work for the contractor

segment of the industry. Thus, capacity utilization for these firms almost always approximates 100 percent.⁶⁹ Because a larger percentage of reported production was accounted for by the larger manufacturer/sellers than by contractors, capacity utilization figures for all sweaters are overstated. Trends in the ratios, however, are believed to be reliable.

By contrast, capacity utilization ratios for manmade-fiber sweaters are understated because certain producers reported capacity to produce manmade-fiber sweaters on a theoretical basis, i.e., the same practical capacity to produce all sweaters, regardless of fiber. Accordingly, if such producers manufactured both manmade-fiber and natural-fiber sweaters during the period of investigation, their reported capacity utilization for manmade-fiber sweaters is artificially low. Once again, though, trends in these ratios are reliable.

Of 47 firms reporting data on capacity to produce sweaters, 17 (all manufacturer/sellers) reported 100 to 120 hours-per-week operation for their knitting equipment, and 40 to 48 hours-per-week operation for their more labor-intensive cutting and sewing lines. The majority of firms indicated that they operate 40 hours a week, and from 48 to 52 weeks a year.

According to the Bureau of the Census, Current Industrial Reports: Apparel 1988, October 1989 (as adjusted and updated by Commission staff, based on revised information made available to the Commission by the Industry Division, Bureau of the Census), official statistics on the production of manmade-fiber sweaters and all sweaters, for 1987-89, are presented in the following tabulation (in thousands of dozens):

<u>Product</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
All sweaters.....	10,805	9,010	7,722
Manmade-fiber sweaters <u>1/</u>	5,558	4,408	3,808

1/ Includes only sweater production specifically identified to Census as manmade-fiber sweater production; does not include an allocated portion of production not specified by fiber. Thus, the totals are somewhat understated.

Although labor markets facing sweater manufacturers are generally tight, labor supply has not been a restraint on capacity during the period of investigation, given the operating levels of sweater-producing facilities. One producer, however, indicated that employee turnover can be quite high, as alternative employment opportunities in related industries have recently been ample.⁷⁰ Importers argued at the hearing that even though workers are

⁶⁹ Field visits with * * *, May 31 and June 1, 1990.

⁷⁰ Field visit with * * *, June 14, 1990. Parties agreed that excessive turnover can also result from the current tendency to idle the mills in the first part of the year. See, e.g., prehearing statement of Bruce Myers, K-Mart Corp., p. 5.

generally readily available, the kind of skilled labor needed to produce the extremely detailed sweaters now in fashion is not.⁷¹

Producers have not encountered any notable problems in obtaining yarn, either of manmade or natural fibers. Even with the recently announced withdrawal of Du Pont from the acrylic fiber business, in light of the depressed nature of the manmade fiber market in recent years, sweater manufacturers do not anticipate any bottlenecks in fiber supply.⁷² Respondents alleged at the hearing, however, that the domestic industry was unable to supply the novelty yarns, both of manmade and natural fibers, in demand in today's market.⁷³ As a result, respondents charged that sweaters made of such materials must be sourced overseas. Respondents also claimed that domestic dye houses supplying domestic knitters refuse to supply such dyes in the small lot sizes required for production of multi-colored, intricately styled garments.⁷⁴

With regard to natural fibers, the quantity and quality of cotton, in particular, varies with crop characteristics. Although the reliability of cotton yarn has been problematical in the past, larger producers are usually able to double- or triple-source, often from offshore, in order to ensure consistent quality.⁷⁵ On the other hand, the Commission knows of no domestic producer of manmade-fiber sweaters that imports acrylic fiber. As for capital

⁷¹ The chief witness for the Hong Kong respondents noted that the type of detailing work required for his merchandise would not be cost-effective if done domestically. Prehearing statement of Martin Trust, The Limited, Inc., p. 8; transcript, p. 164.

⁷² Wall Street Journal, June 12, 1990. Petitioners alleged that Du Pont left the acrylic fiber market because of chronic overcapacity due to high import growth in traditional end uses, such as sweaters. Transcript, p. 53. The Commission's August 1990 issue of Monthly Import and Business Review, page 5, states that "The decline in domestic demand for acrylic fiber and the resultant overcapacity that led to Du Pont's decision to end acrylic production is attributed to the use of cotton, and to a smaller extent polyester, in products formerly of acrylic, particularly in sweaters and hosiery and also in knit fleece and other apparel fabrics," and later that "Demand for acrylic fiber was also adversely affected by the declining sweater market and the increasingly smaller share of this market accounted for by domestically produced sweaters."

In addition, in a letter to the Commission, the American Yarn Spinners Association noted that shipments of worsted spun acrylic yarn in the first quarter of 1990 were down 22 percent from the corresponding 1989 period and that forward order bookings are down over 14 percent, partly as a result of decreased demand from the sweater industry. See letter from Jim H. Conner to Acting Chairman Brunsdale, June 25, 1990.

⁷³ Transcript, pp. 205, 234. Such yarns, for example, consist of "popcorn" and "slub" yarns, and yarns of varying thicknesses.

⁷⁴ See prehearing statement of Martin Trust, Mast Industries, p. 9; also see transcript, p. 223. Deborah Burdi, buyer for Spiegel, also alleged that domestic knitters generally do not have the technical capability to run many different colors in a pattern. Prehearing statement of Deborah Burdi, p. 3.

⁷⁵ Field visits with * * *, May 31 and June 1, 1990. Cotton prices were characterized as uniform worldwide.

equipment, knitting machinery, though often extremely expensive, is apparently in adequate supply.⁷⁶ Petitioners commented at the hearing that, because of the current overcapacity in the sweater industry, there is a glut of used machinery on the market.⁷⁷

Eight firms reported manufacture of products other than sweaters on knitting machinery designed for sweaters. These products included dresses, skirts, pants, T-shirts, collars and trim, and other varieties of cut and sewn knitwear. None of these producers reported that such production comprised more than 15 percent of their total production in any period. Firms that produced both manmade-fiber and natural-fiber sweaters were unanimous in reporting that such sweaters were currently being produced interchangeably on their knitting equipment.⁷⁸ Petitioners argued, however, that, for natural fibers such as cotton, additional processing equipment is needed in order to complete the finished garment, such as washers, dryers, and pressers.⁷⁹ Although production can be shifted from fiber to fiber, one domestic producer stressed that such shifting is done only in response to seasonal demand, and not on a day-to-day basis.⁸⁰

One of the striking aspects of the sweater-producing industry is that no matter how small or unsophisticated the operation, computer-aided design (CAD) is almost invariably used in production planning. Designs are put onto computer tape, which is either manually carried to the knitting machinery or electronically transmitted.⁸¹ Even the smaller contractors use CAD, although they usually work with designs sent in by larger manufacturer/sellers or by jobbers. Fourteen companies, many of which were small contractors, indicated that they had invested in computerized knitting equipment during the period of investigation.⁸²

In these final investigations, in response to Commission questionnaires, three producers reported plant closings during the period of investigation.⁸³ * * * indicated that it closed its * * * in * * *, eventually leading to a decline in employee levels of over * * * percent between 1988 and the present.

⁷⁶ Some of the newer circular knitting machines exceed \$200,000 each. Field visit with * * *, June 13, 1990.

⁷⁷ Transcript, p. 101.

⁷⁸ * * *, however, reported that for some older circular knitting machines (in excess of * * * years), production of manmade-fiber and natural-fiber sweaters was not interchangeable.

⁷⁹ Transcript, p. 53.

⁸⁰ Field visit with * * *, June 1, 1990.

⁸¹ A few companies have systems whereby there is an on-line connection between the computer software and the knitting machines, eliminating the need to hand-carry computer disks to the machines when new programs are created or existing ones changed. Field visit with * * *, July 19, 1990.

⁸² One contractor, * * *, noted that producers have increased investment in new machinery due to the trend towards excessive orders in the second half of the calendar year. Much of the machinery stands idle the remainder of the year.

⁸³ In addition, during the preliminary investigations, the Commission was able to confirm that in May 1989, * * * closed its factory. * * * ceased operations allegedly because of poor cash flow and its inability to meet expenses; in addition, high labor costs were cited.

* * *, a much larger facility, reported that, in 1989, it closed an affiliated company, * * *, and consolidated production in its main facilities in * * *. This resulted in a net loss of * * * workers, but did not appreciably affect overall capacity. Finally, * * *. These closings had only a very slight impact on the capacity figures presented here.⁸⁴

On May 9, 1990, however, petitioner submitted a list of 116 establishments that allegedly had ceased producing sweaters during the period of investigation. In the final investigations, the Commission staff attempted to verify these alleged closings. For the 33 firms for which petitioner provided phone contacts, 15 firms had had their phone numbers disconnected or reassigned, and 9 firms' phone lines would not answer.⁸⁵ Two firms, DJ Knits, and U.S. Sweaters, reported that they still produce sweaters. Commission staff verified closings for two firms: Pandora Industries (one of the larger U.S. producers of sweaters prior to 1989), and G & H Knitwear, Ridgewood, NY.⁸⁶ Five firms reported no information in response to staff inquiries.

Further, on July 12, 1990, the Commission received a letter from the Ridgewood Local Development Corporation wherein it was alleged that 28 firms in the "greater Ridgewood area" had closed within the last four years and that this represented an employment loss of over 1,300 workers.⁸⁷ Of these firms, Commission staff attempted to contact 25 firms whose phone numbers were either disconnected or unlisted. One firm, DJ Knits (cited above), was found to be still producing sweaters, and the staff was unable to develop information on the remaining two firms.⁸⁸

Two firms, * * *, opened new plants during the period of investigation. In 1988, * * * opened a plant in * * *, employing 63 workers. In 1987, * * * opened a plant in * * *, designed to produce manmade-fiber sweaters exclusively, and providing jobs for 76 workers.⁸⁹ * * * and * * *, two responding firms, indicated that they opened new facilities in 1988.

⁸⁴ The early 1990 exit from the business of Pandora Industries, however, does affect capacity figures for January-March 1990 as compared to January-March 1989. In 1989, Pandora accounted for * * * percent of reported domestic production of sweaters. * * *.

⁸⁵ Where lines were reassigned, the new holders could not provide any information as to the whereabouts of the firms in question, but all indicated that the firms had moved out or relocated in the past three years.

⁸⁶ The latter reported employment losses of * * * workers between 1987 and the present and a decrease in net sales from \$* * * in 1987 to less than \$* * * currently.

⁸⁷ Most, but not all, of these firms were included in the petitioner's May 9 listing.

⁸⁸ On July 16, 1990, the Commission also received a letter from the Queens County (NY) Overall Economic Development Corp., that alleged that 23 firms in the borough of Queens had closed in recent years. These firms were also mentioned, however, either in petitioner's May 9 submission or in the list provided by the Ridgewood Local Development Corp.

⁸⁹ The company noted, however, that it is currently able to operate that plant only three days a week. Field visit with * * *, * * *.

U.S. producers' domestic shipments and company transfers

As noted above, reported shipments of sweaters are significantly higher than reported production of such merchandise because jobbers, who sell sweaters but have no production of their own, reported shipments of production done by contractors.⁹⁰ In addition, all shipments reported were U.S. shipments; i.e., no export shipments were reported. The vast majority of shipments reported were arms-length domestic shipments. Four firms, primarily large manufacturer/sellers, reported small quantities of internal company transfers.

Of the 58 firms providing data on shipments, 47 reported shipments of sweaters of manmade fibers, 40 reported shipments of natural-fiber sweaters, and one firm, * * *, reported shipments of upper body garments with more than 9 stitches per 2 horizontal centimeters, with a knit-on rib at the bottom.⁹¹ The Commission received no data on shipments of infants' sweaters, nor did it receive data on blended manmade-fiber sweaters, 23 percent or more of wool.

Of firms providing data on shipments of sweaters, 27 were contractors, 9 were manufacturer/sellers, and 10 were jobbers.⁹² Shipment values were considerably lower for contractors than for jobbers; this understatement is due primarily to the fact that contractors charge only for the labor component of the production process.⁹³

⁹⁰ Twenty firms reported purchases and sales of contracted production during the period of investigation (i.e., acted as jobbers). If shipments of such production are subtracted from total reported U.S. shipments, it can be seen that U.S. shipments closely parallel production, because of the tendency of U.S. producers to keep low levels of inventories.

Furthermore, to the extent that such contractors also responded to the Commission's questionnaire, there may be an element of double-counting in reported data on U.S. producers' shipments. The Commission, however, believes the extent of such double-counting to be minimal. Review of the questionnaire responses indicates that with regard to jobbers, 21 instances ("matches") occurred in which jobbers employed contractors who also had responded to the questionnaire. Each of these contractors, however, in their responses indicated that they worked for up to 19 additional jobbers; in only 4 of the 21 instances did responding jobbers account for the majority of the jobbers named, and in only 1 case was the relationship exclusive (in 5 instances the contractors would not identify the jobbers they worked for).

Similarly, with regard to contractors, there were 23 "matches." The identified jobbers, however, reported that they each employed up to 19 additional contractors, and in only 1 case (where there was an exclusive relationship) did responding contractors account for the majority of the contractors named (in 4 instances the jobbers would not identify the contractors they employed).

⁹¹ These data are presented in app. F.

⁹² An additional 12 of these firms operated in more than one role.

⁹³ Contractors were requested to provide shipment value as the amount they were paid by manufacturer/sellers for the work performed. Shipment values for manufacturer/sellers, on the other hand, often include a considerable degree of markup, which reflects, among other things, the cost of the yarn. Shipment unit values for jobbers approximated those for manufacturer/sellers.

All sweaters.--Fifty-eight producers reported data on shipments of all sweaters during the period of investigation (table 5). From these data, it can be seen that U.S. shipments of all sweaters decreased gradually by 4 percent between 1987 and 1988 and then slowed their rate of decline to 1 percent in 1989, reaching a level of 5.4 million dozen by that year. Such shipments continued to fall in the first quarter of 1990 compared to the first quarter of 1989. When viewed in terms of dollar value, however, U.S. shipments rose in both 1988 and 1989; the overall increase between 1987 and 1989 was 10 percent. Because shipment quantities fell while values rose, unit values of U.S. shipments increased sharply and consistently throughout the period.⁹⁴

Table 5

All sweaters: U.S. shipments of U.S. producers, 1/ by types, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Company transfers.....	***	78	35	***	***
Domestic shipments.....	***	5,393	5,388	***	***
Total, U.S. shipments.	5,712	5,471	5,423	797	617
Value (1,000 dollars)					
Company transfers.....	1,395	9,019	4,953	***	***
Domestic shipments.....	596,355	603,755	644,329	***	***
Total, U.S. shipments.	597,750	612,774	649,282	85,524	68,766
Unit value (per dozen) 2/					
Company transfers.....	\$***	\$116	\$142	\$***	\$***
Domestic shipments.....	***	113	121	***	***
Average, U.S. shipments.....	106	113	121	109	113

1/ 58 producers reporting for 1987-89; 47 firms reporting for the interim periods.

2/ Computed from data of firms providing data on both quantity and value of shipments.

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

⁹⁴ Petitioners alleged that the sharp increases in unit values for sweaters do not reflect increased prices for such sweaters but rather a change in product mix towards more fashionable, and accordingly higher-priced, items. Transcript, p. 96.

Sweaters of manmade fibers.--Forty-seven producers reported shipments of manmade-fiber sweaters during the period of investigation (table 6). Unlike U.S. shipments of sweaters of all fibers, the volume of shipments of manmade-fiber sweaters increased very slightly in 1988, by 1 percent, over the 1987 level, but then dropped by 14 percent in 1989. The value of such shipments did increase between 1987 and 1988, but this upward trend reversed itself in 1989 when shipment values returned to a level 7 percent below that of 1987. Both the quantity and value of U.S. shipments of manmade-fiber sweaters declined in January-March 1990 from the corresponding 1989 period; shipment quantities plummeted 32 percent. Unit values of such shipments increased overall between 1987 and 1989 and again when the interim periods are compared.

Table 6

Sweaters of manmade fibers: U.S. shipments of U.S. producers, 1/ by types, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Company transfers.....	7	28	22	***	***
Domestic shipments.....	3,146	3,166	2,732	***	***
Total, U.S. shipments..	3,153	3,194	2,754	432	293
Value (1,000 dollars)					
Company transfers.....	826	3,516	3,080	***	***
Domestic shipments.....	310,018	315,746	285,297	***	***
Total, U.S. shipments..	310,844	319,262	288,377	40,368	29,501
Unit value (per dozen) 2/					
Company transfers.....	\$118	\$126	\$140	\$***	\$***
Domestic shipments.....	99	100	104	***	***
Average, U.S. shipments	99	100	105	94	102

1/ 47 firms reporting for 1987-89; 35 firms for the interim periods.

2/ Computed from data of firms providing data on both quantity and value of shipments.

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

Available public data on U.S. shipments of sweaters are limited to data concerning the "value of U.S. production." As inventories are generally low in relation to shipment levels, however, production value can serve as a proxy for shipment value. The value of U.S. production of sweaters of all fibers, obtained from data supplied by the Bureau of the Census, U.S. Department of Commerce, amounted to \$1.30 billion in 1987, \$1.12 billion in 1988, and \$1.02 billion in 1989; data are not available for the January-March 1989 and 1990 periods.

U.S. producers were also requested to provide data on the proportion of their U.S. shipments consisting of mens', womens', children's, and infants' sweaters. Thirty-three of the 58 firms reporting information on U.S. sweater shipments provided such data. As seen in table 7, the quantity of mens' sweaters shipped by U.S. producers first registered a slight increase in 1988, then increased more strongly, by 16 percent, in 1989. Overall, shipments of mens' sweaters increased by 17 percent between 1987 and 1989. Trends in shipments of womens' sweaters were contrary, first rising in 1988, then falling back in 1989 to approximately their 1987 level. All categories of sweaters, except children's sweaters, showed shipment declines in January-March 1990 when compared to January-March 1989. When shipments of manmade-fiber sweaters are examined separately, trends in the data are similar to those of shipments of sweaters of all fibers, except that 1989 shipments declined across all categories.

Table 7

Sweaters: U.S. shipments of U.S. producers, 1/ by styles, 1987-89, January-March 1989, and January-March 1990 2/

(1,000 dozen)					
Item	1987	1988	1989	January-March-- 1989	1990
All sweaters:					
Mens'	1,529	1,547	1,790	213	167
Womens'	1,088	1,209	1,084	206	154
Subtotal, adults'	2,617	2,756	2,874	419	321
Children's	***	376	359	10	***
Total	***	3,132	3,233	429	***
Sweaters of manmade fibers:					
Mens'	867	971	942	102	75
Womens'	598	688	556	120	71
Subtotal, adults'	1,465	1,659	1,498	222	146
Children's	***	358	333	***	***
Total	***	2,017	1,831	***	***

1/ For all sweaters, 33 producers reporting for 1987-89: 30 firms reporting for the interim periods. For manmade-fiber sweaters, 29 producers reporting for 1987-89: 22 firms reporting for the interim periods.

2/ No information was provided on shipments of infants' sweaters.

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

U.S. producers and importers were requested to indicate the percentage of their total shipments accounted for by multi-fiber blends. Firms responding to this question reported widely different experiences. All responding producers indicated that fewer than 50 percent of their shipments were made up of such blends, with wool/nylon and wool/acrylic blends being the most

common.⁹⁵ By contrast, importers were precisely split on this question, with half reporting that the majority of their shipments were multi-fiber blends. For importers, ramie/cotton blends were by far the most common, with substantial numbers also reporting wool/acrylic and ramie/acrylic blends as popular combinations. Although respondents generally did not indicate the percentages of the various fibers in the blends they cited, a witness for petitioner asserted at the hearing that most blended sweaters sold today have a dominant fiber; thus, unlike with woven garments, very few sweaters are sold, for instance, as 50 percent cotton and 50 percent acrylic.⁹⁶

U.S. producers' inventories

Thirty-eight of the 58 firms reporting shipments of sweaters during the period of investigation reported inventories of such shipments (table 8).⁹⁷ U.S. producers' yearend inventories of sweaters rose from 368,000 dozen in 1987 to 387,000 dozen in 1988, accelerating their increase to a level of 471,000 dozen, in 1989. Movements in yearend inventory totals during 1987-89 were similar with regard to manmade-fiber sweaters, first moving slowly upward from 1987 to 1988, then climbing faster to 300,000 dozen in 1989. When March 31, 1989 and March 31, 1990 periods are compared, inventory levels for manmade-fiber sweaters fell slightly while those for all sweaters increased.

As a share of U.S. shipments, yearend inventories of all sweaters increased slowly during 1987-89; the ratio of yearend inventories of manmade-fiber sweaters to shipments of such sweaters, however, after remaining virtually constant in 1988, jumped 4 percentage points in 1989. These ratios both exhibited marked increases in January-March 1990 compared to the corresponding 1989 period.

Inventory levels in relation to preceding-period shipments vary dramatically throughout the year, usually peaking toward the end of the summer (before the peak fall and holiday selling seasons) and falling to their lowest levels by the end of the calendar year. Accordingly, the ratios of inventories to preceding-period shipments are significantly higher at the end of the interim January-March periods than at the end of the year, but would be even higher if interim January-June or January-September periods were examined.⁹⁸

⁹⁵ Eleven of the 21 producers responding to the question indicated that their shipments were wholly made up of either 100 percent acrylic or 100 percent natural-fiber sweaters.

⁹⁶ Transcript, p. 23.

⁹⁷ Public data on U.S. producers' inventories of sweaters are unavailable.

⁹⁸ E.g., see preliminary staff report (public version), pp. A-27-28.

Table 8

Sweaters: U.S. producers' end-of-period inventories, by products, as of Dec. 31 of 1987-89, and as of Mar. 31 of 1989 and 1990 ^{1/}

Item	As of Dec. 31--			As of March 31--	
	1987	1988	1989	1989	1990
<u>End-of-period inventories (1,000 dozen)</u>					
Sweaters of manmade fibers.	223	238	300	394	386
All sweaters.....	368	387	471	596	638
<u>Ratio to U.S. shipments (percent) ^{2/}</u>					
Sweaters of manmade fibers.	9.2	9.2	13.1	^{3/} 29.7	^{3/} 48.7
All sweaters.....	8.3	8.9	10.7	^{3/} 23.6	^{3/} 35.5

^{1/} For 1987-89, 38 firms reporting for sweaters, 33 firms reporting for manmade-fiber sweaters; for the interim periods, 27 firms reporting for sweaters, 23 firms reporting for manmade-fiber sweaters.

^{2/} Ratios are based on data supplied by firms that reported both inventory and shipments information.

^{3/} Based on annualized shipments.

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

The majority of domestic producers do not carry inventory over from season to season.⁹⁹ Although maintenance of substantial inventory levels is unusual, several domestic producers stressed that their ability to respond quickly to spot orders gives them an advantage over importers.¹⁰⁰ Shorter production lead times are particularly useful to catalog house buyers, who need, in a rapidly changing market, to keep a large variety of items in stock. Because of this advantage, domestic producers have tended to receive a large share of small orders and have reinforced this trend by lowering their minimum requirement for production runs. In the industry, small runs are usually from 50 to 100 dozen, but can be as low as 20 dozen for special orders.¹⁰¹

⁹⁹ The propensity to keep sweaters in stock, however, tends to vary by type of firm; contractors, for instance, almost exclusively produce to specific orders from manufacturers or jobbers, whereas larger manufacturer/sellers carry inventory throughout the year in order to be responsive to customer orders.

¹⁰⁰ Field visit with * * *, May 31, 1990. Buyers for K-Mart Corp. testified at the hearing that they prefer to deal with domestic suppliers because of this perceived advantage in delivery.

¹⁰¹ Field visit with * * *, June 14, 1990.

U.S. employment, wages, and productivity

All sweaters.--Of the 48 firms reporting production of sweaters, 42 firms provided usable employment data (table 9). The number of workers employed in the production of sweaters increased by 6 percent from 8,754 in 1987 to 9,306 in 1988, before declining to 9,194 workers, a 1-percent decline, in 1989. The number of hours worked by these employees increased by 7 percent in 1988, but declined by 3 percent in 1989. Hourly compensation increased throughout the period, from \$6.85 in 1987 to over \$7.00 in 1989. During January-March 1990, the number of production workers and hours worked fell by 13 and 23 percent, respectively, compared with the number of workers and hours worked in the corresponding 1989 period. Hourly compensation, however, continued to increase during interim 1990 as compared to interim 1989.

Labor productivity, as measured by dozens produced per hour, was lower in 1988 than in either 1987 or 1989. This indicator remained constant in January-March 1990, however, when compared to the corresponding period of 1989. U.S. producers' labor costs first increased in 1988, then fell back to approximately their 1987 level in 1989; such costs increased slightly when the January-March periods are compared.

Sweaters of manmade fibers.--Of 39 firms reporting manmade-fiber sweater production, 17 firms provided allocated employment data for such sweaters.¹⁰² According to these data, the number of workers employed in the production of manmade-fiber sweaters, the hours worked in such production, and wages and compensation paid to such workers all showed overall increases from 1987 to 1988, ranging from 5 to 12 percent. Except for the number of workers, however, all these indicators fell in 1989 from their 1988 levels.¹⁰³ For all four indicators, moreover, substantial declines continued in the first quarter of 1990 when compared to the first quarter of 1989. Labor productivity remained virtually flat throughout the 1987-89 period, but increased markedly when the interim periods are compared. Unit labor costs fluctuated randomly, ending up only marginally higher in 1989 than in 1987.

¹⁰² Fifteen firms that indicated production of manmade-fiber sweaters were unable to break out employment data separately for such sweaters.

¹⁰³ Wages paid, for instance, fell by 9 percent.

Table 9

Total establishment employment and average number of production and related workers producing sweaters, hours worked, ^{1/} wages and total compensation ^{2/} paid to such employees, hourly compensation, labor productivity, and unit labor production costs, 1987-89, January-March 1989, and January-March 1990 ^{3/}

Item	1987	1988	1989	January-March- 1989	1990
Total number of employees in establishments.....	9,773	10,335	10,113	9,706	8,433
<u>Number of production and related workers (PRWs)</u>					
Sweaters of manmade fibers...	3,862	4,062	4,144	4,068	3,495
All sweaters.....	8,754	9,306	9,194	8,790	7,677
All products of establish- ments.....	8,894	9,453	9,331	8,921	7,734
<u>Hours worked by PRWs (thousands)</u>					
Sweaters of manmade fibers...	6,935	7,271	6,994	1,616	1,007
All sweaters.....	17,278	18,461	17,967	4,663	3,605
All products of establish- ments.....	17,633	18,806	18,318	4,811	3,635
<u>Wages paid to PRWs (1,000 dollars)</u>					
Sweaters of manmade fibers...	36,224	39,723	36,064	9,153	6,285
All sweaters.....	100,621	108,210	107,526	25,590	20,499
All products of establish- ments.....	104,307	111,166	110,217	26,097	20,828
<u>Total compensation paid to PRWs (1,000 dollars)</u>					
Sweaters of manmade fibers...	44,127	49,332	44,927	10,976	7,968
All sweaters.....	117,654	127,023	126,247	28,950	24,081
All products of establish- ments.....	122,201	130,632	129,474	29,543	24,405
<u>Hourly wages paid to PRWs ^{4/}</u>					
Sweaters of manmade fibers...	\$5.22	\$5.46	\$5.16	\$5.66	\$6.24
All sweaters.....	5.86	5.88	5.99	5.46	5.64
All products of establish- ments.....	5.98	5.96	6.06	5.43	5.69
<u>Hourly total compensation paid to PRWs ^{5/}</u>					
Sweaters of manmade fibers...	\$6.36	\$6.78	\$6.42	\$6.79	\$7.91
All sweaters.....	6.85	6.91	7.04	6.18	6.64
All products of establish- ments.....	7.01	7.01	7.12	6.15	6.67
<u>Productivity (dozens per hour) ^{6/}</u>					
Sweaters of manmade fibers...	0.15	0.14	0.15	0.13	0.16
All sweaters.....	0.19	0.17	0.19	0.15	0.15
<u>Unit labor costs (per dozen) ^{7/}</u>					
Sweaters of manmade fibers...	\$41.99	\$46.89	\$43.70	\$51.53	\$51.32
All sweaters.....	36.87	40.13	36.82	41.16	42.72

^{1/} Includes hours worked plus hours of paid leave time.

^{2/} Includes wages and contributions to Social Security and other employee benefits.

^{3/} Firms providing employment data accounted for 70 percent of the quantity of reported U.S. shipments of sweaters in 1989.

^{4/} Calculated using data from firms that provided information on both wages paid and hours worked.

^{5/} Calculated using data from firms that provided information on both total compensation paid and hours worked.

^{6/} Calculated using data from firms that provided information on hours worked and production.

^{7/} On the basis of total compensation paid. Calculated using data from firms that provided information on total compensation paid and production.

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

Public data on the number of employees, average weekly hours, and hourly earnings are available only at the level of SIC Category 2253, "Knit Outerwear Mills." These data cover firms producing not only sweaters, but also other products, such as (principally) knit shirts, sweatshirts, sweatpants, and scarves. Available data are presented in the following tabulation, as compiled from Bureau of Labor Statistics, Office of Business Analysis, Employment and Earnings, 1989 (as updated):

<u>Year</u>	<u>All employees</u>	<u>Production workers</u>	<u>Average weekly hours</u>	<u>Average hourly earnings</u>
1987.....	72,083	64,117	39.1	\$6.51
1988.....	70,417	62,917	39.3	\$6.40
1989.....	70,200	62,300	39.3	\$6.67
1990 <u>1</u> /.....	67,000	58,700	37.4	\$7.12

1/ January-March.

At the hearing, the petitioners commented that mills concentrating on production of manmade-fiber sweaters could better provide workers with year-round employment than could those concentrating on cotton sweater production, for instance.¹⁰⁴ As the volume of orders for manmade-fiber sweaters declined, year-round employment became more the exception than the rule, according to spokesmen for the domestic industry.¹⁰⁵

In its prehearing brief, the petitioner noted the issuance by the Department of Labor of determinations of eligibility to apply for Worker Adjustment Assistance for 18 firms since May 1988. One of the criteria used by the Labor Department in its determinations is whether imports "contributed importantly" to workers' separations from employment and their employers' declines in production or sales. It is not known, however, whether any of the certifications involved imports specifically of manmade-fiber sweaters or whether such imports originated in the countries subject to these investigations.¹⁰⁶ On the other hand, the Korean respondents provided a list of 14 firms where workers had been denied certification to apply for adjustment assistance; four of these firms were verified by Commission staff as having closed during the period of investigation.¹⁰⁷

¹⁰⁴ Transcript, p. 29. Petitioner alleged that its loss of the "core programs" associated with large-volume orders of acrylic sweaters had led to increased fluctuation in employment in the industry.

¹⁰⁵ Transcript, p. 48. Producers interviewed by staff noted that temporary layoffs have become common in recent years, and that employment in sweater-producing facilities has become increasingly variable. In one mill, employment levels varied from 160 to 400 workers over the course of the year. Field visits with * * *, June 1 and 13, 1990.

¹⁰⁶ Petitioner alleged at the hearing, however, that given the large share of manmade-fiber sweaters in total imports of sweaters during the period of investigation and given the large market shares of the subject countries, some contribution to these mills' problems by the subject imports could be inferred. Transcript, p. 117.

¹⁰⁷ Posthearing brief of Steptoe & Johnson, app. 14.

Fourteen producers reporting employment data noted that their workforces are represented by unions. These firms, and the unions involved, are listed in the following tabulation:

<u>Company</u>	<u>Type 1/</u>	<u>Union</u>
***.....	Mfr./seller	ILGWU 2/
***.....	Contractor	ILGWU, Local 155
***.....	Contractor	United Craft Workers, Local 91
***.....	Contractor	ILGWU, Local 155
***.....	Mfr./seller	Teamsters
***.....	Contractor	United Prod. Workers
***.....	Mfr./seller	Knitting Mechanics Assn.
***.....	Mfr./seller	Teamsters Local 945
***.....	Mfr./seller	United Prod. Workers
***.....	Contractor	United Prod. Workers
***.....	Mfr./seller	Local 1718
***.....	Mfr./seller	Local 1718
***.....	Mfr./seller	Teamsters, Local 918
***.....	Mfr./seller	ILGWU, Local 222

1/ Predominant function.

2/ International Ladies' Garment Workers Union.

In its questionnaire, the Commission requested firms producing sweaters of both manmade and natural fibers to indicate whether the same production and related workers are employed in the production of both types of sweaters. Of the 27 respondents that produced both products, all 27 indicated that they used the same production and related workers in producing both types of sweaters. In addition, the Commission requested U.S. producers to provide detailed information concerning reductions in the number of production and related workers producing sweaters, if such reductions involved at least 5 percent of the workforce, or more than 50 workers. The reported layoffs are shown in the following tabulation:

<u>Firm</u>	<u>Date</u>	<u>Number of workers</u>	<u>Duration</u>	<u>Reason</u>
*	*	*	*	*

Financial experience of U.S. producers

The Commission requested income-and-loss data for overall establishment operations, operations on all sweaters, and operations on manmade-fiber sweaters. Usable responses were received from 28 companies that either produce only sweaters or are primarily sweater producers; some of these producers also either purchased sweaters and/or produced or purchased other types of apparel.

All of the 28 responding producers, accounting for approximately 35 percent of U.S. production of all sweaters in 1989 (based on Census data), furnished usable income-and-loss data on their operations producing all sweaters.¹⁰⁸ Nine producers furnished usable income-and-loss data on their operations producing sweaters of manmade fiber; these producers accounted for approximately 15 percent of U.S. production of manmade-fiber sweaters, based on Census data, in 1989.

The firms that supplied usable financial data were of varying size, with no dominant producer. The data included plants in all parts of the continental United States and in Puerto Rico. Producer types consisted of manufacturer/sellers and contractors, along with firms that performed both functions.

Operations on all sweaters.---The income-and-loss experience for all sweaters is presented in table 10. Net sales for 26 firms that reported data for 1987 were \$264.2 million. In 1988 net sales for 28 firms were \$313.5 million, an increase of 18.7 percent.¹⁰⁹ Net sales for 28 firms in 1989 were \$342.4 million, an increase of 9.2 percent. Operating income was \$17.0 million in 1987, \$13.1 million in 1988, and \$14.0 million in 1989. Operating income margins, as a share of sales, were 6.4 percent in 1987, 4.2 percent in 1988, and 4.1 percent in 1989. Operating losses were incurred by 12 companies in each of the years 1987-89.

Reported January-March 1990 sales were \$30.7 million, a decline of 23.7 percent from January-March 1989 sales of \$40.2 million. Operating income was \$* * * in January-March 1989, but an operating loss of \$* * * million was incurred in January-March 1990. The reporting sweater producers experienced

¹⁰⁸ The response rate was higher, but data from some firms were not used in compiling income-and-loss data for all sweaters because their sales of sweaters did not constitute 85 percent of their overall establishment sales, nor could they allocate their overall costs to operations producing sweaters. Firms with sales of sweaters comprising less than 85 percent of establishment sales were requested in the Commission questionnaire to compile data on such sales separately in order to obtain reliable data. Data that were not used were from companies that had sweater sales less than 70 percent of establishment sales. A summary of those companies providing establishment income-and-loss data not used in the income-and-loss table for all sweaters is presented in app. G. Responses that were incomplete, unreadable or appeared inconsistent were not used in compiling the financial database in this report.

¹⁰⁹ Sales data between 1987 and 1988 are not comparable because * * * initiated production in 1988. Also, during the period of investigation, * * *. For the companies that provided comparable sales data (excluding three of these producers), net sales * * *.

Table 10

Income-and-loss experience of U.S. producers on their operations producing all sweaters, accounting years 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Value (1,000 dollars)					
Net sales.....	264,150	313,473	342,411	40,222	30,677
Cost of goods sold.....	208,245	254,472	278,921	32,363	25,413
Gross profit.....	55,905	59,001	63,490	7,859	5,264
Selling, general and administrative expenses...	38,922	45,932	49,525	6,977	6,770
Operating income or (loss)..<	16,983	13,069	13,965	***	***
Other income or (expense), net 1/.....	(4,813)	(6,039)	(10,109)	(976)	(1,111)
Net income or (loss) before income taxes.....	12,170	7,030	3,856	***	***
Depreciation and amorti- zation included above.....	8,097	10,982	12,211	***	***
Cash-flow 2/.....	20,267	18,012	16,067	***	***
Share of net sales (percent)					
Cost of goods sold.....	78.8	81.2	81.5	80.5	82.8
Gross profit.....	21.2	18.8	18.5	19.5	17.2
Selling, general and administrative expenses...	14.7	14.7	14.5	3/ 17.4	3/ 22.1
Operating income or (loss)..<	6.4	4.2	4.1	***	***
Net income or (loss) before income taxes.....	4.6	2.2	1.1	***	***
Number of firms reporting					
Operating losses.....	4/ 12	12	12	9	11
Net losses.....	4/ 13	13	12	9	11
Data.....	4/ 27	28	28	15	15

1/ Includes interest expense.

2/ Cash-flow is defined as net income or loss plus depreciation and amortization.

3/ For most companies in this industry, the January-March period is characterized by low sales. Thus, that time period must absorb a relatively larger share of the annual selling, general, and administrative costs (those that are fixed). The decline in sales in 1990 exacerbated this situation.

4/ Although * * * did not have sales in 1987, it reported operating and net losses because it incurred some selling, general, and administrative expenses during that year.

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

an operating income margin of * * * percent in January-March 1989 and an operating loss margin of * * * percent in January-March 1990. Operating losses were incurred by 9 firms in January-March 1989 and 11 firms in January-March 1990.

The profitability of a particular firm depended upon a number of factors, such as size, as well as local differences in wages, rent, utilities, and taxes (other than income).¹¹⁰ Generally the larger companies were more profitable than the smaller firms. The knit outerwear mill industry, including sweaters, reported its ratios of net income after taxes to sales for 1987, 1988, and 1989 as follows:¹¹¹

<u>Category 1/</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
	----- <u>Percent</u> -----		
Upper quarter.....	9.0	7.7	7.1
Middle.....	3.4	3.5	2.6
Lower quarter.....	1.4	1.3	0.9

1/ Based on number of firms reporting.

* * * was * * * the most profitable of the reporting companies. The company * * *.¹¹² A tabulation of the reported income-and-loss with and without * * * is shown below (in thousands of dollars, except as noted):

<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>January-March--</u>	
				<u>1989</u>	<u>1990</u>
Net sales:					
***.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	264,150	313,473	342,411	40,222	30,677
Operating income or (loss):					
***.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	16,983	13,069	13,965	***	***
Operating income or (loss) as a percent of sales:					
***.....	***	***	***	***	***
All others.....	***	***	***	***	***
Average.....	6.4	4.2	4.1	***	***

¹¹⁰ Details on reporting firms are provided in app. H.

¹¹¹ Industry Norms and Key Business Ratios 1987-88, 1988-89, and 1989-90, Duns Analytical Services, SIC 2253, Knit Outerwear Mills. Sweaters account for a minority share (perhaps 30 percent) of products in SIC 2253. Among the products in the SIC category, sweatshirts and athletic apparel were reportedly profitable during 1987-89.

¹¹² Field visit with * * *, * * *, * * *.

Operations on sweaters of manmade fibers.--Only two producers, * * *, were able to allocate their establishment costs between various types of sweaters. Seven other producers produce only sweaters of manmade fibers; thus, their income-and-loss data are the same as their total establishment data. The industry income-and-loss data on sweaters of manmade fibers are presented in table 11.¹¹³ Net sales for eight firms for 1987 were \$39.0 million.¹¹⁴ In 1988, net sales for nine firms were \$55.0 million, an increase of 41.1 percent. Net sales for nine firms in 1989 were \$69.7 million, an increase of 26.7 percent. Operating income was \$322,000 in 1987, \$1.3 million in 1988, and \$1.0 million in 1989. Operating income margins were 0.8 percent in 1987, 2.3 percent in 1988, and 1.5 percent in 1989.

For the January-March 1990 period, only one firm reported data. Its sales amounted to \$* * *, a * * * of * * * percent from January-March 1989 sales of \$* * *. Operating * * * was \$* * * for the January-March 1989 period, but * * * of \$* * * in January-March 1990. Operating income (loss) margins were * * * percent in January-March 1989 and * * * percent in January-March 1990. The one reporting firm incurred * * * in January-March 1990.

In its prehearing brief, respondents presented data that purported to show the relatively higher level of profitability of manmade-fiber sweater producers compared to the industry as a whole.¹¹⁵ These data are not conclusive because financial details of the product mix in each of the reporting firms are not available.

Investment in productive facilities.--The reported investment in property, plant, and equipment and return on investment are shown in table 12.

Capital expenditures.--Capital expenditures for all sweaters and manmade-fiber sweaters are shown in the tabulation below (in thousands of dollars):

Item	1987	1988	1989	<u>January-March--</u>	
				<u>1989</u>	<u>1990</u>
All sweaters <u>1/ 2/</u>	34,454	18,236	12,627	1,662	2,395
Number of companies reporting.....	16	17	17	13	13
Manmade-fiber sweaters..	1,311	2,567	1,549	279	825
Number of companies reporting.....	5	6	6	4	4

1/ * * *.

2/ * * *.

¹¹³ A listing of each producer is shown in app. I.

¹¹⁴ Sales data between 1987 and 1988 are not comparable because * * * initiated production in 1988. For the remaining companies that provided comparable sales data, net sales * * *.

¹¹⁵ Prehearing brief of Steptoe & Johnson, pp. 31-33.

Table 11

Income-and-loss experience of U.S. producers on their operations producing sweaters of manmade fibers, accounting years 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March-- 1989	1990
Value (1,000 dollars)					
Net sales.....	38,995	55,046	69,723	***	***
Cost of goods sold.....	32,031	43,623	55,687	***	***
Gross profit.....	6,964	11,423	14,036	***	***
Selling, general and administrative expenses...	6,642	10,160	12,996	***	***
Operating income or (loss)...	322	1,263	1,040	***	***
Other income or (expense), net 1/.....	101	(124)	(559)	***	***
Net income or (loss) before income taxes.....	423	1,139	481	***	***
Depreciation and amorti- zation included above.....	1,287	1,619	1,879	***	***
Cash-flow 2/.....	1,710	2,758	2,360	***	***
Share of net sales (percent)					
Cost of goods sold.....	82.1	79.3	79.9	***	***
Gross profit.....	17.9	20.7	20.1	***	***
Selling, general and administrative expenses...	17.0	18.5	18.6	***	***
Operating income or (loss)...	0.8	2.3	1.5	***	***
Net income or (loss) before income taxes.....	1.1	2.1	0.7	***	***
Number of firms reporting					
Operating losses.....	4	6	5	***	***
Net losses.....	4	5	5	***	***
Data.....	8	9	9	1	1

1/ Includes interest expense.

2/ Cash-flow is defined as net income or loss plus depreciation and amortization.

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

Table 12

Property, plant, and equipment of U.S. producers of all sweaters and sweaters of manmade fibers, as of the end of accounting years 1987-89, and as of Mar. 31, 1989, and Mar. 31, 1990

Item	As of end of accounting year--			As of March 31--	
	1987	1988	1989	1989	1990
Value (1,000 dollars)					
All sweaters:					
Fixed assets:					
Original cost.....	106,108	123,765	136,689	82,330	89,062
Book value.....	73,853	83,864	86,588	55,319	56,131
Number of companies reporting data.....	19	20	20	12	12
Manmade-fiber sweaters:					
Fixed assets:					
Original cost.....	10,628	13,359	13,427	3,801	3,801
Book value.....	3,635	5,366	5,048	1,672	1,368
Number of companies reporting data.....	6	7	7	3	3
Return on book value of fixed assets (percent) 1/					
All sweaters:					
Operating return 2/.....	26.6	14.8	15.2	3/	3/
Net return 4/.....	18.8	7.7	3.7	3/	3/
Manmade-fiber sweaters:					
Operating return 2/.....	1.7	32.1	17.9	3/	3/
Net return 4/.....	7.2	28.7	7.0	3/	3/

1/ Computed using data from only those firms supplying both asset and income-and-loss information, and as such, may not be derivable from data presented.

2/ Defined as operating income or loss divided by asset value.

3/ Not applicable.

4/ Defined as net income or loss divided by asset value.

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

Research and development expenses.--Research and development expenses for all sweaters and manmade-fiber sweaters are shown in the tabulation below (in thousands of dollars):

<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>January-March--</u>	
				<u>1989</u>	<u>1990</u>
All sweaters.....	3,129	4,293	4,495	939	974
Number of companies reporting.....	12	13	13	10	10
Manmade-fiber sweaters....	1,605	1,712	1,774	474	477
Number of companies reporting.....	5	6	6	4	4

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects of imports of sweaters of manmade fibers from Hong Kong, Korea, or Taiwan on their firm's growth, investment, ability to raise capital, or existing development efforts. The producers' responses are presented in appendix J.

Consideration of the Question of Threat of Material Injury

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors¹¹⁶--

(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,

¹¹⁶ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(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,

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

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

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.¹¹⁷

¹¹⁷ Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

The available data on foreign producers' operations (items (II) and (VI)) are presented in the section entitled "Ability of foreign producers to generate exports and availability of export markets other than the United States," and information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV)), and any other threat indicators, if applicable (item (VII)), is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury." Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Item (I), regarding subsidies, and item (IX), regarding agricultural products, are not relevant in these investigations. The potential for "product-shifting" (item (VIII)) is not an issue in these investigations because there are no known producers subject to investigation or to final orders that use production facilities that can be shifted to produce sweaters of manmade fibers. Available data on U.S. inventories of manmade-fiber sweaters (item (V)) from Hong Kong, Korea, and Taiwan follow.

U.S. importers' inventories

Of the 60 firms that provided data in response to the Commission's importer questionnaire, 37 provided usable data on end-of-period inventories of manmade-fiber sweaters during the period of investigation. These firms accounted for 47 percent, by quantity, of reported 1989 shipments of imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan.

From 1987 to 1989, end-of-period inventories of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan increased markedly overall, with their 1989 level 64 percent higher than that of 1987 (table 13); the entire increase, though, came in 1989. The increase in 1989 resulted primarily from sharp increases in inventories of manmade-fiber sweaters from Hong Kong and Taiwan; inventories of Korean sweaters declined overall during the period of investigation. The ratio of inventories to reported U.S. shipments of imports generally increased during the period, again with inventories of Korean sweaters differing from the overall trend. At the end of the first quarter of 1990, inventories of manmade-fiber sweaters from the subject countries were considerably lower than at the comparable point in 1989; ratios of such inventories to shipments, however, were higher.

As seen by comparing table 13 to table 8, the ratio of inventories to preceding-period shipments for importers is lower than that for U.S. producers. Among other factors, this reflects the fact that the importing operations of large retail stores do not maintain inventories but ship imported merchandise directly to their store outlets.¹¹⁸ In addition, lead times afforded importers tend to be longer than those given to domestic

¹¹⁸ In addition, for wholesaler/resellers, low levels of inventories vis-a-vis shipments may reflect the fact that many customers of such firms, such as the large department stores, order in bulk well before the start of the selling season; accordingly, wholesalers generally resell the goods immediately upon receipt.

Table 13

Sweaters of manmade fibers: Importers' end-of-period inventories, by sources, as of Dec. 31 of 1987-89, and as of Mar. 31 of 1989 and 1990 1/

Source	As of December 31--			As of March 31--	
	1987	1988	1989	1989	1990
Quantity (1,000 dozen)					
Hong Kong.....	12	11	27	38	28
Korea.....	36	29	28	67	33
Taiwan.....	32	40	76	124	113
Subtotal.....	80	80	131	229	174
All other sources.....	***	12	***	***	***
Total.....	***	92	***	***	***
Ratio to U.S. shipments of imports (percent) <u>2/</u>					
Hong Kong.....	4.5	3.8	7.4	<u>3/</u> 4.0	<u>3/</u> 15.2
Korea.....	11.2	8.5	9.3	<u>3/</u> 4.2	<u>3/</u> 11.3
Taiwan.....	6.7	6.8	12.3	<u>3/</u> 13.0	<u>3/</u> 10.0
Average.....	7.5	6.6	10.3	<u>3/</u> 8.0	<u>3/</u> 12.1
All other sources.....	3.5	4.3	-	<u>3/</u> -	<u>3/</u> -
Average.....	6.9	6.1	9.6	<u>3/</u> 7.1	<u>3/</u> 12.0

1/ 37 firms reporting.

2/ Computed from data of firms providing data on both inventories and shipments of imports.

3/ Based on annualized shipments.

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

producers.¹¹⁹ In general, in the sweater trade, maintenance of inventories is unusual and indeed undesirable. Because sweaters are rapidly becoming more of a fashion item rather than a commodity item and because sweater sales are increasingly becoming concentrated in the fourth quarter of each year, holding substantial levels of inventories serves no purpose.¹²⁰

¹¹⁹ Domestic industry witnesses maintain that lead times for imported sweaters can be as long as 5 to 6 months, whereas lead times for domestic producers are generally measured in weeks. Field visit with * * *, Oct. 5, 1989. Although importers may be offered long lead times on large orders of basic items (as long as 6 to 10 months), lead times can be considerably lower for fashion-conscious firms that order in small quantities. One major importer testified at the hearing that his lead time often can be as short as 41 days from receipt of order to delivery to the customer. Transcript, p. 222.

¹²⁰ Transcript, p. 181. Retailers also commented that the increasing debt burden taken on by many stores makes it imperative that they gain as many turns on their inventory as possible. See prehearing statement of Martin Trust, p. 11.

Ability of foreign producers to generate exports and availability of export markets other than the United States

The Hong Kong industry.--According to the petition, 47 firms produce manmade-fiber sweaters in Hong Kong. The Commission received usable data on production and shipments, however, from only 17 firms.¹²¹ The largest Hong Kong exporter is * * *, accounting for * * * percent of exports to the United States from Hong Kong in 1989. As seen from table 14, the United States is by far the largest market for Hong Kong exports of manmade-fiber sweaters, although somewhat less so in 1988 and 1989 than in 1987. Responding firms also reported small quantities of manmade-fiber sweaters exported to third countries.¹²²

In addition, several firms responding to the Commission's questionnaire reported production of cotton, wool, and silk sweaters. Some firms noted that they had moved into production of these types of sweaters because the manmade-fiber sweater business was unprofitable.¹²³ Three firms reported production of both manmade-fiber and natural-fiber sweaters.

Hong Kong's production of manmade-fiber sweaters declined from 1988 to 1989 by 9 percent. January-March 1990 figures show a continued decline in production from the comparable period in 1989. Reported manmade-fiber sweater capacity fell moderately between 1988 and 1989, and remained constant in the interim periods. Capacity utilization increased between 1988 and 1989 and was unchanged, at extremely low levels, in January-March 1990 when compared with January-March 1989.

Reported exports to the United States fell slowly throughout the period of investigation; however, as a share of production, they increased from 90 percent in 1988 to 94 percent in 1989 and increased again when the January-March periods are compared. The share of such exports in total exports was 7 percentage points lower in 1989 than in 1987. Reporting producers unanimously projected lower levels of production and exports in 1990.

¹²¹ These data were received both from counsel for Crystal Knitters and Comitex Knitters and from the U.S. consulate in Hong Kong, which submitted information covering 19 companies. The U.S. consulate in Hong Kong notified the Commission that 27 companies did not respond to the questionnaire, and one company could not be located. Two of the 19 companies responding to the questionnaire indicated that they did not produce or export manmade-fiber sweaters during the period of investigation; one of these firms indicated that all such production was currently being done in the People's Republic of China. Reporting firms accounted for 23 percent, by quantity, of U.S. imports of manmade-fiber sweaters from Hong Kong in 1989.

¹²² * * *.

¹²³ See, e.g., response of * * *, June 20, 1990. No problem appears to exist, however, with the supply of acrylic fiber available to producers in Hong Kong, as prices have recently been declining. See Appendix to posthearing brief of Grunfeld, Desiderio, et al. Counsel for the Hong Kong respondents indicated that Hong Kong producers generally procure their acrylic fiber from Taiwan.

Table 14

Sweaters of manmade fibers: Hong Kong's production, capacity, inventories, home-market shipments, and exports to the United States and to all other countries, 1987-89, January-March 1989, and January-March 1990 ^{1/}

Item	1987	1988	1989	January-March--	
				1989	1990
Production (1,000 dozen)....	336	342	311	***	***
Capacity (1,000 dozen).....	143	247	224	***	***
Capacity utilization (percent) ^{2/}	99	75	83	<u>3/</u> 8	<u>3/</u> 8
End-of-period inventories (1,000 dozen) ^{4/}	-	-	-	-	-
Home-market shipments (1,000 dozen) ^{5/}	-	-	-	-	-
Exports (1,000 dozen):					
To the United States.....	340	308	292	24	20
To all other countries....	31	53	53	19	1
Total exports.....	371	361	345	43	21
Exports to the United States as a share of--					
Production (percent)....	101	90	94	69	105
Total exports (percent)..	92	85	85	56	95

^{1/} 17 firms reported data on production, export shipments, and home-market shipments; however, only 7 firms reported data on capacity. In addition, * * * did not report any data for 1987; as a result, all data for 1987 are substantially understated.

^{2/} Computed from responses of firms providing both capacity and production.

^{3/} These data are * * *.

^{4/} Only 2 firms provided information on inventories, but, as such inventories were minimal, did not specify totals.

^{5/} Only 1 firm reported home-market shipments, amounting to only * * * dozen in 1989.

Source: Information submitted by the American Consulate General, Hong Kong, June 20, 1990, and by counsel for Crystal Knitters, Ltd. and Comitex Knitters, Ltd., July 2, 1990.

The Korean industry.--Based on information supplied by the petitioner and by the American Embassy in Seoul, there are 75 known producers of manmade-fiber sweaters in Korea. In these final investigations, counsel for 55 of these producers submitted information from its firms, purported to represent approximately 87 percent of manmade-fiber sweater exports from Korea to the United States in 1989.¹²⁴ Information submitted by counsel for the Korean industry is presented in table 15.

¹²⁴ These firms included 29 of the 30 top holders of quota in 1989, and are listed in app. K. See Korean respondents' submission of July 6, 1990.

Table 15

Sweaters of manmade fibers: Korea's production, capacity, inventories, home-market shipments, and exports to the United States and to all other countries, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Production (1,000 dozen)....	4,009	3,959	3,814	566	453
Capacity (1,000 dozen).....	4,631	4,627	4,516	886	884
Capacity utilization					
(percent) 1/.....	87	86	84	64	51
End-of-period inventories					
(1,000 dozen).....	28	29	29	2/	2/
Home-market shipments					
(1,000 dozen).....	12	10	16	3	2
Exports (1,000 dozen):					
To the United States.....	2,859	2,957	3,297	649	302
To all other countries....	2,979	3,017	2,145	389	339
Total exports 3/.....	5,838	5,974	5,442	1,038	641
Exports to the United States as a share of--					
Production (percent)....	71	75	86	115	67
Total exports (percent).	49	49	61	63	47

1/ Computed from responses of firms providing both capacity and production.

2/ Not available.

3/ Total exports exceed production in each period because exports include shipments of contracted production, whereas production totals do not include such production.

Source: Information submitted by Steptoe and Johnson, July 6, 1990.

Korean production of manmade-fiber sweaters fell slowly from 1987 to 1989, with the decline in 1989 being larger than that of 1988; production dropped 5 percent overall, and it is projected to decline further in 1990 before recovering somewhat in 1991. Reported manmade-fiber sweater capacity also decreased slightly; from 4.6 million dozen in 1987 to 4.5 million dozen in 1989. As capacity and production decreased at approximately the same rates, capacity utilization dropped only 3 percentage points in the 3-year period; it fell more substantially, however, when the January-March periods are compared and is expected to rebound slightly in 1991 over 1990 levels.

Home-market sales of manmade-fiber sweaters by reporting firms were negligible during the period of investigation, never exceeding 1 percent of total shipments; thus, any trends in the data on such sales have little meaning. Exports to the United States of manmade-fiber sweaters grew strongly from 1987 to 1989, reaching 3.3 million dozen in 1989, a 15-percent increase over their 1987 level. Such exports, however, plummeted in the first quarter of 1990 when compared with the first quarter of 1989. Exports to the United States are expected to be only 80 percent of their 1989 levels in 1990, and are not expected to show growth in 1991. As a share of production, exports to the United States increased by 15 percentage points between 1987 and 1989, as export shipments to other markets declined dramatically. Accordingly, exports

to the United States also increased their share of total exports between 1987 and 1989, rising to over 60 percent in the latter year. Reporting firms anticipate reductions in both ratios in both the remainder of 1990 and 1991.

For 28 of the 55 firms reporting data, manmade-fiber sweaters made up the majority of their total sweater sales. Very few companies produced manmade-fiber sweaters exclusively; for those that produced sweaters of different fibers, most firms reported that natural-fiber sweaters were produced on the same machinery as that used for manmade-fiber sweaters. The Korean industry is reportedly far less mechanized than the industry in the United States, particularly with regard to the cutting process.¹²⁵

Two firms reported production facilities in the United States: * * *.¹²⁶ * * *, the * * * to the United States of manmade-fiber sweaters, has an importing subsidiary, * * *.¹²⁷ The larger Korean exporters, such as * * *, sell primarily to the large U.S. retail chains such as * * *. In October 1988, the Japanese Knitwear Manufacturers Cooperative Federation filed an antidumping petition concerning imports of "jerseys, pullovers, cardigans, waistcoats, and similar articles, knitted or crocheted" (including manmade-fiber sweaters) from Korea; the case was resolved in March 1989 via adoption of a voluntary import restraint agreement.¹²⁸

The Taiwanese industry.--Twenty-six firms were identified in the petition as producing sweaters of manmade fibers in Taiwan. In the preliminary investigations, counsel for the Taiwanese industry requested data from 22 of the largest manmade-fiber sweater producers in Taiwan; responses were received from 14 to 19 of these producers, depending on the information requested. In the final investigations, Commission staff requested counsel to update the information previously provided for these firms, in addition to providing data for firms not responding in the preliminary investigations; counsel subsequently provided data covering 10 firms, all of whom were investigated by Commerce.¹²⁹ Information provided by these firms is presented in table 16.

¹²⁵ Transcript of preliminary conference, p. 171. One source familiar with the Korean industry noted that, in Korea, cutting is done with hand scissors rather than by machine.

¹²⁶ The Commission received information from * * * in response to its producers' questionnaire; the Commission did not send a questionnaire to * * *.

¹²⁷ Other importing firms affiliated with reporting producers are * * *. Only * * * received an importers' questionnaire from the Commission; the Commission did not receive a response from this firm.

¹²⁸ This agreement limits imports of these articles from Korea to a 1-percent increase for calendar years 1989-91 and requires the Korean industry to implement a "trigger-price" system for Korean exports to Japan.

¹²⁹ The firms accounted for * * * percent, by quantity, of U.S. imports of manmade-fiber sweaters from Taiwan in 1989. Of these firms, all but one (* * *), reported that manmade-fiber sweaters made up the majority of their production of sweaters.

Table 16

Sweaters of manmade fibers: Taiwan's production, capacity, inventories, home-market shipments, and exports to the United States and to all other countries, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989 1/	1990 2/
Production (1,000 dozen).....	889	761	772	79	47
Capacity (1,000 dozen).....	1,058	969	938	187	137
Capacity utilization					
(percent) 3/.....	84	79	82	62	59
End-of-period inventories					
(1,000 dozen).....	3	6	5	4/	4/
Home-market shipments					
(1,000 dozen).....	3	9	4	4/	4/
Exports (1,000 dozen):					
To the United States.....	622	506	569	71	42
To all other countries....	319	285	273	53	33
Total exports.....	941	791	842	124	75
Exports to the United States as a share of--					
Production (percent)....	70	66	74	90	89
Total exports (percent).	66	64	68	57	56

1/ In this period, 10 firms provided information on exports to the U.S., 8 firms on exports to other countries, 8 firms on capacity, and 6 firms on production.

2/ In this period, 10 firms provided information on exports to the U.S., 9 firms on exports to other countries, 8 firms on capacity, and 6 firms on production.

3/ Computed from responses of firms providing both capacity and production.

4/ Less than * * * dozen.

Source: Information submitted by counsel for the Taiwanese industry, July 12, 1990.

Taiwanese production of manmade-fiber sweaters fell notably from 1987 to 1988, by 14 percent, before recovering slightly in 1989. Capacity to produce such sweaters declined in both 1988 and 1989, or by 11 percent overall. Capacity utilization remained fairly constant, at about 80 percent, during 1987-89, and at about 60 percent during the interim periods of 1989 and 1990. Exports to the United States by reporting firms fell sharply from 1987 to 1988, by 19 percent, but then recovered in 1989 to 91 percent of their 1987 level. As a share of production, such exports were higher in 1989 than in 1987. Such exports exhibited no particular trend in terms of their share of total exports.

Reporting producers unanimously predicted declines in production, capacity, exports to the United States, and total exports for both the remainder of 1990 and for calendar year 1991. Two firms, * * *, noted that they plan to shut down up to 50 percent of their manmade-fiber sweater

capacity by the end of 1991.¹³⁰ One firm, * * *, indicated that it planned to close its sweater manufacturing facilities entirely in 1991.

At the hearing, counsel for the Taiwanese industry alleged that there currently exists an acute labor shortage in Taiwan, and in view of this shortage and the attendant increase in wage rates, there was no potential for an imminent increase in exports.¹³¹ In addition, counsel alleged that the Taiwan sweater industry, and export-oriented industries in general, have been hurt by Taiwan's rapidly appreciating currency.¹³² Finally, in contrast to the apparent abundance of, and declining prices for, acrylic fiber elsewhere in East Asia, counsel alleged that there is currently a severe shortage of acrylic fiber in Taiwan.¹³³

Other issues.--Parties disagreed as to whether the existence of specific, fixed quotas on the products subject to investigation made the issue of threat of injury irrelevant. Petitioners argued at the hearing that the existence of large quotas encouraged Hong Kong, Korean, and Taiwanese companies to rush sweater shipments to the United States at the end of each calendar year, because under the existing system, if quotas are not filled each year, they may be reduced in subsequent years (a "use-or-lose" system).¹³⁴ Respondents countered by contending that the empirical pattern in recent years does not demonstrate any end-of-year surges in imports or accompanying price declines.¹³⁵ It should also be noted that for Korea and Taiwan, renegotiations of their respective bilateral quota agreements have been completed.¹³⁶ As noted earlier, Korea has virtually filled its quota on manmade-fiber sweaters each year during 1986-88. In 1989, the quota was filled in September; however, the United States allowed a "special shift" from the quota for silk blend sweaters, which increased the manmade-fiber quota level by 13 percent for the 1989 quota year, effective October 13, 1989.¹³⁷

¹³⁰ These firms * * *, but reported separate data to the Commission.

¹³¹ Transcript, p. 262. Also see posthearing brief of Ablondi & Foster, p. 9.

¹³² The section of this report entitled "Exchange rates" indicates that of the 3 countries subject to investigation, Taiwan's currency appreciated the least (with regard to the real exchange rate) against the U.S. dollar over the period of investigation.

¹³³ Transcript, p. 268.

¹³⁴ Transcript, pp. 150-151. A witness for the Hong Kong respondents acknowledged that in Hong Kong, future quota allocations are made on the basis of past performance. Transcript, p. 239.

¹³⁵ Transcript, p. 208.

¹³⁶ Although the Multifiber Arrangement (MFA) does not expire until the end of 1991, individual bilateral agreements with Korea and Taiwan expired on Dec. 31, 1989, but have been renegotiated. See section entitled "Quota restrictions" for further details on the renegotiation of these agreements.

¹³⁷ This "special shift" was intended to be trade neutral and was granted based on the "migration of trade" from one category to another resulting from the change in classification of apparel products to a "chief weight" basis by the HTS, effective January 1, 1989. Under the former TSUS, such products were classified based on "chief value."

In its questionnaire, the Commission requested importers to list any expected deliveries of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan after March 31, 1990. Data received in response to this request are presented in the following tabulation:

<u>Importer</u>	<u>Source</u>	<u>Quantity (dozen)</u>	<u>Expected delivery 1/</u>
*	*	*	*

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

U.S. imports

Imports of sweaters of manmade fibers are provided for under subheadings 6103.23.00, 6103.29.10, 6103.29.20, 6104.23.00, 6104.29.10, 6104.29.20, 6110.30.10, 6110.30.20, and 6110.30.30 of the HTS, and were previously provided for under items 381.24, 381.25, 381.35, 381.66, 381.85, 381.89, 381.90, 381.99, 384.18, 384.27, 384.54, 384.77, 384.80, 384.96, and 791.74 of the former Tariff Schedules of the United States (TSUS). Most of the sweaters subject to investigation currently enter under HTS item 6110.30.30 and formerly under TSUS items 381.90 and 384.80.

Of the 130 importers who received questionnaires, 67 responded, 60 of which provided usable data on imports and shipments of those imports. Based on official import statistics for manmade-fiber sweaters, responding firms accounted for 45 percent, by quantity, and 44 percent, by value, of imports from Hong Kong, Korea, and Taiwan in 1989. Accordingly, data in this section regarding sweaters are based on official U.S. import statistics for the tariff items under which such sweaters are specifically provided for.¹³⁸ U.S. imports of sweaters, as calculated from questionnaire data, are presented in appendix L.

The petitioner requested that the Commission include in its investigations manmade-fiber garments having more than 9 stitches per 2 centimeters measured horizontally, if they have a knit-on rib at the bottom, because such garments are considered to be sweaters by the industry and are generally referred to as "fine-knit sweaters." Such items enter under tariff items reserved for knit shirts. In the preliminary investigations, the

¹³⁸ Import data for Hong Kong exclude the quantity of imports from Crystal Knitters, Ltd., because Commerce found that firm had no margins (i.e., was making all sales to the U.S. at not less than fair value). Crystal, however, * * *, so data presented here * * *. Similarly, for * * *, the quantity and value of imports from Laws Fashion Knitters, Ltd. have been excluded from the data because Commerce found de minimis margins for that firm. Laws * * *.

Further, import data for Taiwan exclude the quantity of imports from Jia Farn Manufacturing Co., Ltd. (Jia Farn), because Commerce found that firm had no margins. Jia Farn, however, * * *.

Commission included imports under these tariff items in the official import statistics for manmade-fiber sweaters, under the assumption that fine-knit sweaters constituted 1 percent, at most, of trade under those items. For purposes of clarity, however, and because of the unreliability of this assumption, data presented here do not include such imports.¹³⁹ As a result, official import statistics presented here are somewhat understated.¹⁴⁰ Official import data for manmade-fiber sweaters, including estimates for fine-knit sweaters, are presented in appendix M.

Sweaters of manmade fibers. -- Imports of the subject manmade-fiber sweaters from Hong Kong, Korea, and Taiwan declined from 8.4 million dozen in 1987 to 7.5 million dozen in 1988, or by 11 percent (table 17). In 1989, such imports rose by 6 percent to 7.9 million dozen, a level 6 percent below that of 1987. In value terms, the trend in imports from the subject countries was similar, but slightly more marked, with the value of imports falling * * * percent in 1988 and regaining * * * that loss in 1989. Imports from Hong Kong, Korea, and Taiwan, both in terms of quantity and value, declined substantially when the January-March periods are compared. Unit values of such imports fluctuated irregularly from 1987 to 1989, ending up slightly lower by the end of the period, then moved upward in the first quarter of 1990, when compared with the first quarter of 1989. Imports of manmade-fiber sweaters from all sources exhibited identical trends to those for aggregate imports from the three subject countries, except that the unit value of imports from all sources remained constant during 1987-89.

All sweaters. -- Combined imports of sweaters of all fibers from Hong Kong, Korea, and Taiwan decreased from 16.6 million dozen in 1987 to 12.6 million dozen in 1988, or by 24 percent (table 18). The volume of such imports, however, reversed direction in 1989, climbing by 13 percent to 14.2 million dozen. Declines in imports in 1988 occurred for all three countries; however, the 1989 upturn was experienced only by Hong Kong and Korea; imports from Taiwan continued to drop in that year. Sweater imports from the subject countries, and indeed from all sources, declined precipitously in January-March 1990 when compared with those in the corresponding 1989 period; imports from Korea were half their first quarter 1989 level.

¹³⁹ In addition, because of a lag in reporting, official import statistics include some "carry-over" data for merchandise imported, but not reported, in prior periods (usually the previous month). Beginning in 1987, Commerce extended its monthly data compilation cutoff date by about 2 weeks in order to reduce significantly the amount of carry-over. Therefore, official statistics for January 1987 include data that would previously have been carried over to February 1987. In order to avoid an apparent overstatement of the January 1987 data, however, the carry-over data from 1986 that would have been included in January 1987 official statistics as of the previous cutoff date have been excluded. Commerce isolated these 1986 carry-over data and has not included them in official statistics for 1986 or January 1987, because their inclusion in either period would result in an apparent overstatement. With respect to imports from Hong Kong, Korea, and Taiwan, this carry-over amounted to 166,707 dozen, with a value (c.i.f. plus calculated duties) of \$18,095,000.

¹⁴⁰ The Commission believes, however, that the degree of understatement does not exceed 2 percent in any period or for any country.

Table 17

Sweaters of manmade fibers: U.S. imports from Hong Kong, Korea, Taiwan, and all other countries, 1987-89, January-March 1989, and January-March 1990

Source	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Hong Kong 1/.....	***	***	***	***	***
Korea.....	3,331	3,390	3,753	298	182
Taiwan 2/.....	***	***	***	***	***
Subtotal.....	8,433	7,512	7,926	835	550
All other imports 3/.....	3,152	2,465	3,292	278	309
Total imports.....	11,585	9,977	11,218	1,113	859
Value (1,000 dollars) 4/					
Hong Kong 5/.....	***	***	***	***	***
Korea.....	386,705	393,548	453,932	29,659	19,665
Taiwan.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
All other imports 3/.....	***	***	***	***	***
Total imports.....	1,300,484	1,103,305	1,240,368	102,882	80,982
Unit value (per dozen) 6/					
Hong Kong.....	\$129	\$116	\$129	\$119	\$155
Korea.....	116	116	121	99	108
Taiwan.....	***	***	***	***	***
Average.....	***	***	***	***	***
All other imports.....	***	***	***	***	***
Average, all imports....	112	111	111	92	94

1/ Excludes volume of imports from Crystal Knitters, Ltd., and, * * *, for Laws Fashion Knitters, Ltd.

2/ Excludes volume of imports from Jia Farn Manufacturing Co., Ltd.

3/ Includes imports from all other countries and imports from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., * * *, and Jia Farn Manufacturing Co., Ltd.

4/ C.i.f., duty-paid value.

5/ * * *, excludes value of imports from Laws Fashion Knitters, Ltd.

6/ Calculated using data exclusive of the volume of imports from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., * * *, and Jia Farn Manufacturing Co., Ltd., and, * * *, the value of imports from Laws Fashion Knitters, Ltd.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 18

All sweaters: U.S. imports from Hong Kong, Korea, Taiwan, and all other countries, 1987-89, January-March 1989, and January-March 1990

Source	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Hong Kong.....	5,192	3,872	4,692	716	586
Korea.....	6,404	4,892	5,898	764	382
Taiwan.....	4,967	3,813	3,631	544	379
Subtotal 1/.....	16,563	12,576	14,221	2,024	1,347
All other countries.....	10,341	8,388	12,142	1,857	1,281
Total imports 1/.....	26,904	20,964	26,362	3,881	2,628
Value (1,000 dollars) 2/					
Hong Kong.....	712,412	590,611	700,599	76,421	62,292
Korea.....	679,559	563,219	706,552	70,748	40,343
Taiwan.....	649,003	480,372	450,315	50,873	34,729
Subtotal.....	2,040,974	1,634,202	1,857,466	198,042	137,364
All other countries.....	1,269,631	1,123,009	1,525,347	197,224	156,136
Total imports 1/.....	3,310,605	2,757,211	3,382,814	395,266	293,500
Unit value (per dozen)					
Hong Kong.....	\$137	\$153	\$149	\$107	\$106
Korea.....	106	115	120	93	106
Taiwan.....	131	126	124	94	92
Average.....	123	130	131	98	102
All other countries.....	123	134	126	106	122
Average, all imports....	123	132	128	102	112

1/ Because of rounding, figures may not add to totals shown.

2/ C.i.f., duty-paid value.

Source: Compiled from official statistics of the U.S. Department of Commerce.

When viewed in terms of value, trends in imports of sweaters were similar to those demonstrated by import quantities, except that the decline in the interim periods was not as large. Unit values of combined imports from Hong Kong, Korea, and Taiwan rose slightly between 1987 and 1989; viewed individually, only imports from Taiwan decreased in unit value during the period of investigation.

U.S. market penetration by imports

In view of the relatively low levels of coverage of U.S. production, shipments, and imports from responses by U.S. producers and importers to Commission questionnaires, the Commission used public data on production and official import statistics on imports to calculate penetration ratios for imports of manmade-fiber sweaters into the domestic market for manmade-fiber sweaters specifically and for all sweaters.¹⁴¹ Market penetration ratios for all sweaters and sweaters of manmade fibers, calculated using questionnaire data, are presented in appendix N; market penetration ratios for mens' and womens' sweaters, calculated using Commerce data, are presented in appendix O.

Sweaters of manmade fibers.--The penetration of the U.S. market for manmade-fiber sweaters by imports of such sweaters, in terms of quantity, gained just under 2 percentage points in 1988 from its 1987 base of 67.6 percent, and continued to surge, in 1989, to nearly 75 percent of the market (table 19). Combined subject imports from Hong Kong, Korea, and Taiwan increased their market share more gradually, beginning with 49.2 percent of the market in 1987, increasing to 52.2 percent in 1988, and climbing further to 52.7 percent in 1989. Imports from Taiwan gradually decreased their market share, while imports from Hong Kong and Korea increased theirs, Korea picking up over 5 percentage points of market share between 1987 and 1989.

All sweaters.--U.S. market penetration by imports of all sweaters (in terms of quantity) first declined by 1.4 percentage points from 71.3 percent in 1987 to 69.9 percent in 1988, then increased sharply to 77.3 percent in 1989 (table 20).

¹⁴¹ For all sweaters, regardless of fiber, U.S. producers' reported production constitutes only 48 percent, by quantity, of 1989 production, as estimated by the U.S. Bureau of the Census. In turn, reported shipments of imports of sweaters from Hong Kong, Korea, and Taiwan account for only 49 percent, by quantity, of 1989 official U.S. import statistics for the tariff items under which sweaters are entered.

For manmade-fiber sweaters, the coverage levels, based on quantity, are 51 percent for production and 44 percent for shipments of imports.

Table 19

Sweaters of manmade fibers: U.S. production, imports, apparent consumption, and ratios of imports to apparent consumption, 1987-89

Item	1987	1988	1989
	Quantity (1,000 dozen)		
U.S. production.....	5,558	4,408	3,808
Imports from--			
Hong Kong <u>1/</u>	***	***	***
Korea.....	3,331	3,390	3,753
Taiwan <u>2/</u>	***	***	***
Subtotal.....	8,433	7,512	7,926
All other imports <u>3/</u>	3,152	2,465	3,292
Total imports.....	11,585	9,977	11,218
Apparent consumption.....	17,143	14,385	15,026
	As a ratio to the quantity of apparent consumption (percent)		
U.S. production.....	32.4	30.6	25.3
Imports from--			
Hong Kong.....	***	***	***
Korea.....	19.4	23.6	25.0
Taiwan.....	***	***	***
Subtotal.....	49.2	52.2	52.7
All other imports <u>3/</u>	18.4	17.1	21.9
Total <u>4/</u>	67.6	69.4	74.7
Apparent consumption.....	100.0	100.0	100.0

1/ Excludes volume of imports from Crystal Knitters, Ltd., and, * * *, for Laws Fashion Knitters, Ltd.

2/ Excludes volume of imports from Jia Farn Manufacturing Co., Ltd.

3/ Includes imports from all other countries and imports from Crystal Knitters, Ltd., Laws Fashion Knitters (* * *), and Jia Farn Manufacturing Co., Ltd.

4/ Because of rounding, shares may not add to totals shown.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census. Imports: Compiled from official statistics of the U.S. Department of Commerce.

Table 20

All sweaters: U.S. production, imports, and apparent consumption, 1987-89

Item	1987	1988	1989
<u>Quantity (1,000 dozen)</u>			
U.S. production.....	10,805	9,010	7,722
U.S. subject imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan.....	8,433	7,512	7,926
U.S. nonsubject imports <u>1/</u>	18,471	13,452	18,436
Subtotal.....	26,904	20,964	26,362
U.S. consumption.....	37,709	29,974	34,084
<u>Share of consumption quantity (percent)</u>			
U.S. production.....	28.7	30.1	22.7
U.S. subject imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan.....	22.4	25.1	23.3
U.S. nonsubject imports.....	49.0	44.9	54.1
Subtotal <u>2/</u>	71.3	69.9	77.3
Total.....	100.0	100.0	100.0
<u>Value (1,000 dollars) <u>3/</u></u>			
U.S. production.....	1,304,000	1,119,000	1,022,000
U.S. subject imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan.....	***	***	***
U.S. nonsubject imports <u>4/</u>	***	***	***
Subtotal.....	3,310,605	2,757,211	3,382,814
U.S. consumption.....	4,614,605	3,876,211	4,404,814
<u>Share of consumption value (percent)</u>			
U.S. production.....	28.3	28.9	23.2
U.S. subject imports of manmade-fiber sweaters from Hong Kong, Korea, and Taiwan.....	***	***	***
U.S. nonsubject imports.....	***	***	***
Subtotal.....	71.7	71.1	76.8
Total.....	100.0	100.0	100.0

1/ Includes imports of sweaters of other fibers from Hong Kong, Korea, and Taiwan, imports of all sweaters from all other sources, and imports of manmade-fiber sweaters from Crystal Knitters, Ltd., Laws Fashion Knitters (* * *), and Jia Farn Manufacturing Co., Ltd.

2/ Shares may not add because of rounding.

3/ C.i.f., duty-paid value.

4/ Includes imports of sweaters of other fibers from Hong Kong, Korea, and Taiwan, imports of all sweaters from all other sources, and, * * *, imports of manmade-fiber sweaters from Laws Fashion Knitters, Ltd.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census; Imports: Compiled from official statistics of the U.S. Department of Commerce.

The penetration of the U.S. sweater market by imports of subject manmade-fiber sweaters from Hong Kong, Korea, and Taiwan increased by 2.7 percentage points from 1987 to 1988, but then fell back by 1.8 percentage points to 23.3 percent of the market in 1989. The increase in import market share between 1988 and 1989 was accounted for by a drastically increased share for imports not subject to investigation; these imports include natural-fiber sweaters from Hong Kong, Korea, and Taiwan, and imports of all sweaters from all other sources. Thus, in 1989, U.S. sweater producers lost over 7 percentage points of market share, whereas nonsubject imports gained over 9 percentage points.

A similar pattern emerges when value-based data are examined, except that trends are somewhat more muted. Import penetration by manmade-fiber sweaters from the subject countries * * *, at between * * * and * * * percent, throughout the 1987-89 period. Between 1987 and 1988, the market share of U.S. producers increased slightly, but in 1989, U.S. producers lost 5.7 percentage points of market share, while suppliers of imports not subject to the investigations gained * * * percentage points.

Prices and market characteristics

The demand for sweaters depends largely on current fashion and the season of the year. Demand for a specific sweater type depends upon its style, the type of fiber used, the brand name, whether it is machine-made or hand knit, and whether it is made for a man, woman, or child. Industry sources report that in recent years, the demand for natural-fiber sweaters, such as cotton and ramie-cotton, has increased, while the demand for manmade-fiber sweaters has decreased. The increased popularity of these natural-fiber sweaters is primarily because they have become more fashionable and can be worn year-round.

Petitioner argues that there is limited substitution between sweaters of manmade fibers and sweaters of natural fibers because, among other reasons, sweaters of manmade fibers are much less expensive.¹⁴² Sweater producers responding to the Commission's questionnaire generally agreed that the price difference between sweaters made of different fibers limited their substitutability. Some commented, however, that sweaters of the same style may compete even though they are made of different fibers. In addition, the petitioner acknowledged that its customers frequently adjust their purchase plans for each sweater type depending on anticipated consumer demand for the specific product. Therefore, as natural-fiber sweaters have become more popular, purchasers are now stocking more natural-fiber sweaters in lieu of manmade-fiber sweaters.

Nearly one-half of the importers who responded to the Commission's questionnaire stated that there was substitution between sweaters of different fiber types. Some importers commented that the more stylish, fashionable sweaters are substitutable regardless of fiber type.

¹⁴² Transcript of preliminary conference, p. 81. Petitioner's post-conference brief, p. 87.

Although U.S. producers reported that there are no quality differences between sweaters produced in the United States and those produced in Hong Kong, Taiwan, or Korea, most U.S. importers, including retailers who import directly, disagreed. They commented that typically the quality of imported sweaters was superior to the U.S. product, especially in the consistency of the workmanship. In their opinion, imports provided better assembly and finishing details and better yarns. Some importers also commented that there was insufficient U.S. capacity for hand-knit sweaters or sweaters that required specific embellishments.

The manufacturing cost of sweaters is primarily determined by the amount of material and labor utilized, including the quality of workmanship. Producers and importers report that the more material used in a sweater, as measured in pounds per dozen, the higher the cost. Therefore, a man's sweater is usually more expensive than a woman's or child's sweater, and a turtleneck sweater tends to be more expensive than a crew-neck sweater. Second, any special workmanship or hand-knitting on a sweater also increases its price. For example, a cardigan with buttons and pockets costs more than a basic pullover, and intricate color or stitch patterns are more expensive than plain knits.

Sweaters are generally sold by producers and importers on an f.o.b. U.S. factory or warehouse basis. Retailers that import directly reported that they purchase on an f.o.b. country-of-origin or point of consolidation basis and are responsible for transportation to their U.S. retail outlets. Both U.S. producers and importers reported that U.S. inland transportation costs are usually below 4 percent of the total delivered price for the sweaters and are insignificant in the purchasing decisions of their customers. Payment terms usually vary between 10 and 60 days, although some producers and importers reported that a 1 or 2 percent discount may be offered for prompt payment. U.S. producers reported that the average lead time involved in a sweater transaction is generally between two and five months, whereas U.S. importers reported that the lead time could be one to two months longer.¹⁴³

Sweaters are generally priced on a per-dozen basis, although some retailers reported purchasing on a per-unit basis. Generally, prices are negotiated. Although most sellers do not use list prices, the few sellers that do use such prices begin negotiations from that point. Orders are usually made through contracts that fix the price of the sweater and specify the quantity and shipment dates. Other items in the contract may include the sweater specification (style, weight, gauge, colors), its packing, quality control, any samples required, payment terms, cancellation dates, and advertising allowances. In addition, U.S. producers that manufacture sweaters for sale under their own label price these sweaters above those produced for private label purchasers.

¹⁴³ Some U.S. producers have commented that the U.S. advantage in order lead time and faster delivery has effectively relegated them to secondary sources for U.S. retailers. That is, large initial orders are placed with less expensive overseas sources, whereas smaller orders are placed with U.S. producers. According to these U.S. producers, retailers are requiring increasingly shorter lead times with these additional orders.

A number of sales practices exist that affect the final price paid by a wholesaler or retailer. U.S. producers and importers reported that discounts are provided to purchasers who buy sweaters in high volumes. Moreover, some producers reported that they offer "early bird" discounts for those purchasers who order sweaters in some specified advanced time frame. A marketing technique used by private-label producers that also may affect the price of sweaters is cooperative advertising. Under this practice, the producer offers an allowance to the customer in return for advertising its branded sweaters. Producers and importers contacted reported that cooperative advertising occurs primarily in the transaction between the wholesaler or manufacturer and a retailer, for example, a sale made by * * * to * * * or * * *. Another practice that may affect the final net price of sweaters is "mark down money." Retailers will request U.S. producers and importers to absorb a portion of a sweater's cost if the sweater fails to sell at full price to consumers. Like cooperative advertising, this practice occurs primarily with producers or wholesalers that have their own brands.

Questionnaire price data.--The Commission requested U.S. producers and importers to provide quarterly price data between January 1987 and March 1990 for each firm's largest sale of six categories of manmade-fiber sweaters. U.S. producers were also requested to provide similar data for two natural-fiber sweaters. U.S. retailers that imported directly from Hong Kong, Taiwan, or Korea were also requested to provide purchase price information on their imports of the six manmade-fiber products. The specified sweater products for which price data were requested are listed below:¹⁴⁴

Product 1: Sweaters of manmade fibers, 100 percent acrylic, plain stitch (including shaker or jersey), crew neck, pullover, solid color, for men.

Product 2: Sweaters of manmade fibers, 100 percent acrylic, jacquard pattern, crew neck, pullover, for men.

Product 3: Sweaters of manmade fibers, 100 percent acrylic, all over cable stitch, crew neck, pullover, solid color, for women.

Product 4: Sweaters of manmade fibers, 100 percent acrylic, jacquard pattern, crew neck, pullover, for girls' sizes 7 to 14.

Product 5: Sweaters of manmade fibers, 100 percent acrylic, plain stitch (including shaker or jersey), crew neck, pullover, for boys' sizes 7 to 14.

Product 6: Sweaters of manmade fibers, 100 percent acrylic, plain stitch (including shaker or jersey), crew neck, pullover, solid color, for women.

Product 7: Sweaters of natural fibers, 100 percent cotton, plain stitch (including shaker or jersey), crew neck, pullover, solid color, for men.

¹⁴⁴ These product categories were selected after extensive consultation with the petitioner and after contacting selected producers, importers, and retailers to confirm that they could provide price data for the categories.

Product 8: Sweaters of natural fibers, 100 percent cotton, cable stitch front and back, crew neck, pullover, solid color, for women.

There were 7 U.S. producers and 39 importers that reported price data. The responding producers accounted for approximately 19 percent of total reported U.S.-produced shipments of manmade-fiber sweaters in 1989. Their shipments of products 1 to 6 accounted for just under 10 percent (271,467 dozen) of total reported U.S. producers' shipments of manmade-fiber sweaters in 1989. The responding importers accounted for approximately 42 percent of total imports of manmade-fiber sweaters from Hong Kong, approximately 25 percent of total imports of manmade-fiber sweaters from Korea, and approximately 32 percent of total imports of manmade-fiber sweaters from Taiwan in 1989. Their shipments of products 1 to 6 accounted for * * * percent (259,892 dozen) of total imports from Hong Kong, approximately 21 percent (786,784 dozen) of total imports from Korea, and just over * * * percent (489,020 dozen) of all imports from Taiwan, of sweaters of manmade fibers.

Price trends.--Prices shown represent the responses of one or two producers and, in most periods, of one or two importers. The highest number of responses, five, occurred in only four quarters.¹⁴⁵ The wide variation in the price data suggest possible quality or style differences between the sweaters within each product category.

Weighted-average net f.o.b. sale prices reported by U.S. producers resulted in a complete price series for manmade fiber products 1 and 4, and for natural fiber products 7 and 8 (table 21). The other price series were incomplete. U.S. producers provided no data for product 5. U.S. producers' sale prices for products 1 and 4 fluctuated throughout the three-and-one-quarter-year period, and, although the price of product 1 in the final quarter, January-March 1990, was * * * percent higher than its price in January-March 1987, the price of product 4 was * * * percent lower. U.S. producers' sale prices for the natural-fiber sweater categories also fluctuated during the period of investigation, but ended significantly higher than their initial level.

Table 21

Sweaters: Weighted-average net f.o.b. prices of manmade-fiber products 1-6 reported by U.S. producers and importers and weighted-average net f.o.b. prices of cotton-fiber products 7 and 8 reported by U.S. producers, by quarters, January 1987-March 1990

* * * * *

¹⁴⁵ Four responses occurred in only 18 quarters and 3 responses occurred in 45 quarters. None of the data for domestic producers had more than 2 observations.

Prices reported by U.S. importers of manmade-fiber sweaters resulted in a complete price series for Hong Kong's and Korea's product 1 and for Taiwan's products 2, 3, and 6. Except for two periods, prices for Hong Kong's product 1 were stable during the period of investigation while Korean prices for product 1 were more variable. Prices for Taiwan's product 1 were fairly stable. There were wide variations of Taiwan's sale prices for product 2 throughout the period of investigation, ranging from a low of * * * per dozen to a high just above * * * per dozen. Prices for Korean product 2 fluctuated less than the Taiwanese product. Prices for Taiwan's product 3 were stable through January-March 1989, then decreased in each subsequent quarter. Prices for Taiwan's product 6 were stable through 1988 before increasing in 1989, then falling during January-March 1990. Prices reported by U.S. importers of all the other manmade-fiber sweater products were too incomplete to discern trends.

Reported f.o.b. purchase prices of manmade-fiber sweaters by U.S. retailers who imported directly from Hong Kong, Korea, and Taiwan produced nine relatively complete price series covering four sweater products: Korea's and Taiwan's products 1, 2, 3, and 6 and Hong Kong's product 3 (table 22). Retailers' purchase prices for products 1, 2, and 6 fluctuated throughout much of the period of investigation with no apparent trend. Retailers' purchase prices for product 3 from each country also fluctuated throughout much of the period of investigation. The price trends of Product 3 for Korea and Taiwan were relatively flat through 1989, and trends for Hong Kong were down.

Table 22

Sweaters of manmade fibers: Weighted-average net f.o.b. purchase prices 1/ of products 1-6 imported directly from Hong Kong, Korea, and Taiwan by U.S. retailers, by quarters, January 1987-March 1990

* * * * *

Price comparisons.---Price comparisons varied widely. The reported sales information for U.S. producers' and importers' quarterly shipments to unrelated customers during January 1987-March 1990 resulted in 64 direct price comparisons within 5 product categories between the U.S.-produced and imported sweaters from Hong Kong, Korea, and Taiwan (table 23). There were 26 instances of underselling and 38 instances of overselling: 17 price comparisons with Hong Kong, 8 underselling and 9 overselling; 22 price comparisons with Korea, 9 underselling and 13 overselling; and 25 price comparisons with Taiwan, 9 underselling and 16 overselling. Margins of underselling ranged between 1.3 percent and 48.8 percent. Margins of overselling ranged between 0.2 percent and 427.8 percent.

Comparisons of U.S. producers' quarterly shipments to unrelated customers with f.o.b. purchase prices by U.S. retailers who imported directly during January 1987-March 1989 resulted in 65 direct price comparisons within five product categories (table 24). There were 56 instances of underselling and 9 instances of overselling; 11 price comparisons with Hong Kong, 9 underselling and 2 overselling; 27 price comparisons with Korea, 22 underselling and 5 overselling; and 27 price comparisons with Taiwan, 25 underselling and 2 overselling. Margins of underselling ranged between

2.8 percent and 68.1 percent. Margins of overselling ranged between 0.4 percent and 50.2 percent.

Table 23

Sweaters of manmade fibers: Average margins of underselling (overselling) by imports from Hong Kong, Korea, and Taiwan, by products and by quarters, January 1987-March 1990

* * * * *

Table 24

Sweaters of manmade fibers: Average margins of underselling (overselling) by U.S. retailers' direct imports from Hong Kong, Korea, and Taiwan, by products and by quarters, January 1987-March 1990

* * * * *

Purchaser responses.---Thirty-eight questionnaires were received from purchasers. Twenty-nine firms provided their total purchases. Eleven of these questionnaires included price data. All of these firms sell sweaters to final consumers. Retailers provided total sweater purchases of sweaters produced in the United States, Hong Kong, Korea, Taiwan, and by all other countries (table 25). Reported purchases of sweaters from domestic producers accounted for an average of 34 percent of total reported U.S. shipments of manmade-fiber sweaters during 1987-89 and 17 percent of U.S. shipments of natural-fiber sweaters. Purchases of imported manmade-fiber sweaters accounted for, on average, 59 percent of the total reported imports from Hong Kong, 32 percent of total reported imports from Korea, and 30 percent of all reported imports from Taiwan.

Purchasers were asked to list the three major factors generally considered when selecting suppliers. The reasons given most often were quality, style, availability, price, and delivery. Most purchasers stated that they know the country of origin of the sweaters they purchase. Nearly two-thirds of the purchasers stated that the quality of domestic sweaters is inferior to sweaters from Hong Kong, Korea, or Taiwan. Many purchasers said, however, that the differences are a result of foreign manufacturers being better able to produce "highly stylized" sweaters. Purchasers were almost evenly divided when asked whether their final customers know or care where the sweaters they buy are produced. Seven firms responded when asked how much higher would the price for the imported product have to be before purchasing U.S.-produced sweaters. One firm stated foreign prices would have to rise 10 percent; three stated 15 percent; two stated 20 percent; and one stated 30 percent.

Table 25

Sweaters: Purchases of sweaters produced in the United States, Hong Kong, Korea, Taiwan, and all other countries by U.S. retailers, 1987-89

Year	Manmade fibers					Natural fibers
	Hong Kong	Korea	Taiwan	United States	Other	United States
Quantity (dozen)						
1987...	634,650	682,790	443,150	900,798	133,265	349,300
1988...	372,482	337,308	378,302	1,081,398	234,237	454,800
1989...	259,521	370,769	342,892	1,080,372	322,088	476,100
Value (dollars)						
1987...	\$67,564,800	\$43,205,347	\$48,437,368	\$134,046,623	\$15,197,800	\$65,349,200
1988...	21,233,260	45,945,066	38,482,226	145,514,478	26,634,984	60,942,257
1989...	26,184,823	51,017,334	48,967,306	150,318,142	36,187,606	71,614,700

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

Prices.—Purchasers were requested to provide pricing data for their largest purchases from domestic, Hong Kong, Korean, and Taiwanese sweater suppliers. Prices shown in most cases represent purchases by one or two firms. The highest number of responses, 5, occurred in only 1 quarter for all the products for which prices were requested.¹⁴⁶

Reported weighted-average net f.o.b. purchase prices from U.S. producers resulted in a complete price series for manmade-fiber sweater products 5 and 6, and in a virtually complete price series for natural-fiber sweater product 8 (table 26). The other sweater price series were incomplete. Purchase prices for domestic products 5 and 6 fluctuated during the period investigated, although the price for product 6 was relatively stable from October-December 1988 through January-March 1990. Purchase prices for domestic natural-fiber sweater product 8 also fluctuated during the period of investigation. Prices for domestic product 1 increased nearly * * * percent, and prices for domestic product 4 increased almost * * * percent over the periods where data was supplied.

Purchase prices of imported manmade-fiber sweaters resulted in no complete price series. Although the price series for product 6 from Hong Kong, Korea, and Taiwan are nearly complete, there are no discernible trends. Prices for all other products were too incomplete to discern trends.

¹⁴⁶ Four responses occurred in only 2 quarters and 3 responses occurred in 18 quarters.

Table 26

Sweaters: Weighted-average net f.o.b. purchase prices of products 1-8 from the United States, Hong Kong, Korea, and Taiwan reported by U.S. retailers, by quarters, January 1987-March 1990

* * * * * *

Price comparisons.--The reported purchase information resulted in 77 direct price comparisons within 6 product categories between the U.S.-produced and imported sweaters from Hong Kong, Korea, and Taiwan (table 27). There were 26 instances of underselling and 51 instances of overselling: 21 price comparisons with Hong Kong, 11 underselling and 10 overselling; 32 price comparisons with Korea, 12 underselling and 20 overselling; and 24 price comparisons with Taiwan, 3 underselling and 21 overselling. Margins of underselling ranged between 0.3 percent and 48.5 percent. Margins of overselling ranged between 1.3 percent and 232.2 percent.

Table 27

Sweaters of manmade fibers: Average margins of underselling (overselling) by imports from Hong Kong, Korea, and Taiwan reported by purchasers, by products and by quarters, January 1987-March 1990

* * * * * *

Lost sales

Domestic producers provided 7 allegations of lost sales. Korea was named as the alleged import source country in one instance, and Hong Kong was cited as the source country in three instances. The identity of the import source country was not listed in 3 of the allegations. The 7 allegations totaled 29,000 dozen sweaters, valued at \$3,872,200. The Commission staff investigated 5 of these alleged lost sales.

* * * listed * * * in an alleged lost sale that involved an order in * * * for * * * dozen men's acrylic sweaters. The quote was for * * * sweaters and * * * sweaters to be produced for the fall and holiday seasons. * * * quoted a price of \$* * * per dozen for this contract but allegedly lost the sale to competing sweaters from * * *. * * *, chief buyer for * * *, acknowledged that * * * does buy sweaters imported from * * *. * * *, however, * * * the allegation that a sale was lost in * * * to imported sweaters. * * * explained that * * * would not have been buying imported sweaters from any import source in * * *. By that time, * * * said * * * would have already placed * * * percent of * * *'s orders for sweaters for the fall and holiday season. Lead times would have been too tight for import sources to meet a fall delivery schedule to * * *'s stores. Moreover, most

vendors of imports are already booked by that time.¹⁴⁷ * * * could not provide specifics on this particular instance without exact detail as to the type of sweater, design, and yarn weight. * * * said that the alleged domestic price was reasonable for a particular sweater style.¹⁴⁸

Commenting on competition between domestic producers and importers, * * * stated that the prices of U.S. manufacturers "have been sharper in the recent past" and that "in general, prices of sweaters from the subject countries have gone up." The result, * * * said, is that an increasing share of * * * 's orders have gone to domestic knitting mills. The shift, * * * said, has been significant. This year, * * * estimated, the split between domestic and import sources will be about * * *. In past years, the domestic share was much less. * * * emphasized that * * * has a * * *. * * * places orders with domestic suppliers such as * * * in September, before going to the Orient to buy for the next year's selling season.¹⁴⁹ This practice "helps keep the * * * factory running in the off season." At the same time, the domestic manufacturer is willing to quote a lower price in the off season, so both parties gain. Another advantage that domestic firms have over imports, * * * noted, is the fast turnaround from order to delivery.

* * * listed * * * alleged lost sales totalling * * * dozen sweaters valued at \$* * *. * * *, a sweater distributor/jobber in * * *, was cited by * * * as a lost sale for * * * dozen pullover sweaters in * * *. * * * 's offer price of \$* * * per dozen was allegedly rejected in favor of a price of \$* * * per dozen for sweaters imported from * * *. * * *, buyer for * * *, said several factors caused * * * to lose the * * * sale, in fact to lose * * * as an account. * * * at * * * raised this pullover sweater price from roughly \$* * * per dozen to \$* * * per dozen. As a result, the competition for * * *, * * * said, was not imports but another domestic manufacturer, * * *. The latter firm has invested \$* * * in a new computer controlled knitting machine and produces a quality sweater. At the same time, the demand for this \$* * * (at wholesale) "cashmere feel" orlon sweater fell off beginning in 1987-88. The market moved in two other directions. Natural fiber became more popular and fashion styling replaced the standard long-production-run styles. In response to both styling factors--fashion and the growth in demand for cotton and ramie cotton sweaters--* * * sourced principally from the Orient, primarily from * * *. Lower labor costs and

¹⁴⁷ * * * places most of his orders between * * * for delivery by the fall of that coming year. The peak buying season begins in September 1990 for the fall selling season of 1991. * * * noted that if the price is right, he will sometimes hold goods as long as * * * months. He explained that such opportunities can arise when "import vendors haven't been able to make their quotas." This situation has occurred for * * * with sweater manufacturers in * * *.

¹⁴⁸ * * * said the domestic price of \$* * * quoted in this lost sale allegation is too high for a Shaker type sweater, and too low for a fashion designed intarsia knit sweater. A basic jacquard sweater could fall at that price.

¹⁴⁹ * * * explained that some domestic knitting mills were less competitive than others. For example, the sweater prices of a firm like * * *, located in a higher labor cost area, and carrying the cost burden of * * *, were too high compared to those of a firm like * * *, located in * * *, a lower labor cost area.

higher labor content in fashion styling are the basic considerations, * * * said. The * * * line is broader now and ranges from a low price point of \$* * *, wholesale, to \$* * * per sweater, or retail from \$* * * to \$* * * in the pro shops. * * * noted that although demand for the "cashmere feel" orlon sweater had sharply declined, the style remains in the firm's line. The supplier, however, is now * * *. This domestic mill makes that same sweater style of better quality than did * * *, and currently charges * * * a higher price than \$* * * per dozen. * * * adds that considering the dependable high quality and the excellent relationship with * * *, * * * is "happy to pay it."

* * * identified * * *, a * * *, * * * alleged lost sale that occurred in * * *. * * *, like * * *, sells to the * * * market throughout the United States. This alleged lost sale involved an order for * * * dozen pullover sweaters. * * * quoted a price of \$* * * per dozen or \$* * * per sweater but allegedly was rejected by * * * in favor of competing sweaters imported from * * *. * * *, a buyer for * * * stated that the landed, duty-paid price of such "cashmerlon" sweaters that * * * imports from * * * ranged from about \$* * * to \$* * * per sweater. * * * said the domestic price range for competing product was roughly \$* * * to \$* * * each. Most of * * *'s sweaters are imported from * * *. * * * stated that * * * buys only a single style, Orlon cardigan men's and women's sweaters from a domestic source, * * *. All the cashmerlon sweaters are imported from * * *.¹⁵⁰

* * * has varied its sweater line in response to changes in demand to more natural-fiber sweaters, varying the share of cottons and cotton blends, and diminishing the share of acrylic and cashmerlon sweaters. * * *, vice-president of * * *, explained that the firm serves a niche market that requires high quality product but not at the high prices and margins that characterize such lines as * * *. * * * would not want to be in the high-end department store market or in the discount chain market. * * * added that the * * * market has been a growth market, and is currently not affected by the business cycle ups and downs that plague the retail market. * * * said that * * * does about \$* * * a year and could more than double that volume if * * * could solve the long lead-time problems of offshore sourcing.¹⁵¹

¹⁵⁰ In 1989, the sales volume of the cashmerlon imported sweaters totaled * * * pieces. This year demand for * * *'s cashmerlon sweaters is down. Volume amounted to * * * pieces up to * * *, and * * * expects the volume to perhaps reach * * * pieces by August 31, the company's fiscal yearend. In contrast, the cardigan style orlon sweater volume is stable at about * * * pieces annually.

¹⁵¹ * * * is a retired executive of * * *. * * * noted that the time * * * left as head of the * * *, there were 32 competing firms serving that growth market, all of them * * *. One of the secrets of sourcing from offshore suppliers, * * * said, is to be able to control the inputs, specifically the raw materials and yarns. For example, * * * bought and exported * * * for knitting into yarn, then the yarn went to * * * to be made into sweaters, and then he * * *. In sourcing offshore, lead time, * * * said, now runs seven and a half months from design to delivery. This severely limits * * *'s annual volume. * * * estimates that solving this inherent delay problem could boost * * *'s annual volume to as much as \$* * *. Distance, communications, prior production commitments, quotas, input availability problems, and the logistics of transportation all contribute to delay in responding to market opportunities that occur.

*** was cited by *** in *** alleged lost sale that occurred in ***. This alleged lost sale involved an order for *** dozen cardigan style, acrylic sweaters. *** quoted a price of \$*** per dozen or \$*** per sweater. This price was allegedly rejected by *** in favor of a competing offer price of \$*** per dozen or \$*** each for imported sweaters from ***. ***, buyer for the firm, ***, noting that ***'s "moderate to better" line spanned cost-price points from \$*** to \$*** per sweater and in yarn from acrylic at the low end to 100 percent cotton at the high end. *** stated that *** "does not shop broadly" for domestic sources, saying that cardigans are difficult to make and domestic producers "don't like to make this style". *** buys standard styles from domestic mills, which have computerized knitting machines and are geared for long production runs. Because fashion has become the mode in the past year or two, labor costs as well as know-how give imports a significant advantage in price. *** also said that offshore labor is "more meticulous." The result is a better quality, fashion sweater at a lower cost. *** estimated that the price differential between a domestic price and the price of a competing sweater from *** is roughly *** percent. If the price differential were ***, *** commented, *** would turn to the domestic mills and avoid the difficult communications, long lead times, and extra inventory costs involved. Commenting on the industry practice, domestic and foreign, of using "knock-offs" to stay with the fashion or style trend of the moment, *** admitted that "yes," the *** designers managed a few "inspirations" from prior season *** sweater styles every year, and sold these "knock-offs" at prices about *** percent below the *** price points.

*** named *** in an example of a lost sale for *** dozen cotton sweaters in ***, a sale that would have amounted to \$*** for the domestic producer based on that firm's rejected price quote. ***'s offer price was \$*** per dozen or \$*** per sweater. No competing import price or alleged country of origin was provided.

, buyer for ***, responded to the staff's inquiry. The price quoted by *** was confirmed as accurate. *** did seek domestic price quotes from more than one source and import price quotes from the countries named in the investigation and others, but found that "the domestic sources were not competitive." *** confirmed purchasing imported sweaters, but from ***, not from any of the three subject countries. The *** sweaters were offered at a price of \$ per dozen or \$*** each, *** percent below the domestic price. *** noted that the sweater prices of the subject countries have increased to the point of not being competitive. As fashion has become more important in the sweater market, *** has "turned more and more to imports," increasingly from countries other than the three subject to these investigations.

Lost revenues

Four domestic producers listed nine companies involved in 12 lost revenues allegations totaling \$3 million. Alleged lost revenues are a result of price reductions in order to make or save a sale in the face of competing lower-priced imports from one or more of the countries subject to these investigations. The domestic sales value based on the initial domestic price quotes allegedly would have totaled \$9,903,320. In aggregate, the sales value that resulted from the accepted reduced domestic prices amounted to \$6,953,240, a total that reflects lost revenues of \$2.95 million, allegedly because of the competing imports.

*** supplied *** allegations of lost revenues involving sales to ***. ***, a ***, was named in an instance of lost revenues involving a subcontract to produce *** dozen women's sweaters of manmade fiber in ***. *** allegedly reduced its price from an initial quote of \$*** per dozen to \$*** per dozen to obtain the order. No information on competing import prices was submitted. ***, executive of ***, responded to *** by ***. *** has a sales volume of *** to *** dozen sweaters per year, and subcontracts for its sweater supply from five to six domestic mills, among them ***. Price pressure from imported sweaters "causes a cost push on knitters as well as on your material suppliers," said ***. *** emphasized that because of import competition from various countries, including those named in the petition, *** faces a cost/price squeeze that has the effect of "shaving his margin" in order to offer ***'s sweater line at competitive prices. Formerly, ***'s line was roughly *** percent acrylic sweaters. As demand in the sweater market shifted toward natural-fiber fabrics, ***'s line has "leaned more toward natural-fiber sweaters." Natural-fiber sweaters, including blends, now make up *** to *** percent of ***'s sales volume. Most of the firm's sales are to national retail chain stores, such as ***, and multi-location discount retailers, including ***. *** states that the quality of domestic sweaters is equal to competing imports. Price, *** insists, is the paramount consideration in being able to compete with imports. Because *** has not supplied the high-end department store chains that are burdened by debt from leveraged buy-outs and bankruptcy proceedings, the firm has not suffered financial losses as many other jobbers have. *** has lost sales volume because one of its customers, the *** discount chain, is ***.

*** cited the *** as another example of lost revenues in ***. *** alleged that it received an order to make *** dozen misses and juniors sweaters after reducing its initial price from \$*** per dozen to \$*** per dozen. ***, a principal of the firm, explained that *** is a jobber that views itself as a sweater manufacturer. The company, however, has no plant or machinery; it subcontracts the knitting of the sweaters to various knitting mills in the Northeast, then markets the sweaters to its own network of purchasers. *** supplies the dyed yarn and the designs. The subcontract, described as a "labor only" contract, is in effect a service or tolling arrangement for the knitting process. *** confirmed the figures *** and explained that *** is being "squeezed by his customers," for example ***, for lower prices. The implied threat by such accounts, *** said, is that imported sweaters from the three subject countries and other newer sources are available at lower prices. *** noted that many of these large chains and private labels already have offices in East Asia and can buy direct, cutting out the middleman such as himself. *** explained that his company does not

have the large margins that importers enjoy. At the price points of the * * * line, the wholesale price for these women's sweaters ranges from \$* * * to \$* * * and * * * is working on a * * *, net of all allowances. Some large accounts, such as the 500-store * * * chain, push this margin down to * * * percent or even lower. They ask for, and get, an additional * * * percent "off the top;" this includes a * * *-percent "anticipation" allowance, and a * * *-percent "warehousing and distribution" allowance. If the line does not completely "sell through," * * * would then ask for an end-of-year "mark down" allowance. Asked if his volume has declined in recent years because of imports, * * * said no, that * * * has prevented a loss of market share by cutting his margin, but that many other domestic firms have been forced out of business as margins slimmed.¹⁵²

* * * was identified in an example of alleged lost revenues in * * *. * * * received a \$* * * subcontract to knit * * * dozen sweaters of misses, junior, and mamma sizes, after * * * allegedly reduced its initial price quote of \$* * * per dozen to \$* * * per dozen because of price pressure from competing imported sweaters from Hong Kong, Korea, and Taiwan. * * *, an executive of * * *, stated that the firm subcontracts a volume of roughly * * * dozen sweaters per year. These subcontracts to knit this volume are spread among a dozen knitting companies. * * * supplies the designs and the dyed yarns. * * * acknowledged that * * *'s other suppliers have had to reduce their prices because of imports from the subject countries, among others. * * * recounted that the discount retail chains that are * * *'s customers repeatedly ask "why should I buy from you? I can buy imports for less." The result is that * * *, and other knitting mills and jobbers must face up to tight margins and yet offer a quality product. The margins have been cut to * * * percent. Nevertheless, * * * has lost some business. But, said * * *, the injury to * * *, and, * * * believes, to the domestic knitting industry overall, has been more a matter of lower and lower margins, i.e., lost revenues, rather than lost sales.

* * * named * * * in another instance of lost revenues in * * *. * * * stated that it reduced its price from \$* * * to \$* * * per dozen in order to capture a \$* * * subcontract to knit * * * dozen * * * sweaters. * * *, a principal in the firm, reported the price reduction and quantity * * *, but emphasized that this was a "service price," not a purchase price. * * *, * * * insisted, was a manufacturer, and the cost from * * * did not include materials, selling expense, or design cost. * * * stated that cost elements not included in the knitting price would amount to * * * percent or more of the cost of a sweater. Therefore, * * * emphasized that any comparison that the Commission made with import prices would be in error. * * * said, however, "import competition is always a part of the market."

In another example of lost revenues, * * * listed * * *, a jobber/manufacturer located in * * *, as the purchaser of * * * dozen * * * sweaters in * * *. To obtain this knitting order, * * * reduced its initial price quote of \$* * * per dozen to \$* * * per dozen. * * *, a senior executive of the firm, confirmed the quantity of the order and the competing

¹⁵² * * *'s annual volume of about \$* * * million fluctuates year to year within a half million dollars. * * * says the explanation is not necessarily import competition, but the fact that in a fashion market such as sweaters you cannot always guess right on quantity, color, or design.

prices * * *. * * *, * * * stated, is about to become a casualty because of competition from imported sweaters from the subject countries and other new entry countries. * * * is in the process of closing the firm.

* * * 's order book for the coming fall season (which stretches into the holiday selling season) is virtually empty, all as a result of imports, * * * asserts. Normally, the firm's annual sales volume, entirely * * * sweaters, has been about \$* * *. The volume booked for this year is only \$* * *. * * * explained that the company's annual sales volume depends almost entirely on the orders for the fall selling season. Such orders are placed in early spring for shipment in April, May, and June.¹⁵³ In the past, two major accounts, * * *, accounted for roughly * * * percent of * * * 's total sales volume. * * *, which usually gave * * * an order each year for about \$* * * in acrylic sweaters, ordered nothing this year. * * *, whose annual * * * sweater order generally added roughly another \$* * * to * * * 's sales volume, cut its order to \$* * *. Both customers had turned to imports from one or more of the subject countries as well as to imports from other countries. According to * * *, these two customers explained that the soft retail market increased the efforts of importers to retain and increase volume and market share by offering sweaters at extremely low prices. Considering the increased margins that such low cost prices made possible, buyers for these chain stores explained that they could not justify placing their usual orders with * * * at higher prices.

* * * provided * * * examples of lost revenues in * * * that involved a single customer, * * *. * * * received two orders for acrylic sweaters in * * * after reducing its initial price for * * * and also for * * * from \$* * * and \$* * * per dozen, respectively, to \$* * * per dozen.¹⁵⁴ In * * *, * * * received two more contracts from * * * to make * * * dozen and * * * dozen of these women's * * * sweaters after allegedly reducing its initial * * * price quote from \$* * * to \$* * * per dozen and then, in * * *, reducing its initial price for that order from \$* * * to \$* * * per dozen.

* * *, a principal of the firm, confirmed the price reductions * * *. * * * added that, even at the reduced prices, it is difficult to compete. Margins are lower, between * * * and * * * percent at most. At that level, * * * said that, as a jobber, * * * is injured. In contrast, * * * noted that companies like * * * are growing in market share every year. Adding to the problem of import competition, * * * said, is the fact that demand for acrylic sweaters is down and is being replaced by demand for sweaters made of cotton and cotton blends. "On the West coast," said * * *, "the acrylic sweater business is the lowest it has been since 1982."

* * * listed * * * instances of alleged lost revenues. The first example involved a price quoted to * * * in * * * to knit * * * dozen cotton sweaters. * * * 's initial quote of \$* * * per dozen was rejected. Nor was a reduced price of \$* * * per dozen accepted by * * *. In effect, this opportunity to obtain an order worth \$* * * was a lost sale allegation. * * *, buyer for * * *, stated that * * * orders over * * * dozen cotton or cotton blend sweaters annually. Contrary to the allegation, all of the cotton sweaters * * * purchases are sourced from domestic suppliers. The fashion trend, * * * explained, has pushed * * * to domestic knitters such as * * * and * * * for

¹⁵³ * * * noted that the "back to school" programs of * * * 's discount retail chain are already booked and the sweaters must be in the retail stores by August.

¹⁵⁴ All of the manmade fiber sweaters listed by * * * were * * *.

volume that formerly went offshore. The new fashion is more hand intarsia, i.e., more hand embroidery. * * * noted that some but not all domestic mills have new knitting machinery that is programmable for any kind of yarn. Moreover, * * * adds, some of these domestic knitters also have offshore plants for supplying imported sweaters. * * * still purchases much of its acrylic-sweater supply offshore from various countries including those subject to this investigation. The percentage share of * * * 's acrylic volume, however, is dropping because of the change in the structure of demand toward cotton. * * * estimates that the domestic share of * * * 's sweater business is up from its former level of * * * percent to * * * percent. Differences between imported and domestic prices are rarely as much as * * * ; more often the imports' price advantage is roughly * * *. * * * stated that in terms of quality, U.S. sources rank with the world. As for the subject countries' competitive position, * * * believes that the percent of imports coming from those countries is declining as sourcing moves to new entrant countries and as some volume returns to U.S. manufacturers.

* * * named * * * as the purchaser in another instance of alleged lost revenues in * * *. * * * 's initial bid of \$* * * each for * * * dozen cotton sweaters was reduced to \$* * * per sweater. The assistant of * * *, a buyer, reported that * * * had purchased * * * men's crew neck sweaters and * * * men's cardigan sweaters from domestic sources in * * *. Both styles were purchased for \$* * * each, including freight. * * * had no information on the prices for orders placed for the 1990 selling season.

* * * cited * * *, a private label sweater jobber/distributor based in * * *, in an instance of alleged lost revenue in * * *. * * * 's initial bid of \$* * * per dozen to manufacture * * * dozen * * * sweaters was rejected, allegedly because of competition from lower priced imports from * * *. * * * requested a reduced price of \$* * * per dozen and that price was accepted. At the request of ITC staff, * * * amplified the facts concerning this allegation. Negotiations with * * * began in * * *. At the time, * * * was told by that firm that it, * * *, was one of the largest importers of * * * acrylic sweaters.¹⁵⁵

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of the three countries subject to this investigation fluctuated in relation to the U.S. dollar over the period from January-March 1987 through January-March 1990 (table 28).¹⁵⁶ The nominal value of the Hong Kong currency depreciated by 0.3 percent while the respective values of the Korean and Taiwanese currencies appreciated by 23.9 percent and 33.9 percent. When adjusted for movements in producer price indexes in the United States and the specified countries, the real values of the Hong Kong, Korean, and Taiwanese currencies appreciated by 11.9 percent, 16.2 percent, and 11.5 percent, respectively.

¹⁵⁵ * * * stated that its share of total * * * sweater exports to the United States at that time was roughly * * * percent.

¹⁵⁶ International Financial Statistics, June 1990.

Table 28

Exchange rates: 1/ Indexes of nominal and real exchange rates of selected currencies and indexes of producer prices in specified countries, 2/ by quarters, January 1987-March 1990

Period	Hong Kong				Korea			Taiwan		
	U.S. pro- ducer price index	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ^{3/}	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ^{3/}	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ^{3/}
1987:										
Jan.-Mar.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June.....	101.6	102.2	99.8	100.3	101.1	103.4	102.8	99.2	107.9	105.3
July-Sept.....	102.8	103.4	99.8	100.4	101.2	106.0	104.4	98.4	114.7	109.8
Oct.-Dec.....	103.2	105.2	100.0	101.9	101.6	107.1	105.5	97.4	118.3	111.6
1988:										
Jan.-Mar.....	103.8	106.7	99.9	102.7	103.3	110.9	110.4	95.9	122.2	112.9
Apr.-June.....	105.6	109.4	99.7	103.2	103.4	116.3	113.8	97.2	122.0	112.2
July-Sept.....	107.1	111.5	99.7	103.9	104.2	118.4	115.2	98.2	121.7	111.6
Oct.-Dec.....	107.6	113.4	99.7	105.2	104.2	123.0	119.1	98.1	123.2	112.4
1989:										
Jan.-Mar.....	109.9	116.8	99.9	106.1	104.6	126.3	120.2	98.3	126.4	113.0
Apr.-June.....	111.8	120.2	100.1	107.6	105.4	128.3	121.0	97.9	133.1	116.5
July-Sept.....	111.3	122.6	99.8	109.9	105.3	128.0	121.0	96.1	135.8	117.3
Oct.-Dec.....	111.8	124.4	99.7	111.0	105.8	127.2	120.4	95.2	134.6	114.7
1990:										
Jan.-Mar.....	113.5	127.4	99.7	111.9	106.4	123.9	116.2	<u>4/</u> 94.5	<u>4/</u> 133.9	<u>4/</u> 111.5

1/ Exchange rates expressed in U.S. dollars per unit of foreign currency.

2/ Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.

3/ The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the specified countries.

4/ Derived from Taiwan exchange rate and price data reported for January-February only.

Note.--January-March 1987 = 100.

Source: International Monetary Fund, International Financial Statistics, June 1990.

APPENDIX A

THE COMMISSION'S FEDERAL REGISTER NOTICES

[Investigations Nos. 731-TA-448, 449, and 450 (Final)]

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, the Republic of Korea, and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-448, 449, and 450 (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 Hong Kong, the Republic of Korea ("Korea"), and Taiwan of sweaters, wholly or in chief weight of manmade fibers ("sweaters of manmade fibers")¹ provided for in

¹ For purposes of these investigations, "sweaters of manmade fibers" are defined as knitted or crocheted outerwear garments wholly or in chief weight of manmade fibers, in a variety of forms including jackets, vests, cardigans with button or zipper fronts, and pullovers, usually having ribbing around the neck, bottom, and/or cuffs on the sleeves (if any), encompassing garments of various

subheadings 6103.23.00, 6103.29.10, 6103.29.20, 6104.23.00, 6104.29.10, 6104.29.20, 6110.30.10, 6110.30.20, and 6110.30.30 of the Harmonized Tariff Schedule of the United States (previously under items 381.24, 381.25, 381.35, 381.66, 381.85, 381.89, 381.90, 381.99, 384.18, 384.27, 384.77, 384.80, and 384.96 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before July 5, 1990, and the Commission will make its final injury determinations by August 24, 1990 (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 these investigations, 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), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-252-1177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20438. 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

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of sweaters of manmade fibers from Hong Kong, Korea, and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigations were requested in a

lengths. The phrase "in chief weight of manmade fibers" includes sweaters where the manmade fibers predominate by weight over each other single textile material. Sweaters of manmade fibers, as defined here, do not include sweaters 23 percent or more by weight of wool or sweaters for infants 24 months of age or younger. Sweaters of manmade fibers include all such sweaters regardless of the number of stitches per centimeter, but with regard to sweaters having more than nine stitches per two linear centimeters horizontally, only those with a knit-on rib at the bottom are included.

petition filed on September 22, 1989, by counsel on behalf of the National Knitwear and Sportswear Association, New York, NY. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, 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 (54 FR 47585, November 15, 1989).

Participation in the Investigations

Persons wishing to participate in these investigations 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.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public 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 and Business Proprietary Information Service List

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these final investigations 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 served on all the parties that are authorized to receive such information under a protective order.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on July 6, 1990, 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 these investigations beginning at 9:30 a.m. on July 24, 1990, 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 of the Commission not later than the close of business (5:15 p.m.) on July 18, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 17, 1990 at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is July 18, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due on July 19, 1990.

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 nonbusiness 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

Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal

arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on July 30, 1990. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due July 31, 1990. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject to the investigations on or before July 30, 1990.

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 which submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than August 2, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due August 3, 1990.

Authority

These investigations are 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).

Issued: May 4, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-10795 Filed 5-8-90; 8:45 am]

BILLING CODE 7020-02-M

Department of Commerce extended the date for its final determination concerning Hong Kong from July 5, 1990 to July 19, 1990, and for its final determinations concerning the Republic of Korea and Taiwan from July 5, 1990 to August 2, 1990. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedules.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 30, 1990; the prehearing conference will be held at the U.S. International Trade Commission Building on August 2, 1990; the prehearing staff report will be placed in the nonpublic record on July 23, 1990; the deadline for filing prehearing briefs is August 3, 1990 (nonbusiness proprietary version due August 6, 1990); the hearing will be held at the U.S. International Trade Commission Building on August 9, 1990; the deadline for filing posthearing briefs is August 14, 1990 (nonbusiness proprietary version due August 15, 1990), and the deadline for Parties to file additional written comments on business proprietary information is August 17, 1990 (nonbusiness proprietary version due August 20, 1990).

For further information concerning these investigations see the Commission's notice of investigations cited above and 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: These investigations are 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).

Issued: June 12, 1990.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 90-13930 Filed 6-14-90; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-448, 499, and 450 (Final)]

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, The Republic of Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-252-1177), 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 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: On April 27, 1990, the Commission instituted the subject investigations and established a schedule for their conduct (55 FR 19369, May 9, 1990). Subsequently, the

APPENDIX B

COMMERCE'S FEDERAL REGISTER NOTICES

International Trade Administration

(A-582-802)

Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong**AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: We determine that sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from Hong Kong 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 MMF sweaters from Hong Kong, as described in the "Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: (July 27, 1990).

FOR FURTHER INFORMATION CONTACT: Michelle O'Neill or Carole Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1673 or 377-3217, respectively.

SUPPLEMENTARY INFORMATION:**Final Determination**

We determine that MMF sweaters from Hong Kong, except those of Crystal Knitters Ltd. (Crystal) and Laws Knitters Ltd. (Laws), 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 estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determination (55 FR 17788, April 27, 1990), the following events have occurred. Counsel for Crystal and Comitex Knitters Ltd. (Comitex) requested that the final determination in this antidumping duty investigation be postponed until July 19, 1990, pursuant to section 735(a)(2) of the Act. On June 21, 1990, we issued a notice postponing our final determination until not later

than July 19, 1990, and announcing the public hearing (55 FR 25352).

On April 26, 1990, counsel for Prosperity Clothing Co., Ltd./Estero Enterprises Ltd. (Prosperity) filed an allegation of clerical error with regard to its and the "all others" preliminary estimated weighted-average dumping margins. On May 9, 1990, we published a notice amending the preliminary margin for Prosperity and the "all others" rate (55 FR 19289).

Verification of the questionnaire responses was conducted in Hong Kong and the United States, as appropriate, during May 1990, except for Prosperity. On May 19, 1990, counsel for Prosperity notified Department officials that the company had refused verification and that they were withdrawing as counsel. No explanation for either action was provided.

A public hearing was held on June 26, 1990. Petitioner, respondents, and other interested parties filed case and rebuttal briefs on June 21, and June 25, 1990, respectively.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is being classified solely according to the appropriate HTS item numbers.

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knit or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys' or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that,

with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

In our preliminary determination, we clarified the scope of this investigation by deleting the phrase "but most typically ending at the waist." This has raised a number of questions. For further clarification, a product or garment will not be considered a sweater nor included in the scope of this investigation if it extends to mid-calf or below and is lined.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10 and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. Specifically excluded from the scope of this investigation are sweaters assembled in Guam that are produced from knit-to-shape component parts knit in and imported from Hong Kong. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Period of Investigation

The period of investigation (POI) is April 1, 1989, through September 30, 1989.

Such or Similar Comparisons

For all respondent companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for Prosperity. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required * * * or otherwise significantly impedes an investigation * * *." Given Prosperity's refusal to allow its response to be verified, this section of the Act applies.

In deciding what to use as best information available, § 353.37(b) of the Department's regulations (19 CFR 353.37(b)) (1990) provides that the Department may take into account whether a party refuses to provide requested information. Thus, the Department determines on a case-by-

case basis what is the best information available. For purposes of this final determination, given Prosperity's refusal to allow its information to be verified, as best information available, we assigned it the highest margin in the petition, *i.e.*, 115.15 percent.

Fair Value Comparisons

To determine whether sales of MMF sweaters from Hong Kong to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Crystal and Laws, we based United States price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States. For Comitex, we based United States price on both purchase price and exporter's sales price (ESP), in accordance with section 772 (b) and (c) of the Act. ESP was used where the merchandise was not sold to unrelated purchasers until after importation into the United States.

A. Comitex

We calculated purchase price based on packed, f.o.b. Hong Kong port or customer's warehouse prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, containerization expenses, ocean freight, marine insurance, U.S. duty and fees, U.S. inland freight, and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. warehouse or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization expenses, ocean freight, marine insurance, U.S. brokerage and handling expenses, U.S. duty and fees, and U.S. inland freight in accordance with section 772(d)(2) of the Act. We made further deductions, where appropriate, for quota expenses (which we have considered direct selling expenses), credit expenses, product liability premiums, inventory carrying costs, and other indirect selling expenses, in accordance with section 772(e) (1) and (2) of the Act.

B. Crystal

We calculated purchase price based on packed, f.o.b. Hong Kong port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, and foreign inland freight in accordance with section 772(d)(2) of the Act.

Based on our findings at verification, we adjusted Crystal's data for certain minor clerical errors. In addition, credit expenses were recalculated to reflect the interest rate in effect during the POI rather than the period in which the merchandise was shipped. For one unique transaction, interest expense was offset by interest revenue. The net interest expense was used in the calculation of FMV. (See DOC Position to Comment 11 in the *Interested Party Comments* section of this notice.) Finally, the factor used for calculating indirect selling expenses was adjusted to reflect a percentage of the value of sales rather than the cost of goods sold.

C. Laws

We calculated purchase price based on packed, f.o.b. Hong Kong port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, and foreign inland freight in accordance with section 772(d)(2) of the Act.

For purposes of the preliminary determination, we excluded a sale characterized by Laws as a "distress sale." Based on our findings at verification, we did not find that this sale was a sample sale or a sale of defective merchandise. Therefore, for the purposes of this final determination, we have included it in our analysis.

D. Prosperity

See Best Information Available section of this notice.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value (FMV) based on constructed value (CV) for all respondents because there were no or insufficient sales of MMF sweaters in either the home or third country markets.

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (i.e., all MMF sweaters) to the aggregate volume of third country sales, in accordance with section 773(a)(1) of the Act. For three of the respondents (Comitex, Crystal, and

Laws), the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with § 353.48 of the Department's regulations (19 CFR 353.48). In addition, for the same three respondents, the aggregate volume of third country sales was less than five percent of the volume sold to the United States. Because neither the home market nor any third country market constituted a viable basis for calculating FMV, we based FMV on CV, in accordance with section 773(a)(2) of the Act. For the fourth respondent, Prosperity, we used the best information available in accordance with section 776(c) of the Act. (See Best Information Available section of this notice.)

Petitioner alleged that Prosperity sold MMF sweaters to the third country at prices below the cost of production. Based on this allegation, we gathered data on Prosperity's production costs. However, because of Prosperity's refusal, this information was not verified. (See Best Information Available section of this notice.)

A. Comitex

As stated above, neither the home market nor any third country market was viable. Accordingly, we calculated FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. For comparisons involving purchase price sales we used: (1) The higher of either the actual general expenses or the statutory ten percent minimum of materials and fabrication, depending on the products, in accordance with section 773(e)(1)(B)(i) of the Act; (2) the statutory eight percent minimum profit because respondent did not have a viable home or third country market, in accordance with section 773(e)(1)(B)(ii) of the Act; and (3) imputed credit, which was included in selling expenses. We then reduced interest expense reflected on the company books for a portion of the expense related to these imputed credit costs in order to avoid double counting.

For comparisons involving ESP sales we used: (1) Actual general expenses, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) the statutory eight percent minimum profit because respondent did not have a viable home or third country market; and (3) imputed credit and inventory carrying costs, which were included in selling expenses. We then reduced

interest expense reflected on the company books for a portion of the expense related to these imputed costs in order to avoid double counting.

Because neither the home market nor any third country market was viable, we included in CV general expenses and packing expenses based on reported U.S. experience. These expenses differed depending on whether the product was sold through a purchase price or an ESP transaction.

For material costs, we made an adjustment to reflect the simple average prices for each type of yarn for July through September, the months in which the sweaters sold during the POI were produced. We made a further adjustment to material costs to include an additional amount for dyed yarn which was not used in any sweater production. We used quota revenue as an offset to selling, general and administrative (SG&A) expenses. Further, as best information available, we included a percentage of general and administrative (G&A) expenses and finance expenses on the basis of consolidated financial statements of Comitex Holdings, Ltd. (CHL) for the year ended December 31, 1989. (For further discussion of each of these adjustments, see DOC Positions to Comments 6 through 10 in the *Interested Party Comments* section of this notice.)

We made an adjustment to CV, in accordance with § 353.56 of the Department's regulations, for differences in circumstances of sale (19 CFR 353.56). This adjustment was made for differences in credit expenses, quota expenses, transit interest and bank handling charges, where appropriate. We also adjusted for differences in packing.

For comparisons involving ESP transactions, we made a further deduction for indirect selling expenses, which include product liability, inventory carrying costs, and "other" indirect selling expenses capped by the indirect selling expenses incurred on ESP sales (ESPCAP), in accordance with § 353.56(b)(2) of the Department's regulations (19 CFR 353.56(b)(2)).

B. Crystal

As stated above, neither the home market nor any third country market was viable. Accordingly, we calculated FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases we used: (1) Actual general expenses, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) the statutory eight

percent minimum profit, because respondent did not have a viable home or third country market; and (3) imputed credit, which was included in selling expenses. We then reduced interest expense reflected on the company books for a portion of the expense related to these imputed credit costs in order to avoid double counting.

Because neither the home market nor any third country market was viable, we included in CV general expenses and packing expenses based on reported U.S. experience.

Material costs were adjusted to include an additional amount for dyed yarn which was not used in any sweater production. The fabrication expense was adjusted by including actual rent paid to the related party instead of the depreciation expense calculated by the respondent as the best information available for the fair market value for rent prices. G&A was increased to include donations. Further, based on the findings at verification, we corrected two clerical errors in the total G&A expenses amount and the cost of sales. Finally, interest expense was calculated based on the consolidated financial statements of Crystal Holdings Limited for the nine months ended September 30, 1989, rather than the portion of net interest expense the company attributed to the product under investigation. (For further discussion of these adjustments, see DOC Positions to Comments 6, and 12 through 16 in the Interested Party Comments section of this notice.)

We made an adjustment to CV, in accordance with § 353.56 of the Department's regulations, for differences in circumstances of sale. This adjustment was made for differences in credit expenses and bank handling charges. We also made an adjustment for differences in packing.

C. Laws

As stated above, neither the home market nor any third country market was viable. Accordingly, we calculated FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases we used: (1) Actual general expenses, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) the statutory eight percent minimum profit, because respondent did not have a viable home or third country market; and (3) imputed credit, which was included in selling expenses. We then reduced interest expense reflected on the company books for a portion of the expense related to these imputed credit costs in order to avoid double counting.

Because neither the home market nor any third country market was viable, we included in CV general expenses and packing expenses based on reported U.S. experience.

Further, at verification, we found that certain subcontractor fees did not include the cost of equipment owned by Laws but used by the subcontractors. In those instances, we increased subcontractor fees, included in fabrication costs, by the amount of depreciation of such equipment. Material costs were adjusted to include an additional amount for dyed yarn which was not used in any sweater production. In addition, we increased G&A expenses for factory overhead amounts reclassified as general expenses but not included by Laws in its consolidated general expenses. (For further discussion of these adjustments, see DOC Positions to Comments 6, 18, and 20 in *Interested Party Comments* section of this notice.)

We made an adjustment to CV, in accordance with § 353.56 of the Department's regulations, for differences in circumstances of sale. This adjustment was made for differences in credit expenses and commissions. We also made an adjustment for differences in packing.

D. Prosperity

See Best Information Available section of this notice.

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations (19 CFR 353.60(a)). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

Except where noted, 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 source documents of the respondents. Our verification results are outlined in the public versions of the verification reports which are on file in the Central Records Unit (room B-099) of the Main Commerce Building.

Interested Party Comments

All comments raised by parties to the proceedings in the antidumping duty investigation of MMF sweaters from Hong Kong are discussed below.

Comment 1

The Hong Kong Woolen and Synthetic Knitting Manufacturers Association, Ltd. (the Association) argues that the selection of Prosperity as a respondent by the Department was flawed because it was based on quota holdings rather than volume of actual exports. The Association contends that, had the Department based its respondent selection on actual exports rather than quota holdings, Prosperity would not have been chosen because its exports represented a relatively smaller share of total exports from Hong Kong. The Association asserts that, in fact, 30 percent coverage could have been achieved by the three largest respondents, exclusive of Prosperity.

DOC Position

Immediately after the receipt of the petition, the Department attempted to identify all potential respondents in this investigation. The Department's efforts included soliciting export information covering the POI from the U.S. Consulate in Hong Kong and the Hong Kong Section of the British Embassy in Washington, and later from counsel for the Association. A partial list of export statistics was received from the U.S. Consulate and a complete list of 1989 quota holders was obtained from the Hong Kong government. In addition, at the Department's request, on November 15, 1989, the Association submitted the following information for the 30 largest quota holders in Hong Kong: The company name; its 1989 quota allocation; its designation as either a manufacturer, exporter, or both; the quantity and value of shipments; and notes identifying related companies, if any. The Association qualified this information by stating in its submission that the shipment data were not definitive and "cover only direct exports to the United States. Data on indirect exports, made by the listed companies through trading companies (if any), was not available."

Normally, we base respondent selection on shipments or sales to the United States during a given period of time, as we did in the investigations of MMF sweaters involving the Republic of Korea and Taiwan. However, in this case, given the qualified and incomplete data available regarding shipments to the United States, we based respondent selection on the only complete information available at the time, *i.e.*, quota allocations. Based on this analysis, Comitex, Crystal, Laws, and Prosperity (combined with their related companies) accounted for 30 percent of

the 1989 Hong Kong quota allocations. This analysis is documented in a November 22, 1989, memorandum, included as part of the official record of this investigation.

The Association contends that shipment data contained in its November 15 submission combined with the new information submitted in its case brief pertaining to export licenses indicated that Comitex, Crystal and Laws alone accounted for 30 percent of exports of the Hong Kong companies designated as manufacturers and, as such, Prosperity should not have been selected as a respondent in this case. Apart from the fact that the Association itself characterized the November 15 data as incomplete and that the information in the case brief was untimely filed, we were unable to verify the characterization of companies as manufacturers or exporters with either the Hong Kong Government, the Association, or by reviewing trade directories. The relative size of companies, exports in Hong Kong could not be determined.

In summary, the only complete and verified statistical data pertaining to MMF sweaters were the quota allocations submitted by the Hong Kong Government. Given the statutory deadlines, we had no choice but to rely upon the quota allocations for purposes of respondent selection. As such, the selection of Hong Kong respondents was reasonable and justified by the facts on the record in this case.

Comment 2

The Association argues that the Department's rationale that a company not wishing to receive the "all others" rate can file a voluntary response is immaterial because the Department would not have considered any voluntary responses it received. Therefore, the Association argues there is no justification for including Prosperity's rate based on best information available in the calculation of the "all others" rate. To support its argument, the Association relies on three sources: (1) The November 22, 1989, internal memorandum regarding staffing levels and feasible caseload, (2) § 353.31(b) of the Department's regulations which states that the Department normally will not consider or retain in the record of the proceeding unsolicited responses, and (3) the decision of the U.S. Court of International Trade (CIT) in *Asocolflores v. United States*, 717 F. Supp. 834 (CIT 1989) (*Asocolflores II*).

Petitioner states that the Association's argument that the change in the Department's regulations concerning the

submission of voluntary responses is unpersuasive because (1) even though the language in the Department's regulations state that voluntary responses will "normally" not be considered, it does not preclude their consideration on a case by case basis, (2) since no voluntary responses were received by the Department, respondent's assumption is merely speculative, and (3) since the new regulations have come into force, the Department has received and considered voluntary responses in the Preliminary Determination of Sales of Less Than Fair Value: Gray Portland Cement and Clinker from Mexico, (55 FR 13817, April 12, 1990).

The United States Association of Importers of Textiles and Apparels (USA-ITA) argues that although the Department's methodology for respondent selection may have been unavoidable under the circumstances of this investigation, the coverage of 30 percent of the merchandise under investigation does not reflect the Department's normal basis for calculating the "all others" rate, i.e., 60 percent. In addition, USA-ITA states that the change in the Department's regulations regarding the submission of voluntary responses was confirmed in the Department's November 22, 1989, internal memo regarding feasible caseload. Consequently, USA-ITA states that companies in this investigation not chosen to receive questionnaires were involuntarily and unavoidably at risk of receiving an unfavorable "all others" rate. In support, the Association cites to *Asocolflores II* to argue that any claim that unnamed respondents could have participated by submitting voluntary responses is disingenuous.

Doc. Position

The Department has accepted a voluntary response since the new regulations came into effect. See Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico (55 FR 29244, July 18, 1990) At no time during the course of this investigation did we receive any indication that other companies in Hong Kong were even considering the filing of voluntary responses nor did we receive any requests for exclusion as permitted by § 353.14 of the regulations. The issue of whether or not the Department would have accepted such responses was never raised until briefs were filed in this case. In any event, since we have excluded Prosperity's rate from our calculation of the "all others" rate, the issue is moot.

Comment 3

Petitioner argues that Prosperity's margin based on best information available should be included in the calculation of the "all others" rate. Petitioner refers to the Department's longstanding practice of including rates based on best information available in the "all others" rate, citing to Final Determination of Sales at Less Than Fair Value: Cellular Mobile Telephones from Japan, (50 FR 45447, October 31, 1985) (*CMTs*) and the preliminary determination in the investigation of the subject merchandise from Taiwan as precedent.

The Association argues that firms not representative of the industry should not be included in the calculation of the "all others" rate, as supported by the Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Taiwan (54 FR 42543, October 17, 1989). The Association contends that petitioner's reliance on *CMTs* is misplaced because this case did not address the issue of firm representativeness nor did it address what it considered to be the Department's apparent new policy regarding voluntary responses. The Association adds that the Department's methodology discussed in the preliminary determination involving MMF sweaters from Taiwan is not binding as to this final determination.

USA-ITA argues that the Department has recognized that the companies investigated were not representative and that administrative precedent exists with respect to the exclusion of unverified non-representative margins from the "all others" rate, citing Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Ecuador, (52 FR 2128, January 20, 1987). Furthermore, USA-ITA contends that the reasoning behind the exceptions to the exclusion from the "all others" rate was accepted by the CIT in *Serampore Industries Pvt. v. United States*, 696 F. Supp. 665 (CIT 1988) (*Serampore*). USA-ITA concludes that the "all others" rate, assigned in this case to 70 percent of the industry, should follow the remedial intent of the antidumping laws rather than the punitive resort to best information available for recalcitrant or non-cooperative companies.

Next, petitioner argues that the Department must follow its longstanding practice of excluding zero or *de minimis* margins from the calculation of the "all others" rate. Petitioner argues that the exclusion of zero or *de minimis* margins

from the "all others" rate is supported by past precedent and refers to the affirmation of the Department's practice in *Serampore* regarding the calculation of the "all others" rate based on all affirmative margins.

The Association argues that the Department ordinarily investigates these companies accounting for 60 percent of exports to the United States during the POL. According to the Association, when less than 60 percent of exports are investigated, the Department normally resorts to sampling. In this case, sampling was not used because of the inability to obtain a representative sample. Rather, the Department decided to investigate those exporters representing the top 30 percent of exports. Given that the Department was only investigating 30 percent of exports rather than the normal 60 percent, the Association argues that the 30 percent investigated should be considered to be representative of the industry. The Association cites to the judicial precedent in *Asocolflores v. United States*, 704 F. Supp. 1114, 11 ITRD 1009 (CIT 1989), which establishes that the Department must be prepared to justify that its respondent selection process was appropriate.

The Association states, therefore, that it would be unconscionable to determine an "all others" rate calculated largely on a rate based on a company-specific, punitive, best information available, especially where the company's export performance represented only a small portion of total shipments. This situation would be more egregious, the Association contends, if the Department were to leave out the verified *de minimis* margins of other respondents. In support of its argument, the Association cites to the CIT's decision in *Serampore*, which stated that the "all others" rate should be based on the "weighted-average of the rates for the members of the sample", which would include zero or *de minimis* margins.

USA-ITA asserts that the exceptions to the Department's normal practice of excluding zero or *de minimis* margins in the "all others" rate, set forth in the decision in *Serampore*, apply to this case on the basis that the Department was unable to develop a scientific sample.

Doc Position

The Department's normal practice with regard to a company that refuses to participate in, or otherwise impedes, the Department's investigation is to assign that company the least favorable rate based on best information available. Because Prosperity refused verification, we assigned it the highest rate in the

petition, 115.15 percent, as best information available. (See Best Information Available section of this notice.) Furthermore, in the ordinary case, it is our general practice to include all rates based on best information available in our calculation of the "all others" rate. See Final Determination of Sales at Less Than Fair Value: Internal-Combustion Forklift Trucks from Japan, (53 FR 13217, April 21, 1988) (Forklift Trucks) and Final Determination of Sales at Less Than Fair Value: Antifriction Bearings, Other Than Tapered Roller Bearings, and Parts Thereof from the Federal Republic of Germany, et al. (54 FR 53141, May 3, 1989) (AFBs). However, given (1) the enormous disparity between the three verified rates and the highest rate in the petition, i.e., approximately 20 times greater, (2) our examination of only the top 30 percent of total quota holdings, and (3) the small number of firms investigated, i.e., four from a potential pool of over 300, we find it inappropriate to include Prosperity's rate in the calculation of the "all others" rate for this investigation.

We do not, however, find that circumstances in this investigation justify deviation from our normal practice of excluding zero or *de minimis* rates in our calculation of the "all others" rate. In *Serampore*, the CIT found reasonable the Department's general practice of excluding respondent firms with zero or *de minimis* margins in calculating an "all others" rate. While the Department has made an exception to this practice when it relies on sampling in its selection of respondents (See Final Determination of Sales at Less Than Fair Value: Fresh Cut Flowers from Colombia (52 FR 6842, March 5, 1987)), the Department did not employ scientific or statistical sampling in selecting respondents in this investigation. Therefore, in accordance with our normal practice, we have excluded zero and *de minimis* margins from our calculation of the "all others" rate for the purposes of our final determination in this investigation. Because we have excluded both Prosperity's margin and the zero and *de minimis* margins of Crystal and Laws, the Department has found it appropriate to apply Comitex's margin, the only affirmative verified margin in this investigation, as the "all others" rate.

Comment 4

Petitioner argues that failure to incorporate Prosperity's rate in the "all others" rate would provide companies with an incentive to circumvent the antidumping duty law by refusing to provide information, terminating their

businesses, and reincorporating to take advantage of a lower "all others" rate.

The Association contends that the Hong Kong government's regulations regarding use of quota prohibits any attempt at circumvention.

USA-ITA argues that the Department has both the power and discretion to counter circumvention attempts and that the situation does not warrant including margins based on best information available in the "all others" rate.

DOC Position

In many investigations, the Department calculates rates, and assigns rates based on best information available, that are higher than the "all others" rate. In this regard, this investigation is no different. We have no reason to believe that such re-incorporation has occurred, nor that it will in the future. If an antidumping duty order is issued in this case, petitioner may request an administrative review pursuant to section 751 of the Act for any company which it believes may have re-incorporated to avoid paying higher duties. Furthermore, any company that re-incorporates in the future could well be subject to a "new exporter" rate as determined in the context of an administrative review, rather than the "all others" rate. Additionally, any efforts to re-incorporate merely to avoid dumping duties may constitute Customs fraud, which would fall within the jurisdiction of the U.S. Customs Service.

Comment 5

Petitioner states that the Department did not fully examine the origin of the MMF sweaters under investigation. Petitioner states that the Department's investigation of MMF sweaters should be limited to sweaters that are actually products of Hong Kong, i.e., sweaters the panels of which are knit in Hong Kong, not merely assembled or otherwise finished in Hong Kong. Petitioner alleges that sweaters reported to be made in Hong Kong were in fact made in the People's Republic of China (PRC), and that the sweaters not knit in Hong Kong should be excluded from the investigation and should not be covered by an order. Petitioner contends that if sweaters were in fact knit in the PRC, the CV would be affected due to the differences in production costs. As part of its case brief, petitioner submitted for the first time an exhibit containing newspaper articles on the Hong Kong textile industry which it asserts supports its position.

Petitioner argues that the Department failed to adequately examine this issue

at either the sales or cost verifications, and states that the Department should have examined the relationship between subcontractors, sub-subcontractors, and respondent companies and the location of the knitting operations. Petitioner states that because of these fundamental flaws in the Department's analysis of the Hong Kong respondents, the Department should instead use best information available based on the information supplied in the petition.

Laws responds that petitioner raised the issue on the eve of verification and did not give the Department adequate time to investigate the issue properly. Nevertheless, Laws states that the Department did verify that the products were of Hong Kong origin.

Comitex rebuts petitioner's comments by stating that its subcontractor agreement stipulates that all knitting must be conducted in Hong Kong. It further states that the Department verified the subcontractors' production costs for 14 production orders, toured an unrelated subcontractor's knitting factory, and saw that Hong Kong was listed on its export licenses as the country of origin. In addition, Comitex asserts that the Department verified that sweaters made in countries other than Hong Kong were so noted and were not reported in the response, and during its completeness check, officials found no discrepancies regarding the country of origin reporting.

Crystal maintains that the Department conducted an extremely thorough verification of Crystal's sales and production records. The Department verified that Crystal either manufactured the subject merchandise itself or obtained it through the use of subcontractors located in Hong Kong. When the Department found that some companies in the Crystal group did sell sweaters made in whole or in part in the PRC, Crystal points out that it did not report these sales in its response and that the country of origin was properly identified as the PRC. Finally, Crystal states that the verification established that it complied with the U.S. country of origin rules for both marking and quota purposes.

DOC Position

Petitioner's assertions of potential country of origin problems were unsubstantiated. Petitioner provided no evidence indicating that the sweaters reported to be produced in Hong Kong were in fact produced in the PRC or elsewhere outside Hong Kong. Department officials, nevertheless, conducted a thorough investigation into the country of origin of the MMF sweaters sold during the period of

investigation and considered as part of the less than fair value analysis. Because of the relatively small number of sales transactions, Department officials were able to examine almost all of the sales of the companies under investigation, and identify the location of the facilities in which the merchandise was produced. In this extremely detailed examination, Department officials found no evidence to contradict its finding that the origin of the subject merchandise was Hong Kong. When sweaters were found to be knit in a country other than Hong Kong, it was always noted as such and we found that these sweaters were appropriately excluded from the sales database.

With respect to the newspaper articles submitted as part of petitioner's case brief, these reports bear only indirect relevance to the issue, at best, and are due little (if any) credence in light of our findings on verification. Moreover, as stated in § 353.31(a)(1)(i) of the Department's regulations (19 CFR 353.31(a)(1)(i)), information submitted in an untimely manner need not be considered by the Department. Therefore, we have not taken this information into account.

Comment 6

Petitioner contends that respondents calculated their material costs for dyed yarn without adjusting for the costs of yarn that was dyed for a certain color and style of sweater, but which may not have been used for that or any other order. The petitioner argues that the Department must adjust respondents' material costs based on the best information available to reflect these unreported scrap costs.

Laws maintains that it included the cost of yarn issued to subcontractors for knitting in its material cost calculation. Further, Laws states that it did not omit from this calculation the cost of yarn specifically dyed for an order that was not consumed in the manufacture of that order or any other order. Laws argues that any discrepancy between the cost of yarn issued for knitting and the cost of yarn specifically dyed for an order is borne by the dyeing subcontractor. Laws states, therefore, that there is no difference between the cost of yarn issued for dyeing and that issued for knitting. Additionally, Laws asserts that during its verification, Department officials reviewed full documentation of a number of production lots and raised no questions with respect to discrepancies in the amount of yarn used for the production lots covered by the investigation. Laws states that no discrepancies were found and that, as

such, its submitted material costs were verified and should be used by the Department.

Comitex states that its accounting system does not link dyeing charges with specific production orders. Therefore, to arrive at a dyeing cost per pound for the second and third quarters of 1989 on a yarn type-specific basis, Comitex factored in all dyeing charges incurred during those periods. Comitex argues that there was no information discovered at verification by the Department that yarn dyed for a given order exceeded the quantity of yarn shipped per order plus calculated wastage. Also, Comitex argues that if any redyeing occurs, it included such charges in the actual average dyeing costs per pound utilized in the response.

Petitioner rebuts Comitex's claim that it is customary in the trade to routinely redye previously dyed but unused yarn. Petitioner argues that this is a factual statement that cannot be accepted in a prehearing brief and has not been subject to the required verification.

Crystal asserts that the reported material costs consist of the actual costs of materials used for each job. Crystal adds that all material costs are captured in the cost calculation. As such, no separate cost for scrap exists. Furthermore, Crystal asserts that no discrepancies between dyed yarn issued and dyed yarn returned to inventory were found in the verification of its reported material cost calculations.

DOC Position

For purposes of the final determination, the Department reviewed the methodologies used by the respondents and found no evidence that all waste had been captured. Specifically, we observed that yarn dyed for a specific color and style of sweater was not used for that sweater's production or other sweaters' production. The respondents claim that excess yarn dyed for one sweater may be redyed for other orders or sold. However, at verification we found no evidence that all, or in some cases any, of the waste had been sold or used in other orders. Therefore, in order to capture this type of waste, the Department used best information available. During a plant tour in the United States, the Department observed the general sweater manufacturing process and obtained a percentage of waste for unused yarn. At verification, the Department observed that the basic steps in the production process (e.g., dyeing yarn for specific orders) were similar to those in the United States. Therefore, as best information available,

the Department increased the materials costs for the amount of yarn dyed and unused, either for that color and style of sweater or for any other purpose, by the percentage obtained during the U.S. plant tour.

Comment 7

Comitex states that the Department erred in the preliminary determination when it included the revenue attributable to the reservation of quota as an offset to SG&A expenses in CV. In the final determination, the Department should treat this as an upward circumstance of sale adjustment to U.S. price. Comitex contends that the amount it earned on each U.S. sale to this customer was the invoice price per dozen plus the quota revenue. Although the per dozen amount paid for quota from this customer to Comitex is not included in the invoice price of each shipment to the customer, Comitex argues that it is integrally related to that price. Comitex cites to AFBs to support its position.

DOC Position

For this final determination, we again have used the quota revenue as an offset to SG&A expenses in the CV, rather than treating it as a circumstance of sale adjustment. The income from the quota reservation was earned separately from the sale of sweaters and, therefore, was not directly related to those sales. In fact, we found at verification that the customer pays for the reservation before the sweaters are ordered. At verification, Comitex officials were unable to provide any documentation supporting its claim that the quota reservation fee is linked to the price paid by the customer. Thus, two wholly-separate transactions are involved: One transaction for the sale of the quota reservation and another for the sale of the sweaters.

We did, however, see evidence during verification that revenue earned through the reservation of quota was tied to sales of MMF sweaters to this customer, and therefore, we have used quota revenue as an offset to SG&A expenses in the CV. Unlike the instant case, in AFBs the Department made a circumstance of sale adjustment for differences in exchange rates where the Department was able to tie the differences to specific transactions.

Comment 8

Petitioner states that the Department's practice is to base its G&A expenses calculations on a consolidated basis. Petitioner cites to Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephones and

Subassemblies Thereof from Korea, (54 FR 53141, December 27, 1989), AFBs and Forklift Trucks in support of its argument. Therefore, petitioner argues that the Department should use the consolidated general and finance expenses of CHL or the highest of the percentage of general and finance expenses of any other respondent, in lieu of the reported general and finance expenses of Comitex. Petitioner further argues that Comitex knew of the Department's request to obtain audited, consolidated financial statements from the time Comitex received the questionnaire, and that Comitex's argument that they first learned of this request at verification is therefore indefensible. The Department should also disregard Comitex's June 14, 1990, post-verification submission of a letter from its auditors providing an itemization of audited consolidated office and general, finance, and selling expenses for the year ended December 31, 1989. The data in this submission do not match those in the cost verification report. Further, the information in the June 14, 1990, submission is untimely as it was not received seven days prior to verification, as provided for in § 353.31(a)(i) of the Department's regulations.

Comitex argues that the Department did not specifically tell it prior to verification to provide consolidated data for general and finance expenses. Further, Comitex contends that it is contrary to the CV section of the statute for the Department to utilize the consolidated general and finance expenses of the Comitex group, since only Comitex manufactures MMF sweaters. Comitex states that in CMTs, the Department allocated a proportion of G&A expenses for the production company and the parent company because the parent company provided services directly related to production of the subject merchandise. Comitex contends that as no other company produces the subject merchandise, the consolidated expenses should not be used.

According to Comitex, however, if the Department does utilize the consolidated general and finance expenses of CHL, then the Department should consider the statement furnished by the company's outside auditors in its rebuttal brief, in which the exact amount for office and general expenses, and finance expenses for the consolidated corporation have been identified.

DOC Position

The Department, in its questionnaire, requests that all expenses related to headquarter operations be reported as

part of general expenses. Comitex did not indicate in its CV response whether or not a proportional amount of general expenses from the consolidated operations of the group had been included in the reported general expenses. Our review of the source documentation provided a verification indicated that, in fact, Comitex did not include in its reported general expenses a proportional amount of general expenses from the consolidated operations of the group. In CMTs the Department allocated a proportional amount of headquarters' expenses to the product under investigation in order to capture G&A expenses throughout the entire organization. In the present investigation, as with the other cases cited by petitioner, the consolidated G&A expenses are being allocated over the consolidated cost of goods sold in order to allocate a proportional amount of G&A expenses to the MMF sweaters manufactured by Comitex.

The Department's approach in this investigation is therefore not inconsistent with CMTs where the Department included in G&A a proportional share of certain general expenses incurred by the parent but not specifically related to the manufacture of the product under investigation. The general methodology employed in both this investigation and CMTs was used to achieve the same objective: Capturing expenses related to total corporate operations.

The Department used Comitex's calculation of G&A expenses presented at verification: The G&A expenses reflected in the unaudited consolidated financial statement of Comitex for the year ended December 31, 1989. The Department did not rely on the information received after verification and included in the rebuttal brief as such data could not be verified and was untimely in accordance with § 353.31(a)(i) of the Department's regulations.

Comment 9

Petitioner argues that Comitex's methodology of calculating an average yarn cost can significantly distort the material costs, both by reducing possible high yarn costs for some sales to a lower average, and by including costs for production prior to the POL. Petitioner, based on its analysis of Comitex's section D response, states that Comitex's reported average cost of yarn and dyeing for all sales was different than that of two other respondents from Hong Kong. Petitioner further contends that Comitex's records are unreliable and cannot justify an

averaging approach that is inconsistent with the requirement to determine the actual cost of the yarn for each shipment or sale involved. Therefore, petitioner maintains that the Department should increase the calculated yarn cost by an appropriate percentage.

Comitex argues that its accounting books and records do not track the amount of yarn issued per production order. Accordingly, Comitex's submitted methodology was the only option available in order to provide actual material costs. Comitex also notes that initial 1989 MMF sweater production began in July 1989, and that the cost used to value the yarn for the submission was higher than any rolling average cost recorded in its books for 1989. Comitex also argues that petitioner's analysis of its materials costs was clerically incorrect. Therefore, Comitex claims that, in light of the manner in which its raw materials costs are maintained, its methodology for ascribing yarn cost was the only reasonable approach and should be accepted by the Department.

DOC Position

For the purposes of this final determination, the Department did not rely on the average 1989 fiscal year yarn costs for each type of yarn used by Comitex in its submission since these averages may have included the cost of yarn used for sweaters which were not subject to this investigation. Since production of the sweaters under investigation did not begin until July, the Department used the simple average of the purchase costs for each yarn type from July through September as the best information available in accordance with section 776(c) of the Act, rather than the average over the entire year, as reported by Comitex.

Comment 10

Petitioner argues that Comitex's average scrap cost calculation may be distortive since it does not differentiate between the actual scrap rates for different types of sweaters which have the same type of yarn.

Comitex argues that it does not track yarn issues from inventory on a product-specific basis in its accounting records, and therefore, actual scrap costs do not exist. Comitex also argues that the Department's statement in the cost verification report that its methodology may be distorted is incorrect. Comitex states that it does not maintain an inventory for finished sweaters and therefore, did not carryover sweaters from one year to the next. Further, such a carryover would not be included in the next year's quota allotment. Therefore,

Comitex makes an effort to ship all quota-burdened sweaters, including the subject merchandise, by December 31 of each year. In light of these facts, Comitex's methodology for calculating scrap was the only option available.

DOC Position

The Department used the average scrap rate presented by Comitex. This was adjusted by the Department for unused dyed yarn, as described in DOC Position to Comment 9, above. At verification, the Department found that for the yarn types used by Comitex, the substantial portion of two types and all of the remaining types were used for sweaters subject to this investigation.

Comment 11

Crystal states that the imputed credit cost for one of the U.S. transactions should be disregarded since respondent was fully reimbursed by its customer and did not incur any imputed credit cost.

DOC Position

We disagree. Crystal reported interest revenue on one transaction during the POI for which it also incurred a credit expense. Crystal had charged the customer for late payment on its letter of credit. We verified that this type of transaction is rare and that the terms of sale do not specifically provide for such charges. Because Crystal incurred a credit expense until it was reimbursed by the customer, we have offset the reported credit expense for this transaction by the interest revenue received from the customer, and included it in the calculation of CV.

Comment 12

Crystal contends that the Department improperly included donations and miscellaneous expenses in calculating general expenses for the preliminary determination because these expenditures have no bearing in determining the costs of the subject merchandise. Crystal contends that the Department found that the miscellaneous expenses were unrelated to either production or sales of the products under investigation. In addition, Crystal argues that the donations are extraordinary expense items which do not relate to production or sale of any merchandise. Therefore, such voluntary contributions should not be considered normal business expenses.

Petitioner argues that the Department should not exclude donations and miscellaneous expenses from the calculation of the SG&A percentage unless the cost of sales is also reduced

by the cost relating to the products to which the expenses pertained. Petitioner states that the data for making such adjustments are not available.

DOC Position

The Department included donations as part of G&A expenses. This type of expense cannot be tied to a specific product and is normally treated as an overall cost of business operations. Moreover, we verified that Crystal included these expenses as part of SG&A expenses in its financial statements. However, the Department did not include certain other miscellaneous expenses in the production costs because we found that these expenses were (1) non-operating expenses or intra-company transfers, and (2) unrelated to either production or sales of the products under investigation.

Comment 13

Petitioner argues that the Department's preliminary determination indicates that quota income was used as an offset to the G&A expenses and that this should not be allowed.

Crystal contends that it has not included quota income or used quota income as an offset to the calculation of SG&A expenses.

DOC Position

We found at verification that Crystal did not include quota income or use quota income as an offset to the calculation of SG&A expenses for the products under investigation. This quota income differs from the quota revenue for Comitex in that it was unrelated to quota reservation and was unrelated to the subject merchandise. Therefore, no adjustment to SG&A expenses was made.

Comment 14

Petitioner argues that the lack of availability of annual audited financial statements for the holding companies precludes the Department from calculating reliable SG&A expenses. Petitioner reasons that the types of expenses included in general expenses may or may not be incurred evenly throughout the year and, therefore, general expenses for nine months may not be representative of the entire year. Petitioner contends that because no audited consolidated financial statements exist for Crystal Holdings Ltd. and Crystal Group Ltd. for 1989, the Department should use either the highest rate for SG&A expenses incurred by any other respondent in this case as

best information available, or the information supplied in the petition.

Crystal argues that the Department should not use Crystal Holdings Ltd.'s consolidated financial statement because it includes expenses for a variety of subsidiaries that have no involvement in the sale or production of the subject merchandise. However, Crystal notes that if the Department uses the consolidated statements, those statements represent the most recent financial data available for all of the relevant affiliates. In addition, Crystal argues that the Department verified the accuracy of the most recent consolidated report which covers the POI. Accordingly, the best information available to the Department is the Crystal Holdings Ltd.'s unaudited consolidated financial statement for the nine months ended September 30, 1989. Crystal adds that it cannot be asked to provide audited financial statements when these do not exist.

DOC Position

The Department used the G&A expenses reported in Crystal Holdings Ltd.'s unaudited consolidated financial statement for the nine months ended September 30, 1989, in order to capture that part of the G&A expenses incurred for the overall operations of the related group of companies which are attributable to Crystal. See DOC Position to Comment 8 above. While these expenses may include G&A expenses of other subsidiaries, the consolidated G&A expenses were allocated based on the consolidated costs of sales, which also include the costs of these other subsidiary companies.

The Department used the unaudited consolidated financial statements for Crystal Holdings Ltd. for the nine months ended September 30, 1989, as the best information available for G&A expenses, because no consolidated financial statements for 1988 or 1989 exist and the accuracy of the consolidated worksheets for the nine-month 1989 statements was verified.

Comment 15

Petitioner argues that the ratio of net interest expenses to total cost of manufacture calculated by the Department in its preliminary determination was incorrect. According to petitioner, the ratio should be revised to reflect the finance expenses listed in Crystal Holdings Ltd.'s nine-month unaudited financial statement submitted on March 3, 1990.

Crystal contends that the finance expense ratio used by the Department in the preliminary determination is correct.

The adjustment for imputed credit to finance expenses reflected in Crystal Holdings, nine-month consolidated financial statement is consistent with the Department's practice.

DOC Position

The finance expense ratio used by the Department in its preliminary determination was correct. Because imputed credit was included in selling expenses, finance expenses in Crystal Holdings, nine-month financial statement were adjusted for expenses relating to imputed credit to avoid double counting.

Comment 16

Petitioner argues that the adjustment to factory overhead expenses for rent should be based on the fair market rental cost rather than depreciation, pursuant to the Act and the Department's regulations. Petitioner adds that the fair market rental cost would be the rent paid to an unrelated party or the rent actually paid.

Crystal asserts that for purposes of its cost submissions, Crystal eliminated a variety of inter-company charges pursuant to the intent of section 773(e)(3) of the Act and calculated the actual cost, in accordance with the company's normal depreciation policy. According to Crystal, under generally accepted accounting principles the consolidated real cost of a building is the depreciation amount. Furthermore, Crystal argues that if it owned the building, the cost would clearly be based on depreciation expense. Crystal contends, therefore, that the Department should use the depreciation expense rather than actual rent paid to account for the cost of the premises.

DOC Position

In accordance with section 773(e)(2) of the Act the Department must determine whether related party transactions represent a fair market value. Crystal rented its building from affiliates, but reported depreciation expense of the building owned by the affiliates as Crystal's factory overhead expense. Because this was a related party transaction and we were unable to test Crystal's rental payment against a comparable arm's-length transaction, we have determined, as best information available, that the best approximation of the fair market rental value would be the rent actually paid by Crystal, rather than the depreciation expense reported.

Comment 17

Petitioner argues that Laws' methodology of including duties in general expenses, instead of in materials

costs, is incorrect. Therefore, the Department should make an adjustment to include these costs in reported materials costs.

Laws argues that the manner in which these costs (i.e., duties) are reported in the submission is a result of the small amounts involved and because Laws does not track them by production lot in its accounting records.

DOC Position

At verification, we found that Laws included duties in its general expenses and recorded these duties as part of the expenses in the "Declaration and Certification Fees" account. However, the amount of duties paid was insignificant when compared to the cost of sales. Accordingly, movement of the entire amount of duties paid from general expenses to materials costs would not change the total costs of production. Therefore, we made no adjustment.

Comment 18

Petitioner argues that the relationship between Laws and its subcontractors is of critical importance in this investigation. Further, petitioner contends that there is an inconsistency between Laws' representation of its relationship with its subcontractors and the information the Department discovered at verification.

Laws asserts that the rental of equipment to the unrelated subcontractors were at arms-length, market prices, and there is no pattern of Laws' providing assistance to unrelated subcontractors through its equipment leasing contracts. Laws notes that other unrelated subcontractors' contracts were reviewed at verification, and none contained any indication that pricing for processing is tied to any leasing arrangements. Moreover, Laws asserts that its inability to provide copies of rental contracts for its equipment leasing operations requested by the Department on the last day of verification does not constitute an inconsistency in its representation of its relationship with unrelated subcontractors. Additionally, Laws maintains that the information submitted in its June 21, 1990, case brief subsequent to verification should be considered in the Department's investigation because the material submitted: (1) Does not contain new information and is in corroboration of prior responses verified by the Department; and (2) was requested by the Department on the last day of verification.

DOC Position

In our questionnaire, the Department requested Laws to report all equipment furnished to subcontractors. At verification, the Department found that Laws had not disclosed the use of its equipment by subcontractors. The Department has no verified evidence that a lease existed or that payments had been made by the subcontractors to Laws for use of this equipment. Therefore, as best information available, we increased the fees charged to Laws by the subcontractors by the amount of the depreciation of the equipment.

We did not consider the information on leases contained in Laws, June 21, 1990, case brief, as it was untimely submitted pursuant to § 353.31(a)(1)(i) of the Department's regulations, nor was it verified. Furthermore, we did not request any additional information on this issue after verification.

Comment 19

Petitioner argues that Laws' use of consolidated general expenses from audited financial statements for the year ended March 31, 1989, may or may not be representative of finance and general expenses for the POI, because these financial results do not cover any portion of the POI. Further, the report contained in the published financial statements does not provide detailed cost of sales and general expenses. Instead, petitioner states that the Department should use the unaudited interim financial statements for Laws International Holdings Ltd. for the period ended September 30, 1989, as best information available. Petitioner also argues that the Department should use the audited finance expense for the fiscal year ended March 31, 1989, instead of the pre-audit finance expense for the same period, which the Department used in its preliminary determination.

Laws notes that the audited consolidated financial statements covering the POI will not be available until mid-July 1990, and therefore, submitted the most recent audited consolidated financial statements available, along with unaudited interim financial statements for the fiscal year starting April 1, 1990. Laws contends that its audited consolidated financial statements for the year ended March 31, 1989, are the most appropriate basis for determining finance and general expenses for the POI.

DOC Position

During verification, the Department discovered that the reported finance expense was based on unaudited data. The Department noted that the audit

adjustments proposed by Laws' external auditors for the financial statements for the fiscal year ended March 31, 1989, may have material consequences to reported general and finance expenses for the fiscal year financial statements which cover the POI. Accordingly, the interim unaudited financial statements for the period ended September 30, 1989, were not used. Therefore, as best information available, the Department accepted Laws' consolidated general expenses for the fiscal year ended March 31, 1989, for calculating CV for the purposes of the final determination.

Comment 20

Petitioner argues that Laws' methodology of reclassifying certain expenses in its submission was incorrect. Petitioner contends that the Department should change Laws reported general expenses to capture these reclassified amounts.

Laws argues that if the Department adds general expenses derived from factory overhead incurred during the POI to general expenses calculated from ratios obtained from the audited consolidated financials for the year ended March 31, 1989, it would be combining two unrelated amounts. Accordingly, Laws requests that the Department use the unadjusted general expenses from the audited consolidated financial statements for the period ended March 31, 1989, in order to calculate the general expense ratio for the CV calculations.

DOC Position

We verified that Laws' monthly financial statements included certain amounts for factory overhead that should have been included in the category of general expenses. Laws reclassified these amounts for purposes of reporting factory overhead and we accepted the reclassification. For general expenses, we added the amounts reclassified out of factory overhead to the amount for general expenses calculated from Laws' audited consolidated financial statements for the period ended March 31, 1989.

We used the 1989 statement as best information available because Laws' 1990 statement was not available at the time of verification.

Comment 21

Petitioner asserts that at verification Laws sought to reduce the interest expense through the use of a double deduction.

Laws argues that, with respect to the issue of the double reduction raised in the Department's cost verification report, it does not seek a double

deduction by deducting bank charges from its reported finance expenses and agrees to the finance expense figure exclusive of these charges. Laws maintains that during the verification, the finance expense figure that was reported and verified included bank charges.

DOC Position

For purposes of calculating finance expense for the CV used in the final determination, Laws submitted total audited consolidated finance expense for the fiscal year ended March 31, 1989, as best information available. An offset related to the interest included in the credit expense was calculated by Laws to avoid double counting of this expense. No bank charges were deducted. The Department used this calculation for the final determination.

Comment 22

Petitioner argues that Laws methodology for calculating interest expense over total expenses of the consolidated corporation excluding interest expense is inconsistent with the Department's established practice of allocating interest expense over cost of sales of the consolidated corporation. Petitioner cites Preliminary Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies from Korea, (54 FR 31980, August 3, 1989), and argues that in that determination, the Department used G&A and finance expenses as a percentage of the cost of sales for the subject merchandise. Further, in support of its argument, petitioner cites AFBs and states that in that determination, the Department allocated the total interest expense to the total operations of the consolidated corporation based on cost of sales when calculating interest expense. Additionally, petitioner cites to Forklift Trucks and argues that in that determination the interest expense was allocated over the actual cost of sales. Moreover, petitioner asserts that there is no verification of Laws' claim that its subsidiaries are not involved exclusively in manufacturing activities.

Laws claims that its proposed alternative methodology is justified because Laws and its subsidiaries are not involved exclusively in manufacturing activities, and the non-manufacturing companies incur substantial interest and administrative expenses, but low or no cost of sales. Accordingly, it is inappropriate to allocate to sweaters Laws' entire consolidated interest expense over

consolidated cost of sales, the Department's typical approach, because this would artificially transfer interest expense from other productive businesses to sweater production.

DOC Position

We agree with petitioner that our preferred method for calculating finance expenses is to allocate interest expense over cost of sales. However, Laws calculated its consolidated finance expense as a percentage of its total cost of manufacture and G&A expenses, less finance expense, of the consolidated corporation. This percentage was then applied to the same base (i.e., total costs of manufacturing plus general and selling expenses, less finance expense) of each product. Because Laws was consistent in applying its methodology and because we found that this had virtually no effect on the cost of production, we made no adjustment to the finance expenses calculated for purposes of the final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of MMF sweaters from Hong Kong, except Crystal and Laws, 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 MMF sweaters from Hong Kong exceeds the United States price as shown below.

We are also instructing the U.S. Customs Service to require that *both* the exporter of record and manufacturer be listed on all invoices accompanying imports of MMF sweaters to the United States. If the manufacturer is not listed, the "all others" rate will be applied. 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
Comitex Knitters, Ltd., and all related companies.	5.86 percent

Manufacturer/producer/ exporter	Weighted-average margin percentage
Crystal Knitters, Ltd., and all related companies, including Clevermark Industrial, Ltd.; Crystal Garments, Ltd.; Crystal Textiles, Ltd.; Crystal Woven, Ltd.; Elegance Ind. Co., Ltd.; Honson, Ltd.; Snotex Development, Ltd.	0.00 percent (excluded).
Laws Fashion Knitters, Ltd., and all related companies, including: Cordial Knitting Co., Ltd.	0.22 percent (excluded).
Prosperity Clothing, Ltd/ Estero Enterprises, Ltd., and all related companies.	115.15 percent.
All others	5.86 percent.

ITC Notification

In accordance with section 735(c) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged 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 Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to the product under investigation, the applicable proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on MMF sweaters from Hong Kong entered or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

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

Dated: July 19, 1990.

Francis J. Sailer,
Acting Assistant Secretary for Import
Administration.

[FR Doc. 90-17505 Filed 7-26-90; 8:45 am]

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[A-580-806]

Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from the Republic of Korea**AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: We determine that sweaters wholly in in-chief weight of man-made fiber (MMF sweaters) from the Republic of Korea (Korea) 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 MMF sweaters from Korea, as described in the "Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp (Hanil Synthetic Fiber Ind. Co. Ltd. only) or James Terpstra (all other companies), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965 or 377-8830, respectively.

SUPPLEMENTARY INFORMATION:**Final Determination**

We determine that MMF sweaters from Korea 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 estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determination (55 FR 17788, April 27, 1990), the following events have occurred. All respondents requested that the final determination in this investigation be postponed until not later than four weeks from its originally scheduled date, pursuant to section 735(a)(2) of the Act. On May 24, 1990, and June 21, 1990, we published notices postponing our final determination until not later than August 2, 1990, and announcing the public hearing (55 FR 21419 and 55 FR 25352, respectively).

Verification of the questionnaire responses was conducted in Korea and the United States, as appropriate, during May and June 1990.

A public hearing was held on July 12, 1990. Petitioner and respondents filed case and rebuttal briefs on July 6, 1990, and July 10, 1990, respectively.

On July 27, 1990, an interested party asked for a clarification as to whether MMF sweaters assembled in the Commonwealth of Northern Mariana Islands from knit-to-shape component parts knit in and imported from Korea are excluded from the scope of the investigation. In addition, on July 25, 1990, counsel for the Korean respondents filed comments on the Department's scope clarification published in the companion Hong Kong investigation dealing with length and lining. For purposes of this determination, the scope of this investigation is identical to that in the *Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong* (55 FR 30733, July 27, 1990). We are considering comments received on these issues. Any further clarifications to the scope of this investigation will be made in the antidumping duty order, if one is issued.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is being classified solely according to the appropriate HTS item numbers.

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knit or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by

weight of wool. It includes men's, women's boys' or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

In our preliminary determination, we clarified the scope of this investigation by deleting the phrase "but most typically ending at the waist." This has raised a number of questions. For further clarification, a product or garment will not be considered a sweater nor included in the scope of this investigation if it extends to mid-calf or below and is lined.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10 and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. Specifically excluded from the scope of this investigation are sweaters assembled in Guam that are produced from knit-to-shape component parts knit in and imported from Korea. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the produce coverage. As noted above, the scope of this investigation remains subject to clarification in view of issues raised too late for a complete airing and thorough consideration before issuance of this determination.

Period of Investigation

The period of investigation (POI) is April 1, 1989, through September 30, 1989.

Such or Similar Comparisons

For all respondent companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters. Product comparisons were made on the basis of the following criteria, which are ranked in the order of importance: (1) Style of sweater; (2) fiber content; (3) yarn weight; (4) yarn gauge; (5) weight per dozen; and (6) type of knit. We used third country sales as the basis for foreign market value (FMV) for all respondents, as described in the "Foreign Market Value" section of this notice.

Where there were no sales of identical merchandise in the third

country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In cases where there was equally similar third country merchandise, we calculated weighted-average prices and adjustments for differences in the merchandise for comparison purposes. We limited our comparisons to products sold in the third country market where the reported adjustment for physical differences in merchandise did not exceed 20 percent of the net third country market price of the comparison merchandise because we determined that adjustments of greater magnitude would be unreasonable in this case.

Where we could not find a comparison sweater with a difference in merchandise adjustment of 20 percent or less of the relevant foreign price, we disregarded those U.S. sales transactions from our analysis because the quantity of sweaters involved in these transactions was not significant enough to justify adopting an alternative method for determining FMV (i.e., constructed value (CV)).

We also revised respondents' concordances, where necessary, to account for the exclusion of below-cost sales from our analysis, post-verification corrections to the sales data, and the recalculation of the duty portion of the total variable costs used in the adjustment for physical differences in merchandise. (See *DOC Position to Comment 3* in the "Interested Party Comments" section of this notice.)

Fair Value Comparisons

To determine whether sales of MMF sweaters from Korea to the United States were made at less than fair value, we compared the United States price to the FMV, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Chunji Industrial Co., Ltd. (Chunji), Shinwon Tongsang (Shinwon), Young Woo & Co., Ltd. (Young Woo) and Yurim Company, Ltd. (Yurim), we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all reported sales were made directly to unrelated parties prior to importation into the United States.

For Hanil Synthetic Fiber Inc. Co. Ltd. (Hanil), we based United States price on both purchase price and exporter's sales price (ESP), in accordance with sections 772 (b) and (c) of the Act.

A. Chunji

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States.

Based on our findings at verification, we adjusted Chunji's data for certain minor clerical errors. We recalculated indirect selling expenses. (See *DOC Position to Comment 15* in the "Interested Party Comments" section of this notice.) We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, and wharfage fees in accordance with section 772(d)(2) of the Act. Since Chunji failed to report credit expenses for the period between shipment and payment, we calculated credit expenses for this period for sales to both Mexico and the United States. In addition, we made deductions, where appropriate, for discounts. We added duty drawback in accordance with section 772(d)(1)(B) of the Act.

For purposes of the preliminary determination, we excluded sales characterized by Chunji as "resales." Based on our findings at verification, we did not find that these sales were sample sales or sales of defective merchandise; furthermore, we found nothing about the physical condition of the merchandise which would preclude its sale under normal circumstances. Therefore, for purposes of this final determination, we have included these sales in our analysis. Because Chunji did not report charges or adjustments for these sales, and given that the prices charged on these sales were within the range of prices reported for the other sales, we have applied the average margin calculated for Chunji's other sales as best information available.

B. Hanil

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States.

Based on our findings at verification, we adjusted Hanil's purchase price data for certain minor clerical errors. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization, in accordance with section 772(d)(2) of the Act. We added duty drawback in accordance with section 772(d)(1)(B) of the Act.

Hanil also reported certain ESP transactions. This merchandise was subsequently resold by Hanil's first unrelated U.S. customer to a retailer. The price reported by Hanil in its sales

listing was the price charged by the first unrelated customer to the retailer. The difference between this price to the retailer and the price agreed to between Hanil and its U.S. customer was reported as a commission. However, since we consider the sale to the original purchaser to be the first sale to an unrelated purchaser in the United States, we have deducted the claimed commission from the reported price as a price adjustment in order to derive the actual price on that sale as best information available.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. warehouse or delivered prices to the first unrelated customer in the United States.

Based on our findings at verification, we adjusted Hanil's ESP data for certain minor clerical errors. We dropped certain misreported sales from our analysis which at verification were found to be sales to Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees, containerization expenses, ocean freight, marine insurance, U.S. import duties, U.S. brokerage fees, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We made further deductions, where appropriate, for discounts, credit, bank charges, factor charges, labeling charges, warehouse handling charges, the price adjustment, and indirect selling expenses, including "miscellaneous" expenses and inventory carrying costs, in accordance with section 772(e)(1) and (2) of the Act. We added duty drawback in accordance with section 772(d)(1)(B) of the Act.

C. Shinwon

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States.

Based on our findings at verification, we adjusted Shinwon's data for certain minor clerical errors. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, in accordance with section 772(d)(2) of the Act. We added duty drawback in accordance with section 772(d)(1)(b) of the Act.

Shinwon reported an amount for "commission" payments in the U.S. market. However, in addition to actual commissions paid, the reported amount also included certain non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling

expenses not subject to the commission offset. (See DOC Position to Comment 4 in the "Interested Party Comments" section of this notice.) At verification, we noted that for certain transactions the gross unit price reported in Shinwon's sales listing was actually the amount received by the unrelated quota holder, not the actual amount received by Shinwon. Shinwon received only the amount net of quota payment. Accordingly, we recalculated credit and indirect selling expenses, which are based on gross unit price, on the basis of the amount actually received by Shinwon.

D. Young Woo

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States.

Based on our findings at verification, we adjusted Young Woo's data for certain minor clerical errors. We increased the quantity for one sale to reflect the total quantity of a revised purchase order. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, and ocean freight, in accordance with section 772(D)(2) of the Act. Since Young Woo failed to report credit expenses for the period between shipment and payment, we calculated credit expenses for this period for sales to both the United Kingdom and the United States. In addition, we made deductions, where appropriate, for discounts. We added duty drawback in accordance with section 772(d)(1)(B) of the Act.

Young Woo reported an amount for "commission" payments in the U.S. market. However, in addition to actual commissions paid, the reported amount also included certain non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling expenses not subject to the commission offset. (See DOC Position to Comment 4 in the "Interested Party Comments" section of this notice.) At verification, we noted that for certain transactions the gross unit price reported in Young Woo's sales listing was actually that received by the unrelated quota holder, not the actual amount received by Young Woo. Young Woo received only the amount net of quota payment. Accordingly, we recalculated credit and indirect selling expenses, which are based on gross unit price, on the basis of the amount actually received by Young Woo.

For purposes of the preliminary determination, we excluded sales

characterized by Young Woo as "resales." Based on our findings at verification, we did not find that these sales were sample sales or sales of defective merchandise; furthermore, we found nothing about the physical condition of the merchandise which would preclude its sale under normal circumstances. Therefore, for purposes of this final determination, we have included these sales in our analysis. Because Young Woo did not report charges or adjustments for these sales, and given that the prices charged on these sales were generally lower than the prices of the other reported sales, we have applied the highest single margin calculated for Young Woo's other sales as best information available.

We verified that Young Woo's ESP sales constituted a minimal percentage of its sales to the United States. Therefore, we did not include these sales in our calculation of United States price.

E. Yurim

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States.

Based on our findings at verification, we adjusted Yurim's data for certain minor clerical errors. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, in accordance with section 772(d)(2) of the Act. We added duty drawback in accordance with section 772(D)(1)(B) of the Act.

Yurim reported an amount for "commission" payments in the U.S. market. However, this payment consisted solely of certain non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling expenses not subject to the commission offset. (See DOC Position to Comment 4 in the "Interested Party Comments" section of this notice.) At verification, we noted that for certain transactions the gross unit price reported in Yurim's sales listing was actually the amount received by the unrelated quota holder, not the actual amount received by Yurim. Yurim received only the amount net of quota payment. Accordingly, we recalculated credit, which is based on gross unit price, on the basis of the amount actually received by Yurim.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated FMV based on third country sales.

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (*i.e.*, all MMF sweaters) to the aggregate volume of third country sales, in accordance with section 773(a)(1) of the Act. For all respondents, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with § 353.48 of the Department's regulations (19 CFR 353.48).

In selecting which third country market to use for comparison purposes, we first determined which third country markets had "adequate" volumes of sales, within the meaning of § 353.49(b)(1). We determined that the volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or was equal to five percent of the volume sold to the United States. In selecting which third country market, having an adequate sales volume, was the most appropriate for comparison purposes, we selected the third country market with the largest volume of sales, in accordance with § 353.49(b)(2) of the Department's regulations.

Petitioner subsequently alleged that all five Korean respondents were selling to the selected third country markets at prices below the cost of production (COP). Based on petitioner's allegation, we gathered and verified data on respondents' production costs. For all respondents, we found that there was a sufficient number of sales above the COP to permit the continued use of the third country market sales as the basis for determining FMV.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between 10 and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time. (See the company-specific sections below.)

Where necessary, we revised the product concordances to enable us to match to MMF sweaters which were sold at prices above the COP, using the criteria set forth in the "Such or Similar Comparisons" section of the notice.

A. Chunji

We determined that sales to Mexico were the most appropriate basis for calculating FMV, as described above.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of Chunji's cost of materials, labor, other fabrication costs, and general expenses. The COP data submitted by Chunji was relied upon, except in the following instances where the costs were not appropriately quantified or valued.

We adjusted general and administrative expenses to include donations. Furthermore, we calculated an average cost of goods sold because the company's fiscal year ends in the middle of the POI. (See DOC Position to Comment 5 in the "Interested Party Comments" section of this notice.)

The Department revised variable costs for the proportional effect of the labor strike and certain clerical errors. (See DOC Position to Comment 17 in the "Interested Party Comments" section of this notice.)

We reduced interest expense by allocating a portion of it to the investment activities of the company. In addition, we disallowed the gain and loss on disposal of marketable securities, interest income earned on long-term deposits, gains and losses on foreign exchange transactions, and included the amortization of debenture issue costs, debenture expenses, and new stock issue costs as financial expenses. Finally, we calculated an average interest expense percentage from financial statements over an 18-month period. (See DOC Position to Comment 8 in the "Interested Party Comments" section of this notice.)

We found that over 90 percent of sales to Mexico were made at prices above the COP and used all sales as the basis for determining FMV. We calculated FMV based on packed, f.o.b. Korean port prices to unrelated customers in Mexico.

Based on our findings at verification, we adjusted Chunji's data for certain minor clerical errors. We recalculated indirect selling expenses. (See DOC Position to Comment 15 in the "Interested Party Comments" section of this notice.) We increased the quantity for one sale to reflect the total quantity listed on the revised purchase order.

We made deductions, where appropriate, for foreign brokerage and

handling expenses. Foreign inland freight, and wharfage fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reasons of exportation to the third country.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking and credit expenses in accordance with § 353.56 of the Department's regulations (19 CFR 353.56). We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the Mexican market and not the U.S. market, we allowed an adjustment for indirect selling expenses incurred in the U.S. market to offset commissions in the Mexican market, in accordance with § 353.56(b) of the Department's regulations.

In addition, where appropriate, we made adjustments to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Chunji separately reported total variable costs, used for this adjustment, inclusive of duties paid on materials. In addition, Chunji reported both duties paid on the materials and duty drawback received on the exported merchandise. We subtracted duties paid and added duty drawback to the total variable costs to be consistent with our treatment of duties for the other respondents. (See DOC Position to Comment 3 in the "Interested Party Comments" section of this notice.)

B. Hanil

We determined that sales to Australia were the most appropriate basis for calculating FMV, as described above.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of Hanil's cost of materials, labor, other fabrication costs, and general expenses. The COP data submitted by Hanil was relied upon, except in the following instances where the costs were not appropriately quantified or valued.

The cost of manufacturing for certain products was adjusted to correct clerical errors in the cost of manufacturing calculations.

General and administrative expenses were adjusted to exclude: (1) All non-operating and extraordinary items which were not related to the production operations of the company; (2) the gain on the sale of a real estate

investment; and (3) a portion of general research and development expense which was considered specific to product lines other than MMF sweaters. (See DOC Position to Comment 10, 29 and 30 in the "Interested Party Comments" section of this notice.)

Interest expense was adjusted to: (1) Allocate the portion of it attributable to investment activities; (2) disallow long-term interest income as an offset to interest expense; and (3) reclassify amortization of new stock issue costs and debenture issue costs from general and administrative expense to interest expense. (See DOC Position to Comment 8 in the "Interested Party Comments" section of this notice.)

We found that less than 90 percent but more than 10 percent of sales to Australia were made at prices above the COP considered only the above-cost sales as the basis for determining FMV. We disregarded the below-cost sales in our analysis. We calculated FMV based on packed, f.o.b. Korean port prices to unrelated customers in Australia. Based on our findings at verification, we adjusted Hanil's data for certain minor clerical errors.

We made deductions, where appropriate, for foreign brokerage and handling expenses, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties rebated by reason of exportation to the third country.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in credit and banking expenses, in accordance with section 353.56 of the Department's regulations. Because Hanil failed to report credit expenses on purchase price and third country sales for the period between shipment and payment, we calculated credit expenses for this period for these sales. Furthermore, because Hanil did not report an interest rate in its questionnaire response, we used the highest interest rate reported by another Korean respondent contained in a public response in this investigation as best information available. We also made an adjustment, where appropriate, using third country indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(a)(2) of the Department's regulations.

For comparisons involving ESP transactions, we made further deductions for third country indirect selling expenses capped by indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations.

In addition, where appropriate, we made adjustments to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Hanil reported total variable costs, used for this adjustment, inclusive of duties paid on materials. However, because Hanil failed to report separately the duties paid on those materials, we could not subtract duties paid and add duty drawback as we did for Chunji. Therefore, we used Hanil's reported total variable costs as best information available to be consistent with our treatment of duties for the other respondents. (See DOC Position to Comment 3 in the "Interested Party Comments" section of this notice.)

C. Shinwon

We determined that sales to Canada were the most appropriate basis for calculating FMV, as described above.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of Shinwon's cost of materials, labor, other fabrication costs, and general and administrative expenses. The COP data submitted by Shinwon was relied upon, except in the following instances where the costs were not appropriately quantified or valued.

We adjusted the general and administrative expenses to include the export losses and donations. Furthermore, we adjusted the cost of goods sold from the financial statements used in calculating the general and administrative expenses rate in order to make the cost of goods sold comparable to the cost of manufacturing used in the submission. Certain expenses recorded in the company's financial statements as manufacturing costs were reclassified as selling expenses for the submission.

We found that less than 90 percent but more than 10 percent of sales to Canada were made at prices above the COP and considered only the above-cost sales as the basis for determining FMV. We disregarded the below-cost sales in our analysis. We calculated FMV based on packed, f.o.b. Korean port prices to unrelated customers in Canada. Based on our findings at verification, we adjusted Shinwon's data for certain minor clerical errors.

Shinwon reported an amount for "commission payments" in the Canadian market. However, in addition to actual commissions paid, the reported amount also included certain non-commission payments which we have reclassified as quota payments. (See DOC Position to Comment 4 in the "Interested Party Comments" section of this notice.) These quota payments have

been treated as direct selling expenses not subject to the commission offset. At verification, we noted for certain transaction that the gross unit price reported in Shinwon's sales listing was actually the amount received by the unrelated quota holder, not the actual amount received by Shinwon. Shinwon received only the amount net of quota payment. Accordingly, we recalculated credit and indirect selling expenses, which are based on gross unit price, on the basis of the amount actually received by Shinwon.

We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(b) of the Act. We added import duties that were refunded by reasons of exportation to the third country.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking expenses, credit expenses, and quota payments, in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

In addition, where appropriate, we made adjustments to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Shinwon reported total variable costs, used for this adjustment, exclusive of duties paid. It also separately reported the duty drawback received on the exported merchandise. We added duty drawback to the total variable costs to be consistent with our treatment of duties for the other respondents. (See DOC Position to Comment 3 in the "Interested Party Comments" section of this notice.)

D. Young Woo

We determined that sales to the United Kingdom were the most appropriate basis for calculating FMV, as described above.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of

Young Woo's cost of materials, labor, other fabrication costs, and general expenses. The COP data submitted by Young Woo was relied upon, except in the following instances where the costs were not appropriately quantified or valued.

The cost of manufacturing was adjusted to reflect the rent paid by Young Woo to Young Chang, a related company, instead of the depreciation expense and other actual costs of the building rented by Young Woo. Since Young Woo does not have direct ownership of Young Chang, nor are they under common control, rental charges as opposed to actual costs were used. (See DOC Position to Comment 22 in the "Interested Party Comments" section of this notice.)

General and administrative expenses were adjusted to include donations and amortization of software development costs. Furthermore, general and administrative expenses were calculated as an annual percentage. (See DOC Position to Comment 10 in the "Interested Party Comments" section of this notice.)

We reduced interest expense by allocating a portion to the investment activities of the company. Furthermore, we disallowed the gain and loss on foreign exchanges and interest income earned on long-term investments and included the amortization of stock issue costs. Finally, we calculated an interest expense percentage from annual financial statements. (See DOC Position to Comments 8, 9, and 11 in the "Interested Party Comments" section of this notice.)

We found that over 90 percent of sales to the United Kingdom were made at prices above the COP and considered all sales as the basis for determining FMV. We calculated FMV based on packed, f.o.b. Korean port or C&F U.K. port prices to unrelated customers in the United Kingdom. Based on our findings at verification, we adjusted Young Woo's data for certain minor clerical errors.

We made deductions, where appropriate, for foreign brokerage and handling, foreign inland freight, wharfage fees, and ocean freight. In addition, we made deductions, where appropriate, for discounts. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties rebated by reason of exportation to the third country.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking expenses, credit expenses, quota payments, and product liability

premiums, in accordance with § 353.56 of the Department's regulations. We determined that these product liability premiums were direct selling expenses because we verified that Young Woo was required by the customer to pay these premiums and that these payments were tied to specific sales. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

In addition, where appropriate, we made adjustments to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Young Woo reported total variable costs, used for this adjustment, inclusive of duties paid on materials. Young Woo also separately reported both duties paid on the materials and duty drawback received on the exported merchandise. We subtracted duties paid and added duty drawback to the total variable costs to be consistent with our treatment of duties for the other respondents. (See DOC Position to Comment 2 in the "Interested Party Comments" section of this notice.)

E. Yurim

We determined that sales to Canada were the most appropriate basis for calculating FMV, as described above.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of Yurim's cost of materials, labor, other fabrication costs, and general expenses. The COP data submitted by Yurim was relied upon, except in the following instances where the costs were not appropriately quantified or valued.

The cost of manufacturing for certain products was adjusted to correct clerical errors in the most cost of materials calculations.

We adjusted general and administrative expenses to include: (1) The loss on disposal of raw yarn inventory which was related to production in general but not specifically to the products under investigation and (2) donations. Furthermore, we excluded insurance expense as this amount was already included in factory overhead. Finally, we reclassified the general and administrative expenses of a related

selling company as indirect selling expenses.

In addition, interest expense was adjusted to:

- (1) Reduce interest expense by allocating a portion to the investment activities of the company;
- (2) Exclude gain and loss on disposal of marketable securities;
- (3) Exclude long-term interest income;
- (4) Exclude trade notes receivable and foreign currency accounts receivable from the calculation of the credit offset to interest expense; and
- (5) To include amortization of debenture issue costs.

We found that less than 90 percent but more than 10 percent of sales to Canada were made at prices above the COP and considered only the above-cost sales as the basis for determining FMV. We disregarded the below-cost sales in our analysis. We calculated FMV based on packed, f.o.b. Korean port prices to unrelated customers in Canada. Based on our findings at verification, we adjusted Yurim's data for certain minor clerical errors.

Yurim reported an amount for "commission" payments in the Canadian market. However, the reported amount consisted entirely of non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling expenses not subject to the commission offset. (See DOC Position to Comment 4 in the "Interested Party Comments" section of this notice.) At verification, we noted that for certain transactions the gross unit price reported in Yurim's sales listing was actually the amount received by the unrelated quota holder, not the actual amount received by Yurim. Yurim received only the amount net of quota payment. Accordingly, we recalculated credit and indirect selling expenses, which are based on gross unit price, on the basis of the price actually received by Yurim.

We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation to the third country.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking expenses, credit expenses, price adjustment claims, and quota payments, in accordance with § 353.56 of the

Department's regulations. We made a further adjustment, where appropriate, using Canadian indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations.

In addition, where appropriate, we made adjustments to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Yurim reported total variable costs, used for this adjustment, exclusive of duties paid. It also reported separately the duty drawback received on the exported merchandise. We revised variable costs for certain clerical errors made by Yurim in computing yarn costs. We added duty drawback to the total variable costs to be consistent with our treatment of duties for the other respondents. (See DOC Position to Comment 3 in the "Interested Party Comments" section of this notice.)

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations (19 CFR 353.60). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

We verified the information used in making our final determination in accordance with section 778(b) of the Act. We used standard verification procedures including examination of relevant accounting records and original source documents of the respondents. Our verification results are outlined in the public versions of the verification reports which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Interested Party Comments

All comments raised by parties to the proceeding in the antidumping duty investigation of MMF sweaters from Korea are discussed below.

Comment 1

Petitioner contends that the Department erred by not expanding the POI to cover the 12 months from October 1988 through September 1989, as requested in its November 21, 1989, submission. Petitioner argues that the "normal" six-month POI should have been expanded to obtain a reasonable and representative measure of the respondents' pricing practices. Petitioner further argues that the effects of this error are magnified because the Department did not investigate the normal 60 percent of exports to the United States during the POI and

because the small number of companies that it did investigate had made only a small portion of their annual sales during that period.

Respondents maintain that the Department properly exercised its discretion in adhering to a normal six-month POI and that petitioner has presented no new evidence for expanding the POI. Respondents assert that the Department's decision was based on information contained in the record and is in accordance with the U.S. trade law. Accordingly, the Department should affirm its preliminary determination not to expand the investigative period.

DOC Position

We agree with respondents. First, we note that petitioner's initial request that the POI be expanded included not only Korea, but Hong Kong and Taiwan as well. It was on that basis that we analyzed this issue across all three investigations. As we stated in our preliminary determination, petitioner in its November 21, 1989, submission failed to provide adequate justification for expanding the POI. Specifically, petitioner did not adequately demonstrate that seasonal effects exist nor did it explain what bearing such effects would have on the investigation. For example, petitioner argued that a low percentage of yearly sales occurred during the months covered by the "normal" six-month POI. However, our analysis of the data provided by respondents in their Section A responses revealed that the percentage of yearly sales made during the normal POI varied greatly among producers and across the three countries whose export of MMF sweaters are being investigated. Furthermore, petitioner did not explain why in this investigation a low percentage of sales during the POI for a particular firm would be necessarily indicative of unrepresentative prices. Accordingly, the POI was not changed.

Comment 2

Shinwon and Yurim contend the Department improperly initiated a cost of production investigation in this proceeding. Respondents maintain that the Department disregarded the standard for initiating a COP investigation set forth in *Al Tech Specialty Steel Corp. v. United States*, 575 F. Supp. 1277 (CIT 1983), which requires "a specific and objective basis for suspecting that a particular foreign firm is engaged in sales below its cost of production." Respondents claim that the Department mistakenly relied on petitioner's data regarding fixed factory overhead costs which had no source

documentation and on petitioner's derivation of general and administrative expenses despite the fact that Yurim had submitted its own actual general and administrative expenses. In addition, Shinwon and Yurim assert that the petitioner's calculations of company-specific interest expenses were inaccurate because they were not offset by interest income. Respondents argue that because the Department improperly initiated a COP investigation, it should disregard the cost data and rely upon a price-to-price analysis.

DOC Position

We disagree with respondents. Petitioner provided the Department with a reasonable basis to believe or suspect that the companies involved made sales to third countries at prices below the cost of production. Accordingly, we initiated a COP investigation. Contrary to respondents' assertions, the Department did not disregard the standard for initiating COP investigations which requires "a specific and objective basis" for suspecting below-cost sales. We required petitioner to consider the company-specific data on the record for purposes of its allegation because that information was available to petitioner and was considered to be more specific and objective than, for example, cumulative or average data compiled for a cost report.

Furthermore, respondents' contention that petitioner incorrectly ignored their data in calculating factory overhead and general and administrative expenses is not justified. Petitioner adequately addressed all of the information on the record in making its allegations. Petitioner either used the information on the record or justified to our satisfaction its reasons for not using that information.

Comment 3

Shinwon and Yurim contend that the Department should add U.S., and not third country, duty drawback to FMV in order to avoid creating artificial margins where the drawback amounts differ. Shinwon and Yurim state that duties paid are not included in either company's cost of production, nor are they reflected in particular export transaction prices. Shinwon and Yurim maintain that adding U.S. duty drawback to third country price is consistent with past Departmental practice, as evidenced by the *Final Determination of Sales at Less Than Fair Value: Bicycles from Taiwan*, 48 FR 31688 (July 11, 1983). Shinwon and Yurim state that because they are only two

respondents in this investigation that do not include duties paid in their cost of production, this issue is relevant to them only. The other Korean respondents provided no comment on this issue.

Petitioner maintains that Shinwon's and Yurim's proposed approach is not consistent with the purpose of the antidumping "price-to-price" calculations, which is essentially to determine whether the profit realized in the market on which the FMV calculations are based is greater than the profit realized on the U.S. export sales. Petitioner maintains that the calculation of FMV should reflect actual duty drawback amounts received.

DOC Position

We disagree with respondents' contention that U.S. duty drawback should be added to FMV. FMV is normally based on sales in the home market. When making comparisons between sales in the United States and the home market, the Act requires that we add duty drawback to the United States price and compare the adjusted price to the home market price which already includes duties paid on imported materials. When third country sales are the basis for FMV, we add the actual duty drawback received on third country sales to FMV in order to effect a fair comparison to U.S. sales that include the amount of actual duty drawback received.

When calculating an adjustment for physical differences in merchandise, we have included duties paid on the material inputs because we recognize that duties paid are a cost to produce the merchandise. To the extent that the physical difference between comparison merchandise are associated with different amounts of imported materials, the adjustment for physical differences in merchandise will include different duty amounts.

Shinwon's and Yurim's argument that "artificial margins" are created is not justified. Any difference in duties between the U.S. and comparison third country product, which would be based on different amounts of imported inputs, will be accounted for by the adjustment for physical differences in merchandise and the addition of the actual duty drawback received in U.S. and third country sales.

We do not agree with Shinwon's and Yurim's argument that duties should be treated differently for them than for Chunji, Hanil, and Young Woo because import duties paid are not included in either company's accounting records as cost of goods sold. The fact that some companies record duty paid and duty drawback differently than others does

not change the treatment of duties in the fair value comparisons. Indeed, because each respondent used a different method of reporting the duty paid on the material portion of the total variable costs used in the adjustment for physical differences in merchandise, we have recalculated these total variable costs to ensure that all Korean respondents are treated consistently. (See the company-specific sections of the "Foreign Market Value" section of this notice.)

Comment 4

Shinwon and Yurim maintain that certain payments made to unrelated quota holders are fees paid for assistance in making sales, and are recorded in their books as commissions. Therefore, Shinwon and Yurim maintain that these payments should be treated as commissions subject to the purchase price commission and indirect selling expense offsets.

Petitioner maintains that the Department properly treated these payments as direct selling expenses in its preliminary determination.

DOC Position

We agree with petitioner. The unrelated quota holder does not perform functions similar to those performed by a commission agent. The unrelated quota holder is a producer of sweaters. It does not enter into negotiations with respondent's customers; it merely provides a portion of its quota allotment to other producers for a fee and processes the payment from the U.S. customer. By contrast, a commission agent negotiates sales transactions directly with the customer, or on the customer's behalf. Therefore, we will continue to classify quota fees paid to unrelated parties as direct selling expenses, rather than as commissions.

Comment 5

For Chunji and Young Woo, respondents that recorded the duties paid as part of the material costs on their internal records, petitioner argues that the Department should not permit a deduction from the cost of materials for the amount of duty drawback, since respondents did not prove that the drawback matched the duties paid. For Shinwon and Yurim, respondents that did not record duties as part of materials costs on their internal records, petitioner argues that the respondents' methodology is unacceptable.

Chunji and Young Woo assert that, because a third country market rather than the home market is used as the basis for FMV, duties paid are appropriately deducted from the COP and CV calculations. They also argue

that, in the aggregate, duty drawback could never exceed duties paid and, therefore, duty drawback may be used as a surrogate for duty paid. However, they state that because both duties paid and duty drawback have been provided, verified data is available for any decision the Department may make.

Shinwon and Yurim argue that their accounting records do not track import duties paid for a particular transaction and, thus, they could not report actual duties paid per transaction. Moreover, because duties are not reflected in the cost or sales price of the third country product being compared to the U.S. sales prices, there is no reason to include duties in CV calculations. However, if the Department finds it necessary to include duties in the material costs, the duty drawback reported by the companies should be included as the best evidence of duty paid.

DOC Position

The product-specific costs of production which were compared to the third country sales prices did not include the duty paid on the materials because the sales prices were reported net of duty drawback. Therefore, for purposes of calculating the cost of production and performing the cost test, no adjustment was made for any of the five respondents.

Since CV was not used as the basis for FMV, the treatment of duties in CV is moot.

Comment 6

Petitioner argues that the general and administrative expense and the interest expense calculations should be based on full fiscal year data in order to avoid distortions created by using the POI data.

Chunji and Young Woo contend that, since the general and administrative expense rate and the interest rate are applied to each product's cost of manufacture, it is necessary to calculate these percentages based on cost of manufacture for the POI. Shinwon and Yurim argue that general and administrative expenses should be calculated over the six-month POI and not on an annual basis so that costs are most accurately reflected for the products under investigation. Shinwon and Yurim further claim that all year-end adjustments were properly apportioned to the POI. Therefore, the reported general and administrative expenses represent the most accurate calculation of costs.

DOC Position

The use of an annual general and administrative expense percentage most accurately reflects the costs incurred to produce the subject merchandise. General and administrative expenses are not incurred directly with the level of production. These expenses may be incurred on an annual, semi-annual, or quarterly basis and may occur at irregular intervals throughout the year. Therefore, expenses relevant to the operations in a six-month period sometimes were recorded prior to or subsequent to such time. If the Department calculated general and administrative expenses using only a six-month basis, the expenses relevant to the production during the POI would not be fully captured.

For Yurim, Young Woo, and Shinwon, we calculated the annual general and administrative percentage using annual financial statements. Because Chunji's fiscal year ends during the POI on June 30, two financial statements were used to compute general and administrative expenses and financial expenses (*i.e.*, the statement for the fiscal year ended June 30, 1989, and the statement for the six months ended December 31, 1989).

Comment 7

Petitioner argues that the materials cost calculations for Hanil and Chunji are unacceptable. For Hanil, petitioner states that it appears that the materials costs were based on a 10-month average. For Chunji, petitioner states that it appears that the materials costs were distorted by the use of six-month averages for yarn costs.

Chunji contends that it complied with the Department's instructions in the May 3 questionnaire and revised its yarn costs appropriately. Accordingly, Chunji did not use six-month average yarn purchase prices to calculate material costs for COP and CV, but instead asserts that it used a monthly weighted-average yarn cost for the POI. Hanil also stated that a monthly-weighted average cost was used per the Department's instructions on May 3.

DOC Position

We agree with respondents. Monthly weighted-average material costs were submitted by both Chunji and Hanil in the COP and CV calculations and were verified. Because both companies purchased raw materials for inventory and did not identify materials drawn from inventory for each sales transaction, the Department accepted the monthly weighted-average cost as being representative of actual costs. The response which the Department verified

was not based on materials costs averaged over a 10-month period and a six-month period for Hanil and Chunji, respectively.

Comment 8

Petitioner argues that interest expenses should not be offset by interest income from long-term investments for Chunji, Young Woo, Shinwon, and Yurim because this income does not appear to be related to sweater production. In addition, petitioner contends that Hanil, Yurim and Chunji should not offset interest expenses with other gains from investment activities such as capital gains.

Yurim argues that long-term interest income should not be automatically treated as earnings from investment activity, but should be evaluated as to the nature of each income item. Additionally, Yurim, Chunji, and Hanil contend that gains on the disposition of short-term securities should be allowed as an offset to interest expense. Respondents explained that when surplus funds from operations are available, these funds will be placed in short-term bank deposits or short-term securities. When cash for operations is needed, funds are withdrawn from bank deposits or securities are sold and the gain or loss is recognized.

Hanil argues that interest expenses must be allocated to reflect the financing costs of a company's production operations and its investment activities. It understands that the Department's policy is to allocate a company's financing expenses to all lines of business without regard for which assets were purchased in connection with the debt. As such, Hanil contends that, given that the investment activity of the company is a separate line of business, this line of business should also bear a portion of the interest expense incurred.

DOC Position

For all respondents in this case, we reduced total interest expense for that portion attributable to the investment activity of the company. Additionally, short-term interest income accruing from certain types of temporary, short-term investments related to the current operations of the company was offset against remaining interest income.

We agree with Hanil that interest expense is related to all lines of business in which the company is involved, including investment activity. Therefore, the Department allocated a percentage of interest expense to investment activity based on income earned.

We disagree with Yurim, Chunji, and Hanil with regard to the argument that gains on the disposition of short-term securities should be allowed as an offset to interest expense. Such gains were not used as a direct offset to interest expense because the Department considered the underlying assets to be involved in the investment line of business. However, these gains were included in the Department's allocation of interest expense to investment activities.

For this case, we based the allocation of interest expense on income earned from investments and from the manufacturing line of business as reported on the company's income statement in order to capture all interest expense incurred during a period of time. We did not use the company's asset structure as reported on the balance sheet as a basis for interest allocation to the different lines of business because of the different methods used in valuing assets, *e.g.*, manufacturing assets are depreciated and investment assets remain on a historic cost basis.

Comment 9

Petitioner contends that foreign exchange gains or losses related to the purchase of raw materials should not be included in the material cost calculations nor in the calculation of finance expense. Petitioner claims that Shinwon, Hanil, Young Woo and Chunji did not provide support that these gains and losses were related to the production of sweaters.

Hanil, Chunji and Young Woo contend that gains and losses on foreign currency transactions which pertain solely to the production activity of all products are actual, realized gains and losses and thus should be included in the cost of production. In addition, Hanil argues that foreign currency gains and losses from accounts receivable should also be included.

DOC Position

If a company experienced an exchange gain or loss on the purchase of inputs used in the production of the merchandise under investigation, these gains or losses may be considered as part of the materials cost. None of the respondents in this case provided the Department with this information.

In response to Hanil's argument concerning the gains and losses on accounts receivable, the Department does not include exchange gains or losses resulting from the sales of merchandise recorded on the companies' records because, in

accordance with § 353.60 of the Department's regulations, the exchange rate used to convert third country sales to U.S. dollars is that in effect on the date of the U.S. sale.

Comment 10

Petitioner argues that certain expenses classified as non-operating expenses, such as donation expenses, should be included in the cost of production for Chunji, Young Woo, Shinwon, and Yurim. Petitioner also contends that other non-operating expenses, such as software development costs for Young Woo, the loss on disposal of raw yarn inventory for Yurim, and the export losses for Shinwon, should be included in general and administrative expenses because the Department normally considers such expenses to be part of general expenses.

Chunji and Young Woo argue that these items should not be included in the calculation of general and administrative expenses because they are classified as non-operating items on the financial statements and are not directly related to sales or production of the company. Yurim, Chunji and Young Woo argue that non-operating income should be permitted as an offset to any non-operating expenses included by the Department in the final determination.

Hanil argues that all items of non-operating income and expenses and various extraordinary gains and losses were appropriately included in its calculation of general and administrative expenses because these items were related to production operations.

DOC Position

We agree with petitioner and have included the above-mentioned expenses as part of general and administrative expenses for Shinwon, Yurim, Chunji and Young Woo since these types of expenses are normally treated as general costs of business operations.

For Hanil, we adjusted the respondent's submission to include only those items which would normally be treated as general costs of business operations. All other items were considered to be non-operating and not related to the operations of the company.

Comment 11

Petitioner argues that respondents should have included amortization costs for debenture and new stock issues in the calculation of interest expenses for Chunji, Young Woo, Yurim and Shinwon.

Chunji, Young Woo, Yurim, and Shinwon argue that these items are

classified as non-operating items on the financial statements and are not directly related to sales or production operations of the company.

DOC Position

We agree with petitioner and have included these expenses as part of financial expenses because these expenses are incurred in obtaining the funds required to operate the company.

Comment 12

Chunji and Young Woo maintain that their methodology for determining the weight per dozen sweaters is reasonable and was consistently applied to both markets. Chunji and Young Woo state that they reported net weight because it is only net weight that does not include the weight of extraneous materials (e.g., packing materials, accessories, etc.). Accordingly, they submit that the Department should accept their methodology of using net weight as the appropriate measure of weight per dozen sweaters.

DOC Position

We accept Chunji's and Young Woo's argument that it is appropriate to exclude the weight of packing materials from the reported weight per dozen sweaters, however, accessories should be included in the weight of the sweaters. We also found at verification that the difference between net weight and weight inclusive of accessories is small in most instances. Given that we do not have adequate information to revise Chunji's and Young Woo's product matching codes to include the weight of accessories in the reported weight and that net weight was reported consistently across both the U.S. and third country markets, we accept their methodology as best information available.

Comment 13

Chunji and Young Woo claim that they appropriately classified all merchandise sold to either the United States or the largest third country as either an MMF sweater or a non-MMF product. According to Young Woo, the minor discrepancies found at verification did not involve sales to the United States or would not affect the selection of the appropriate third country market.

DOC Position

We agree. At verification, we reviewed Chunji's and Young Woo's systems for designation of merchandise as either an MMF sweater or a non-MMF product. We found either that the products reviewed were appropriately

classified or that the errors discovered were minor and did not affect the selection of the third country market used as the basis for FMV.

Comment 14

Chunji and Young Woo maintain that the export fee charged by the Korean Garment and Knitwear Export Association (KGKEA) is a standard fee for an export license which is properly classified as an indirect selling expense. Because this export fee is the same regardless of destination, it is not a *bona fide* difference in the circumstance of sale. Furthermore, respondents argue that, due to the small size of this adjustment, re-classification of this fee as a direct selling expense would have no measurable effect on the margin calculation.

Petitioner claims that the export fee should be classified as a direct, not an indirect, selling expense.

DOC Position

We agree with petitioner. However, we did not reclassify this expense because there is no practical way to segregate these fees from indirect selling expenses. Moreover, this fee, which is the same on sales to both markets, is too small to have any effect on the fair value comparisons.

Comment 15

Chunji and Young Woo claim that the errors found at verification in the calculation of indirect selling expenses do not significantly distort the indirect selling expense rate and would have no measurable impact on any dumping margin.

DOC Position

We agree that the errors found at verification are not significant for either company. For purposes of the final determination, however, we have recalculated Chunji's indirect selling expense ratio based on the verified information. We made no changes to Young Woo's indirect selling expense ratio, because the errors found at verification did not alter the percentage reported.

Comment 16

Chunji maintains that it reported the correct price for a particular sale, even though the price reported by Chunji was higher than the price listed on the purchase order. Chunji asserts that the price reported is different from that shown on the purchase order because it reflects compensation granted to the customer for quality problems related to a purchase prior to the POI.

DOC Position

We agree. At verification we examined correspondence between Chunji and its customer documenting the quality problems of the prior sale. Based on that and other documentation reviewed at verification, we were satisfied that the discount granted resulted from the sale prior to the POI. Therefore, for purposes of our final determination we are accepting the higher price reported by Chunji.

Comment 17

Petitioner argues that losses incurred due to a labor strike in Chunji's factory during the POI should be included in the cost of production since the cost of idle assets is a cost of maintaining all factory assets. Petitioner cites the Final Determination of Sales at Less Than Fair Value: Mechanical Transfer Presses from Japan (MTPs), 55 FR 335 (Jan. 4, 1990) where the Department included depreciation expense on idle equipment in factory overhead because such expense is part of the cost of maintaining all factory assets.

Chunji argues that, since it had never experienced a labor strike before April 1989, the expenses incurred during the strike should be considered extraordinary and not included in the cost of production. Chunji states that in prior cases the Department has recognized that extraordinary expenses and losses may be excluded from the cost of production.

DOC Position

We agree with petitioner. We adjusted Chunji's fabrication costs by attributing expenses incurred during the labor strike to the total production of the year. Because strikes are not considered unusual in nature for a manufacturing concern, these costs incurred during the strike are not considered extraordinary.

Comment 18

Petitioner argues that the Department must include the depreciation expenses for fixed asset additions that were acquired during Chunji's 1989 fiscal year. Chunji contends that it does not depreciate the additions to fixed assets during the year when the value of these additions is not significant.

DOC Position

We agree with petitioner and have adjusted the depreciation expense related to those products manufactured in Chunji's factory. These assets were part of the overall production assets for manufacturing sweaters.

Comment 19

Young Woo maintains that it properly reported certain local letter of credit (L/C) charges (opening, advising, and transfer charges) as indirect selling expenses. Young Woo maintains that the classification of these charges as indirect rather than direct selling expenses is justified because (1) these charges do not affect the sales price; (2) they are not sale-specific, since these letters of credit can be used for an indefinite number of shipments; and (3) they are associated with internal management of funds, as local letters of credit are used uniquely for the transfer of payment from its related party to Young Woo.

Petitioner claims that the Department has traditionally considered letter of credit charges to be directly related circumstance of sale adjustments. Therefore, petitioner maintains that they should properly be treated as direct selling expenses.

DOC Position

We agree with respondent. These L/C charges can be applied to an indefinite number of shipments and are not sale-specific. Therefore, we have classified them as indirect selling expenses.

Comment 20

Young Woo argues that allocating interest income based on the year-end balances of various investment assets would provide a reasonable approximation of interest income earned on short-term investments during the fiscal year, since in Korea interest rates are generally equivalent for both short- and long-term bank deposits and securities.

Petitioner argues that Young Woo should use annual financial data to avoid distortions caused by end-of-period adjustments.

DOC Position

We used the actual interest income earned during the year by these various investments in lieu of the respondent's allocation method because this data was more accurate.

Comment 21

Young Woo argues that the Department should not adjust the fabrication costs for the six sweater styles affected by the allocation error discovered during verification because the effect on overall cost of production is virtually immeasurable.

DOC Position

We agree with the respondent. Because the adjustment has no impact

on the cost of the product, we did not adjust the fabrication costs.

Comment 22

Petitioner argues that for CV, the rent expense incurred by Young Woo for the use of Young Chang's building must be based on the fair market value that Young Woo would have paid to an unrelated party. Young Woo contends that all sweaters manufactured in its factory were sold to the third country and the issue of whether actual depreciation or the fair value of rent expense should be used for CV is moot.

DOC Position

We agree with the respondent that for CV the issue is moot. For COP purposes, actual costs for transactions between these related parties would be used pursuant to generally accepted accounting principles (GAAP) if one of the following situations exist: (1) Both companies are under common control; (2) Young Woo owns 50 percent or more of Young Chang either directly or indirectly; or (3) Young Chang owns 50 percent or more of Young Woo either directly or indirectly. In this case, none of these situations existed. (See Accounting Research Bulletin No. 51.) Therefore, the Department could not use Young Chang's actual cost for the building since Young Chang is not a subsidiary or the parent of Young Woo, nor is there common control of the assets of these two companies.

Comment 23

Petitioner argues that general and administrative expenses incurred by Young Chang should be combined with Young Woo's general and administrative expenses in the final determination since the companies are related and should be treated as one. Petitioner cites Final Determination of Sales at Less Than Fair Value: Color Picture Tubes From Japan (CPTs), 52 FR 44171, Nov. 18, 1987) in support of its argument. Young Woo contends that Young Chang operates as a production division, serving solely as an outside processor and thus all of its general and administrative expenses were appropriately attributed to production costs as factory overhead. Young Woo states that CPTs does not support petitioner's argument because in that case the Department attributed the general and administrative expenses of the parent company to the subsidiary company. In this case, Young Woo can be considered the parent company and its general and administrative expenses have been allocated across all of its production.

DOC Position

In this case, the facts differ as Young Woo is not the parent of Young Chang and the Department has no basis to treat the companies as one entity. Since Young Chang only operates as a production facility, all costs are considered production costs rather than as both production and general costs.

Comment 24

Hanil contends that the purchase price sales of two styles it had reported in its original response should be dropped from the Department's sales analysis for the final determination. Hanil claims that it originally reported these sales based on the date of follow-up purchase orders issued within the POL. According to Hanil, the terms of sale for both sales were actually set in January 1989, when the customer revised purchase orders it had issued in November 1988. Hanil argues that, due to an error by the customer, replacement purchase orders reflecting the revisions were not issued until after the merchandise was ready for shipment. As evidence that the terms of sale were set prior to the POL, Hanil submitted at verification its own production orders and also internal order records of the customer's representative in Korea. Hanil argues that these documents establish the correct date of sale, since they are the earliest written evidence of agreement between the parties.

Petitioner maintains that the dates of sale for these orders were correctly reported in the original response. According to petitioner, the Department should not rely on either Hanil's or the customer's internal documents to establish date of sale, since Hanil's internal documents do not indicate the terms of sale and the customer's records are not subject to verification. In addition, petitioner notes that all five Korean respondents have used the purchase order to establish the date of sale. According to petitioner, using another document would not only be inconsistent with this approach, but it would also necessitate a review of all purchase orders to confirm that the reported sales were actually made with the POL.

DOC Position

We agree with petitioner. The Department's policy is to establish the date of sale as the date of the first written document indicating that an order has been placed and that the basic terms of the sale have been agreed upon. Production orders do not necessarily indicate that agreement has been reached with the customer. For

example, in this case the price contained in the production order for a particular model is the same as the price reflected in the purchase order issued during the POL, but the quantity listed on the production order is different from the quantity on the purchase order. Furthermore, no delivery occurred until after the purchase order was issued which was over two months after respondents claimed production had been completed. Moreover, as our verification report indicates, there is some indication that the customer believed that it had cancelled the sales at issue. Under such circumstances, we cannot conclude that the production order represents the first document containing the terms agreed upon. Because Hanil failed to provide conclusive evidence that the basic terms were set prior to the POL and continued to remain in effect until delivery, we consider the dates of these sales to be the dates of the purchase orders issued during the POL. Therefore, we included these in our analysis for the final determination.

Comment 25

Hanil maintains that it properly did not report a sale of one style of sweater, since the terms of sale were set prior to the POL. According to Hanil, the price amendment to this sale discovered at verification was not a change in contract terms resulting in a new contract but an agreed settlement to compensate the customer for Hanil's inability to meet the shipping deadline.

DOC Position

We agree with respondent. The documentation reviewed at verification indicates that a purchase order placed prior to the POL set the terms of sale and that the price amendment for this sale which occurred during the POL was in the nature of a delayed-shipment discount or rebate. Consequently, we do not consider this price amendment to constitute a new sale.

Comment 26

Hanil argues that an August 1989 sale it reported in its response was a revision of a previous order placed in July 1989. Hanil contends that it was, therefore, correct in not reporting the July 1989 order as a separate sale.

DOC Position

We agree with respondent. The documentation submitted at verification, which included a telefax from the customer to Hanil, showed that the August 1989 purchase order contained a material revision of a purchase order

issued in July 1989 and was consequently considered a new sale.

Comment 27

Hanil maintains that it erroneously reported average prices for certain sales to Australia, rather than the individual prices it had negotiated for each specific model included in these sales. Hanil claims that the customer, for its own administrative convenience, issued purchase orders containing averaged prices for all models included in the orders. Hanil states that its internal memoranda show that individual prices had been negotiated for each model. Finally, Hanil argues the Department has a clear preference for actual prices, rather than averaged or allocated prices. As support, Hanil cites MTPs as a case where the Department declined to use the averaged prices submitted by the respondent and instead used the individual prices appearing on internal plant orders, sales contracts, or purchase orders. Therefore, Hanil argues that the Department should use the actual model-specific prices it claims to have negotiated with the customer, instead of the prices which appear on the purchase orders issued for these sales.

DOC Position

The Department's preference is to base its analysis on prices contained in official sales documentation such as contracts or purchase orders. In this case, for the sale in question, all the official documentation (e.g., purchase orders, payment records) between Hanil and its customer reflected one price which applied to a variety of sweater styles. As such, we are using that price in our analysis. Hanil is correct when it asserts that we rejected average prices in MTPs. That was done, however, because in that case the sales contracts in fact contained line item prices. While it is appropriate to accept the average prices in this case, we will carefully examine Hanil's use of average prices in any subsequent administrative review, if one is held.

Comment 28

Hanil maintains that the Department should accept the revised volume of sales to the home market and the United Kingdom, since the corrected totals were submitted within the regulatory deadline for submission of factual information.

DOC Position

We found at verification that respondent correctly reported that its home market was not viable and that, during the POL, Australia was the largest

third country market. Therefore, this issue is moot, as we are not using sales to the United Kingdom or home market in our analysis.

Comment 29

Hanil argues that research and development (R&D) costs should remain in general expenses because none of the R&D expense relates directly to the manufacturing of sweaters. Hanil claims that the research efforts which relate to the development and improvement of acrylic fiber benefit all of its products, not just sweaters, and the related costs have been appropriately included in general expenses. It further argues that, in fact, too much R&D cost has been allocated to sweaters. Hanil claims that certain R&D costs are product-specific to another product which is not subject to this investigation. Therefore, the R&D costs which can be solely attributed to that product should not be allocated to sweaters and should be excluded from the calculation of general expenses.

DOC Position

We agree with Hanil. The Department examined the projects in the R&D department during 1989 at verification. Those costs incurred in the development of other products were considered to be only applicable to such products and, therefore, were not included in general expenses.

Comment 30

Hanil argues that gain on the sale of real estate was properly included in the calculation of general expenses. Hanil cites the Final Determination of Sales at Less than Fair Value: Antifriction Bearings (AFBs) (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (May 3, 1989); Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) And Parts Thereof from Japan, 54 FR 19101 (May 3, 1989); and Final Determination of Sales at Less than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from the Republic of Korea, 54 FR 53141 (Dec. 27, 1989) as support for its argument in that the Department has insisted that respondents treat both gains and losses on the disposition of fixed assets as part of their general expenses. Because the asset had been acquired and held with the expectation that it would be used for production, Hanil has properly included the gain resulting from this sale in the calculation of general expenses.

DOC Position

The Department considered the gain resulting from the sale of this asset as investment income. While the Department included the gains and losses on the sale of fixed assets in the calculation of general and administrative expense, unlike the cases cited by the respondent, this particular sale involved an asset which was unrelated to Hanil's production operations. Accordingly, this gain has been included in the calculation of the investment interest offset.

Comment 31

Hanil argues that use of unaudited consolidated financial statements as a basis for calculating interest expense would be distortive and inappropriate. Hanil states that it is not a majority stockholder of the other companies, does not have any control over the financing operations of any other companies included in the consolidated statements and there are no common representatives on the Board of Directors of any of the companies. Hanil also argues that Korean generally accepted accounting principles (GAAP), with respect to consolidation, involves a much broader set of rules than U.S. GAAP. Korean GAAP requires consolidation even if the reporting company is only the largest minority shareholder, contrary to U.S. GAAP in which consolidation is based on majority ownership. Furthermore, these consolidated statements are provided for informational purposes only and are not included as part of a company's principal financial statements under Korean GAAP. Accordingly, these financial statements are not audited and an opinion has not been expressed.

Petitioner argues that the consolidated financial statements should be used in accordance with Department's past practice. Petitioner presents support for its argument by citing Preliminary Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies from the Republic of Korea (SBTS), 54 FR 31980 (Aug. 3, 1989) (where the Department used Samsung's corporate general and administrative expense and finance expense) and AFBs from the Federal Republic of Germany, *supra*, (where the Department allocated the total interest expense to the total operations of the consolidated corporation based on cost of sales).

DOC Position

The Department prefers to use consolidated financial statements for determining the interest expense

applicable to the product under investigation. We use consolidated statements when there is control of the companies being consolidated because all of the funds of the companies included in the consolidated financial statements may be transferred by various means among these companies.

However, in this case, the Department did not use the consolidated statements of the Hanil group because there was no control and there was evidence that all of the appropriate companies required to be included in the statement under Korean GAAP has not been included. Additionally, all of the necessary adjustments to eliminate the financial effects of the transactions among the companies that had been consolidated had not been made. Therefore, the Department concluded that the consolidated financial statements did not fairly reflect the financial condition of the consolidated companies. Similarly, in SBTS, the Department used the corporate financial statements of Samsung, not the audited group consolidated financial statements, since these consolidated financial statements included companies over which there was no control.

Comment 32

Hanil argues that the expenses related to the Industry Rationalization Plan were extraordinary and should not be included as part of the cost of sweaters. Hanil claims that the assumption of Kukje's debt by Hanil was forced by the government and was an unanticipated, one-time, and highly controversial action of the former government and was, therefore, extraordinary in nature. Hanil further argues that the government's action to redistribute wealth away from Hanil's shareholders to the creditors of Kukje is a loss to the stockholders of Hanil which is not recoverable by sales. Just as with the assumption of the debt, the interest expense which Hanil pays on the Kukje debt should not be included in interest expense, since Hanil received no direct benefit from the funds obtained through such borrowings.

Petitioner argues that because these expenses are a cost to the manufacturer, they should be reflected in the COP and CV calculations.

DOC Position

Although Hanil claims that it was forced by the government to acquire the Kukje group and assume certain debts, Hanil also received the rights of ownership of part of Kukje's assets and its potential earnings. Because Hanil provided no documentation to

demonstrate that this type of industry rationalization was unusual in nature or that it was forced to acquire these companies, the Department considered the transaction to be a normal business acquisition. As such, the Department did not include this assumption of debt as an expense of the current operations. Although Hanil will assume certain of Kukje's debt over an extended period, such debt is not payable until 1994. Even when the principal payments are made, these payments are considered a return of capital, not an expense. However, the interest which Hanil paid during the year on the debt which it already assumed from Kukje was included in finance expense since this is an obligation of Hanil.

Comment 33

Shinwon argues that the financing expenses and interest revenues resulting from the issuance of bonds did not relate in any way to operations and should not be included in the calculation of COP or CV. Shinwon states that the bonds were issued on behalf of a related company and were not used in any way in its operations. Furthermore, Shinwon argues that the funds were used to finance a new business venture unrelated to sweater manufacturing. Shinwon states that Department's practice has been to include only financial expenses and income which relate to the ordinary business operations for the merchandise under investigation. For these reasons, Shinwon asserts that the interest expense and interest income related to the issuance of these debentures should not be included in the COP or CV calculations. Finally, Shinwon argues that total interest income from short-term investments which included interest income earned on the above-mentioned debentures should be considered income from operations.

Petitioner argues that Shinwon did not supply evidence to either confirm or verify the claim that this interest expense resulting from the issuance of bonds should not be included.

DOC Position

Financing expense, calculated with or without the income or expense from these bonds, resulted in interest income exceeding interest expense. Therefore, no financing expense was included in the COP.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of MMF sweaters from Korea, 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 MMF sweaters from Korea exceeds the United States price as shown below.

We are also instructing the U.S. Customs Service to require that both exporter of record and manufacturer be listed on all invoices accompanying imports of MMF sweaters to the United States. If the manufacturer is not listed, the "all others" rate will be applied. 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
Chunji Industrial Co., Ltd., and all related companies, including: U. Young	1.20
Hanil Synthetic Fiber Ind. Co. Ltd., and all related companies	3.17
Shinwon Tongsang and all related companies, including: Shinwon Development	1.11
Young Woo & Co., Ltd., and all related companies, including: Young Chang	0.73
Yurem Company, Ltd., and all related companies, including: Koo Ho	0.92
All others	1.30

ITC Notification

In accordance with section 735(c) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged 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 Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to the product under investigation, the applicable proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order

directing Customs officials to assess antidumping duties on MMF sweaters from Korea entered or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

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

Dated: August 2, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-18753 filed 8-9-90; 8:45 am]

BILLING CODE 3510-06-M

International Trade Administration**[A-583-808]****Final Determination of Sales at Less Than Fair Value; Sweaters Wholly or in Chief Weight of Man-Made Fiber From Taiwan****AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: We determine that sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from Taiwan 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 MMF sweaters from Taiwan, except those of Jia Farn Manufacturing Co., as described in the "Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of the publication of this notice, whether these imports materially injure, or threaten material injury to a U.S. industry.

EFFECTIVE DATE: August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Carole A. Showers (Bonanza Industries Co., Ltd., Jia Farn Manufacturing Co., Ltd., Nicewear Knitting Co., Ltd., Oriental Knitting Co., Ltd., Supertex Knitting Co., Ltd., and Taih Yung Enterprise Co., Ltd.) or Mary S. Clapp (all other companies), Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3217, or 377-3965, respectively.

SUPPLEMENTARY INFORMATION:**Final Determination**

We determine that MMF sweaters from Taiwan, except those of Jia Farn Manufacturing Co., Ltd. (Jia Farn), 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 estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determination (55 FR 17788, April 27, 1990), the following events have occurred. In separate submissions, all respondents requested that the final

determination in this investigation be postponed until not later than six weeks from the original due date of the final determination, pursuant to section 735(a)(2) of the Act. On May 24, June 21, and July 28, 1990, we published notices postponing our final determination until not later than August 16, 1990, and announcing the public hearing (55 FR 21419, 55 FR 25352, and 55 FR 30491).

Verification of the questionnaire responses was conducted in Taiwan and the United States, as appropriate, during May and June 1990.

A public hearing was held on July 16, 1990. Petitioner, respondents, and other interested parties filed case and rebuttal briefs on July 9 and July 13, 1990, respectively.

On July 27, 1990, an interested party asked for a clarification as to whether MMF sweaters assembled in the Commonwealth of Northern Mariana Islands from knit-to-shape component parts knit in and imported from Taiwan are excluded from the scope of the investigation. In addition, on July 25 and August 10, 1990, counsel for the Taiwan respondents and counsel for petitioners, respectively, filed comments on the Department's scope clarification dealing with length and lining published in the companion Hong Kong investigation. For purposes of this determination, the scope of this investigation is identical to that in the Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong (55 FR 30733, July 27, 1990). We are considering comments received on these issues. Any further clarifications to the scope of this investigation will be made in the antidumping duty order, if one is issued.

Scope of Investigation

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knit or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys' or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or

younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

In our preliminary determination, we clarified the scope of this investigation by deleting the phrase "but most typically ending at the waist." This has raised a number of questions. For further clarification, a product or garment will not be considered a sweater nor included in the scope of this investigation if it extends to mid-calf or below and is lined.

This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10, and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. Specifically excluded from the scope of this investigation are sweaters assembled in Guam that are produced from knit-to-shape component parts knit in and imported from Taiwan. The HTS item number are provided for conveniences and Customs purposes. The written description remains dispositive as to the scope of the product coverage. As noted above, the scope of this investigation remains subject to clarification in view of issues raised too late for a complete airing and thorough consideration before issuance of this determination.

Period of Investigation

The period of investigation (POI) is April 1, 1989, through September 30, 1989.

Such or Similar Comparisons

For all respondents companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters. Product comparisons were made on the basis of the following criteria, which are ranked in the order of importance: (1) style of sweater; (2) fiber content; (3) yarn weight; (4) yarn gauge; (5) weight per dozen; and (6) type of knit. We used home market or third country sales as the bases for foreign market value (FMV) for certain respondents, as described in the "Foreign Market Value" section of this notice.

Where there were no sales of identical merchandise in the home or third country markets to compare to sales of merchandise in the United

States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In cases where there was equally similar home market or third country merchandise, we calculated weighted-average prices and adjustments for differences in the merchandise for comparison purposes. In those instances where respondents failed to follow the matching criteria described above, or there were insufficient sales of the most similar product at prices above the cost of production (COP) for comparison purposes, we revised their concordances. We limited our comparisons to products sold in the home or third country market where the reported adjustment for physical differences in merchandise did not exceed 20 percent of the net home or third country market price of the comparison merchandise because we determined that adjustments of greater magnitude would be unreasonable in this case.

Where we could not find a comparison sweater with a difference in merchandise adjustment of 20 percent or less of the relevant foreign price, we disregarded those U.S. sales transactions from our analysis because the quantity of sweaters involved in these transactions was not significant enough to justify adopting an alternative method for determining FMV (i.e., constructed value (CV)).

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the total or partial use of best information available is appropriate for sales of the subject merchandise from all respondents in this investigation except Bonanza Industries, Co., Ltd. (Bonanza), Chung Ling Co., Ltd. (Chung Ling), and Jia Farn.

In deciding what to use as best information available, section 353.37(b) of the Department's regulations (19 CFR 353.37(b) (1990)) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is best information available. For purposes of this final determination, we have applied best information available depending on whether the companies refused or attempted to cooperate in this investigation.

Where a company (1) was unable to participate in the investigation due to circumstances beyond its control, or (2) attempted to cooperate, but did not provide an adequate and verified

questionnaire response, we used the highest calculated margin for any Taiwan respondent with a verified response as best information available. Where a cooperative company provided substantially complete and verified responses but failed to provide certain requested information in a timely manner on in the form required, we used the highest calculated margin for any other Taiwan company with a verified response as best information available for that portion of unverified sales.

Those instances where we used partial best information available in this determination are described in the "United States Price" and "Foreign Market Value" sections of this notice, where appropriate, on a company-specific basis. Those instances where we used total best information available in this determination are fully described below.

(1) Goodman Knitting Co., Ltd. (Goodman), Knitwear Express Co., Ltd. (Knitwear), and Nicewear Knitting Co., Ltd. (Nicewear), failed to fully participate in this investigation. We found substantial evidence at verification indicating that these companies had ceased operations and that the owners of these companies had not formed new companies to manufacture and sell MMF sweaters. Our verification results are outlined in the public version of the verification report which is on file in the Central Records Unit (Room B-099) of the Main Commerce Building. Because these companies were unable to participate in the investigation due to circumstances beyond their control, we used the highest calculated margin for any Taiwan respondent with a verified response as best information available. For the reasons stated in the DOC Position to Comment 3, in the "Interested Party Comments" section of this notice, we have excluded these margins from the calculation of the "all others" rate.

(2) Bay/Joy Flower Knitting Co., Ltd. (Bay/Joy Flower), encountered numerous problems attempting to respond to the Department's questionnaire due to a fire in one of its production facilities that destroyed critical documentation. In addition, during verification, we found significant deficiencies with the responses that were submitted. Since we determined that Bay/Joy Flower's inability to effectively participate in this investigation was primarily due to circumstances beyond its control and because we found numerous discrepancies with its responses, we used the highest calculated margin for

any Taiwan respondent with a verified response as best information available. For the reasons stated in the DOC Position to Comment 3, in the "Interested Party Comments" section of this notice, we have excluded this margin from the calculation of the "all others" rate.

(3) Taih Yung Enterprise Co., Ltd. (Taih Yung) failed to report a substantial portion of its U.S. sales, identified as "stock sales", during the POI period. Although Taih Yung reported "stock sales", during the POI period. Although Taih Yung reported "stock sales" it made to the United States during the POI. Given the magnitude of the unreported sales, the Department was unable to use Taih Yung's incomplete U.S. sales listing for purposes of its price comparisons for the final determination. Therefore, as best information available, we used the highest calculated margin for any Taiwan respondent with a verified response and included this margin in the calculation of the "all others" rate. For further explanation, see the DOC Positions to Comments 4 and 43 in the "Interested Party Comments" section of this notice.

(4) Chen Hwa Knitting Factory, Ltd. (Chen Hwa), New Northern Knitting Co., Ltd. (New Northern), Oriental Knitting Co., Ltd. (Oriental), and Supertex Knitting Co., Ltd. (Supertex) provided inadequate and unverifiable responses. During verification, we found significant deficiencies, errors, and discrepancies in the sales and/or cost responses submitted by these companies. It is not uncommon to find minor methodological and mathematical errors during verification. However, in these cases we found that the magnitude of the discrepancies, methodological errors, unreported data, and information that could not be supported by source documents was so extensive as to require completely new responses, which at that stage of the proceeding could not be subjected to satisfactory analysis or verification. The major deficiencies found during verification for each affected respondent are outlined in the public versions of company-specific verification reports and the Memorandum from Francis J. Sailer to Eric I. Garfinkel, Re: "Executive Summary of Issues and Recommendations" which are on file in the Central Records Unit.

Faced with responses containing numerous fundamental flaws, the Department cannot properly base its determination on the information submitted by these four companies. Nor is it acceptable, in such situations, that

the Department bear the responsibility of attempting to identify and perform numerous and substantial revisions necessary for the development of accurate sales and cost data. As stated in Photo Albums and Filler Pages from Korea: Final Determination of Sales at Less Than Fair Value, 50 FR 43754 (October 29, 1985) (Photo Albums from Korea):

[I]t is the obligation of respondents to provide an accurate and complete response prior to verification so that the Department may have the opportunity to analyze fully the information and other parties are able to review and comment on it. Verification is intended to establish the accuracy and completeness of a response rather than to supplement and reconstruct the information to fit the requirements of the Department.

Therefore, for the reasons stated above, we have determined that rejection of the responses submitted by Chen Hwa, New Northern, Oriental, and Supertex, and use of best information available, is appropriate for this determination and is consistent with past practice. See Final Determination of Sales at Less Than Fair Value: 12-Volt Motorcycle Batteries from Taiwan, 54 FR 27191, 27192, 27193 (June 28, 1989); Final Determination of Sales at Less Than Fair Value: Antifiction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany et al., 54 FR 18992 (May 3, 1989) (AFBs from the FRG); and Final Determination of Sales at Less Than Fair Value: Internal-Combustion, Industrial Forklift Trucks from Japan, 53 FR 12252 (April 15, 1988) (Forklifts from Japan). Furthermore, because we have used best information available with respect to these four companies, petitioner's and respondents' comments pertaining to specific charges, adjustments and other issues concerning data contained in responses need not be addressed. We have determined that the highest calculated margin for any Taiwan respondent that supplied adequate and verified responses is the most appropriate basis for best information available. For the reasons stated in the DOC Position to Comment 4 in the "Interested Party Comments" section of this notice, we have included the margins assigned to Chen Hwa, New Northern, Oriental, and Supertex in the calculation of the "all others" rate.

Fair Value Comparisons

To determine whether sales of MMF sweaters from Taiwan to the United States were made at less than fair value, we compared the United States price to the FMV, as specified in the "United

States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Bonanza, Chung Ling, Jia Farn, and Modern Knitting Mills Inc. (Modern), we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all reported sales were made directly to unrelated parties prior to importation into the United States.

For Chung Tai Industries Co., Ltd. (Chung Tai), we based United States price on both purchase price and exporter's sales price (ESP), in accordance with section 772 (b) and (c) of the Act. ESP was used where the merchandise was sold to unrelated purchasers after importation into the United States.

A. Bay/Joy Flower

See "Best Information Available" section of this notice.

B. Bonanza

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act.

Based on our findings at verification, we made adjustments for certain minor clerical errors. In addition, we recalculated U.S. credit based on a verified weighted-average short-term interest rate and a credit year of 360 days. We adjusted the expenses reported for the Taiwan Textile Federation (TTF) service fees and contingent quota fees for U.S. sales transactions based on verified information. We also adjusted for bank handling interest charges incurred on U.S. sales transactions, discovered at verification, on a transaction-specific basis (see DOC Position to Comment 10 in the "Interested Party Comments" section of this notice).

We rejected Bonanza's coding system for yarn weight and created a new coding key for this product characteristic. Bonanza's yarn weight code was rejected because the yarn weight code reported for all of Bonanza's U.S. and Canadian sales represented a significant diversity of yarn weights and combinations. We used the new yarn weight coding key in performing product matching between markets.

C. Chen Hwa

See "Best Information Available" section of this notice.

D. Chung Ling

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, air freight, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for rebates. We added the amount of value-added taxes (VAT) that would have been collected if the merchandise had not been exported.

We have excluded sample sales from our calculation of U.S. price because these sales comprised an insignificant portion of total reported U.S. sales.

E. Chung Tai

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. warehouse prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, ocean freight, marine insurance, harbor maintenance fees, U.S. brokerage and handling expenses, and U.S. repacking, in accordance with section 772(d)(2) of the Act. We made further deductions, where appropriate, for credit, bank handling charges, and indirect selling expenses, including product liability premiums, inventory carrying costs, contingent quota fees, and "other" indirect selling expenses, in accordance with section 772(e) of the Act.

Chung Tai did not report inventory carrying costs for its ESP sales. As best information available, we used invoices examined by the Department at verification to determine a simple average of the number of days merchandise was held in inventory. To impute inventory carrying costs for the subject merchandise from Chung Tai to its U.S. subsidiary, Formosa Titan, we used Chung Tai's short-term interest rate in Taiwan during the POI. To impute inventory carrying costs from Formosa Titan to the first unrelated U.S.

customer, we used Formosa Titan's short-term interest rate in the United States during the POI.

For those ESP sales that Chung Tai reported to the Department on April 20, 1990, we have determined that it is appropriate to use the best information available because the reporting of these sales was untimely. As best information available, we used the highest calculated margin for any other Taiwan company with a verified response. (See DOC Position to Comment 27 in the "Interested Party Comments" section of this notice for further discussion of these sales.)

For certain purchase price sales, Chung Tai did not provide complete data to the Department in the form required. Therefore, for these sales we have used as best information available the highest calculated margin for any other Taiwan company with a verified response.

We have also included in our analysis those sales characterized by Chung Tai as "stock lot" and "obsolete". For stock lot sales, we have determined that it is appropriate to assign, as the best information available, the weighted-average margin calculated for all other Chung Tai sales. We have included in our analysis those sales of "obsolete" merchandise reported to the Department in a timely manner. For those sales of "obsolete" merchandise not reported to the Department in a timely manner, we used the highest calculated margin for any other Taiwan company with a verified response. (See DOC Position to Comment 27 in the "Interested Party Comments" section of this notice for further discussion of "stock lot" sales and sales of "obsolete" merchandise.)

F. Goodman

See "Best Information Available" section of this notice.

G. Jia Farn

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, containerization fees, and containerization labor, in accordance with section 772(d)(2) of the Act.

Based on our findings at verification, we made adjustments for certain minor clerical errors. The Department has used transaction-specific expenses for foreign brokerage and handling expenses, foreign inland freight, containerization fees, harbor maintenance fees, bank handling charges, and commissions

rather than the product-specific average expenses reported prior to the preliminary determination. Based on verified information, we also have made adjustments to TTF service fees and contingent quota fees.

H. Knitwear

See "Best Information Available" section of this notice.

I. Modern

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act.

J. New Northern

See "Best Information Available" section of this notice.

K. Nicewear

L. Oriental

See "Best Information Available" section of this notice.

M. Supertex

See "Best Information Available" section of this notice.

N. Taih Yung

See "Best Information Available" section of this notice.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated FMV based on home market sales, third country sales, and/or CV.

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (i.e., all MMF sweaters) to the aggregate volume of third country sales, in accordance with section 773(a)(1) of the Act. For 13 of the total 14 respondents, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, for these companies, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with § 353.48 of the Department's regulations.

In selecting which third country market to use for comparison purposes, we first determined which third country markets had an "adequate" volume of sales, within the meaning of § 353.49(b)(1) of the Department's regulations. We determined that the

volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or was equal to five percent of the volume sold to the United States. In selecting which third country market, having an adequate sales volume, was the most appropriate for comparison purposes, we selected the third country market with the largest volume of sales, in accordance with § 353.49(b)(2) of the Department's regulations. Where the home market was not viable and there was no third country market with an adequate sales volume, we calculated FMV based on CV.

Petitioner subsequently alleged that Bay/Joy Flower, Bonanza, Chen Hwa, Chung Ling, Chung Tai, New Northern, Oriental, and Supertex were selling to the home market or third country at prices below the COP. For Bay/Joy Flower, Chen Hwa, New Northern, Oriental, and Supertex, see "Best Information Available" section of this notice. Based on petitioner's allegation, we gathered and verified data on the production costs of Bonanza, Chung Ling, and Chung Tai.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time. Where we found that fewer than ten percent of respondent's sales were at prices above the COP, we disregarded all sales and calculated FMV based on CV. (See the company-specific sections below.)

Where necessary, we revised the product concordances to enable us to match the merchandise sold to the United States to MMF sweaters which were sold in the home market or third country at prices above the COP, using the criteria set forth in the "Such or Similar Comparisons" section of the notice.

A. Bay/Joy Flower

See "Best Information Available" section of this notice.

B. Bonanza

We determined that sales to Canada were the most appropriate basis for calculating FMV.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of

Bonanza's cost of materials, labor, other fabrication costs, general expenses, and packing. We relied on the COP data submitted by Bonanza except in the following instances where the costs were not appropriately quantified or valued.

(1) We increased material costs to account for the costs of excess yarn associated with production overruns which had not been included in the total materials used.

(2) We adjusted subcontracting costs for certain sweater styles which had been calculated on the basis of production quantities. We recalculated these subcontracting costs on the basis of export quantities.

(3) We adjusted factory overhead to include the loss on the sale of knitting machines.

(4) We increased general and administrative (G&A) expenses by the amount of bonuses paid in 1989, which Bonanza had classified as relating to 1988.

(5) We reallocated interest expense over the cost of sales reported in the 1989 financial statement. Bonanza had allocated interest expense over sales value, and then applied it to the cost of manufacturing (COM).

For further discussion of these adjustments, see the DOC Positions to Comments 9 through 15 in the "Interested Party Comments" section of this notice.

We found that over 90 percent of sales to Canada were made at prices above the COP and, therefore, used all sales as the basis for determining FMV. We calculated FMV based on packed, f.o.b. port prices to unrelated customers in Canada.

We made deductions, where appropriate for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We made adjustments for differences in circumstances of sale, where appropriate, for credit expenses, bank handling charges, bank handling interest charges, TTF service fees, and contingent quota fees, in accordance with section 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the U.S. market and not in the Canadian market, we added the U.S. commission, but did not offset it with

indirect selling expenses in the Canadian market because we did not verify these expenses. See DOC Position to Comment 7 in the "Interested Party Comments" section of this notice.

In addition, where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Based on our findings at verification, we adjusted for certain clerical errors. In addition, we recalculated Canadian credit based on a verified weighted-average short-term interest rate and a credit year of 360 days. We adjusted the expenses reported for the TTF service fees and contingent quota fees for Canadian sales transactions based on verified information. We also adjusted for bank handling interest charges incurred on Canadian sales transactions, discovered at verification, on a transaction-specific basis (see DOC Position to Comment 10 in the "Interested Party Comments" section of this notice). We also excluded certain sales from our analysis which we verified were sweaters not in chief weight of man-made fiber, and therefore, not covered by the scope of this investigation.

C. Chen Hwa

See "Best Information Available" section of this notice.

D. Chung Ling

We determined that sales in the home market were the most appropriate basis for calculating FMV. Chung Ling sells MMF sweaters produced by Three Bell, a related company. The name Chung Ling is used herein, except where reference to the individual company is required for purposes of clarity.

In order to determine whether home market sales were above the COP, we calculate the COP on the basis of Chung Ling's cost of materials, labor, other fabrication costs, general expenses, and packing. We relied on the COP data submitted by Chung Ling, except in the following instances where the costs were not appropriately quantified or valued.

(1) We increased COM to account for the cost associated with extra processing in order to provide a safety margin for defects which result during fabrication.

(2) We increased material costs to reflect the actual costs incurred during the period of production instead of annual average costs.

(3) We increased material costs to account for the cost of excess yarn associated with production which had

not been included in total materials costs.

(4) We revised the material costs for one model to reflect purchases from a related party at an arm's length price.

(5) We revised indirect labor and factory overhead costs to reflect actual costs incurred during the period of production instead of the seasonally adjusted amounts submitted by respondent.

(6) We increased Three Bell's G&A expenses to account for the costs associated with a sweaters plant's closing.

(7) We reclassified Chung Ling's G&A expenses as indirect selling expenses because these expenses related to sales.

(8) We included Chung Ling's interest expense as an indirect selling expense because these expenses related to sales.

(9) We disallowed Chung Ling's interest income offset as the short term nature of this amount was not substantiated.

(10) G&A expenses were allocated to cost of sales versus COM.

For further discussion of these adjustments, see the DOC Positions to Comments 9 and 19 through 26 in the "Interested Party Comments" section of this notice.

We found that less than 90 percent but more than 10 percent of sales in the home market were made at prices above the COP and, therefore, considered only the above-cost sales as the basis for determining FMV. We disregarded the below-cost sales in our analysis. We calculated FMV based on packed, ex-factory prices to unrelated customers in Taiwan.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in credit, bank handling charges, and TTF service fees, in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, using home market selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations.

We made an upward adjustment to the tax-exclusive home market prices for the VAT we computed for United States price. In addition, where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Based on our findings at verification, we adjusted for certain clerical errors. We also reallocated reported home

market indirect selling expenses over the value of reported sales. (See DOC Position to Comment 19 in the "Interested Party Comments" section of this notice.)

E. Chung Tai

We determined that sales to Canada were the most appropriate basis for calculating FMV.

In order to determine whether third country sales were above the COP, we calculated the COP on the basis of Chung Tai's cost of materials, labor, other fabrication costs, general expenses, and packing. We relied on the COP data submitted by Chung Tai, except in the following instances where the costs were not appropriately quantified or valued.

(1) We adjusted materials cost for the weighted-average understatement noted at verification.

(2) We increased material costs to account for the cost of excess yarn associated with production which had not been included in total material costs.

(3) We adjusted factory overhead to include the cost of shoulder pads and to correct an error in the reported depreciation expense.

(4) We adjusted G&A expenses to include the labor insurance expense of G&A employees, and a minor amount of pension expense.

(5) We used the annual amount of G&A expense rather than the reported six-month amount.

(6) We recalculated interest expense based on the ratio of net interest expense to cost of goods sold (COGS).

For further discussion of these adjustments, see the DOC Positions to Comments 9 and 29 through 31 in the "Interested Party Comments" section of this notice.

Chung Tai reported credit and bank handling charges together. At verification, the Department determined that Chung Tai's calculation methodology for credit was inappropriate because it was based on a simple average. Because the Department has no other information on the record with respect to Chung Tai's appropriate short-term interest rate, we are treating the entire reported amount as a credit expense.

We found that less than 90 percent but more than ten percent of sales in the third country were made at prices above the COP and, therefore, considered only the above-cost sales as the basis for determining FMV. We disregarded the below-cost sales in our analysis. We calculated FMV based on packed, ex-factory prices to unrelated customers in Canada.

We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We made adjustments for differences in circumstances of sale. We adjusted for differences in credit/bank handling charges, and product liability expenses, in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions where commissions were incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

For comparisons involving ESP transactions, we made further deductions for third country indirect selling expenses, capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations.

F. Goodman

See "Best Information Available" section of this notice.

G. Jia Farn

Neither the home market nor any third country market was viable. Accordingly, we calculated FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases, we used:

(1) The higher of either the actual general expenses or the statutory ten percent minimum of materials and fabrication, depending on the products, in accordance with section 773(e)(1)(B)(i) of the Act;

(2) The statutory eight percent minimum profit, because Jia Farn did not have a viable home or third country market, in accordance with section 773(e)(1)(B)(ii) of the Act; and

(3) Imputed credit, which was included in selling expenses.

Because neither the home market nor any third country market was viable, we included in CV general expenses and packing expenses based on reported U.S. experience.

We adjusted the costs for materials to reflect the actual dyeing costs for production lots of the sweaters under investigation. We adjusted factory

overhead to include truck maintenance and depreciation costs, originally reported as part of G&A expenses, because we considered these expenses to be factory overhead costs. We allocated 1989 G&A expenses based on cost of sales rather than on sales. Finally, based on our findings at verification, we corrected two clerical errors in the calculation of material costs and interest expenses. For further discussion of these adjustments, see the DOC Positions to Comments 32 through 36 of the "Interested Party Comments" section of this notice.

We made adjustments to CV, in accordance with § 353.56 of the Department's regulations, for differences in circumstances of sale. These adjustments were made for differences in credit, bank handling charges, TTF service fees, contingent quota fees, and commissions. We also made an adjustment for differences in packing. We calculated a single weighted-average CV for multiple sales of identical sweaters.

H. Knitwear

See "Best Information Available" section of this notice.

I. Modern

Neither the home market nor any third country market was viable. Accordingly, we calculated FMV based on CV, in accordance with section 773(3)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases we used:

(1) The higher of either the actual general expenses or the statutory ten percent minimum of materials and fabrication, depending on the products, in accordance with section 773(e)(1)(B)(i) of the Act;

(2) The statutory eight percent minimum profit, because Modern did not have a viable home or third country market, in accordance with section 773(e)(1)(B)(ii) of the Act; and

(3) Imputed credit, which was included in selling expenses. We then reduced interest expense reflected on the company books for a portion of the expense related to these imputed credit costs in order to avoid double counting.

Because neither the home market nor any third country market was viable, we included in CV general expenses and packing expenses based on reported U.S. experience.

We recalculated material costs for products containing a certain type of acrylic yarn using the current cost of that yarn noted at verification. We recalculated variable factory overhead to include employee meal allowance and pension expense. We recalculated

the percentage of labor allocated to packing to correct an error in the submission. We corrected G&A expenses to include repair and maintenance expenses, meal allowance for administrative employees, and insurance expense. We then recalculated G&A expenses a percentage of COGS. We recalculated the net interest expense as a percentage of annual COGS. We calculated an interest offset equal to the ratio of accounts receivable to total assets. For further discussion of these adjustments see the DOC Positions to Comments 31 through 40 in the "Interested Party Comments" section of this notice. Finally, based on findings at verification, we corrected minor clerical errors in reported in-house and subcontracted labor costs.

We made adjustments to CV, in accordance with § 353.56 of the Department's regulations, for differences in circumstances of sale. These adjustments were made for differences in credit expenses, bank handling charges, and TTF service fees. We also made an adjustment for differences in packing. We calculated a single, weighted-average CV for multiple sale of identical sweaters.

J. New Northern

See "Best Information Available" section of this notice.

K. Nicewear

See "Best Information Available" section of this notice.

L. Oriental

See "Best Information Available" section of this notice.

M. Supertex

See "Best Information Available" section of this notice.

N. Taih Yung

See "Best Information Available" section of this notice.

Currency Conversion

We made currency conversions in accordance with § 353.69(a) of the Department's regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

Except where noted, 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 source

documents of the respondents. Our verification results are outlined in the public versions of the verification reports which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Interested Party Comments

All comments raised by parties to the proceeding in the antidumping duty investigation of MMF sweaters from Taiwan are discussed below.

Comment 1. Petitioner contends that the Department erred by not expanding the POI to cover the 12 months from October 1988 through September 1989, as requested in its November 21, 1989, submission. Petitioner argues that the "normal" six-month POI should have been expanded to obtain a reasonable and representative measure of the respondents' pricing practices. Petitioner further argues that the effects of this error are magnified because (1) the Department did not investigate the normal 60 percent of exports to the United States during the POI and (2) the small number of companies that the Department did investigate had made only a small portion of their annual sales during that period.

DOC Position. We disagree with petitioner. First, we note that petitioner's initial request that the POI be expanded included not only Taiwan, but Hong Kong and Korea as well. It was on that basis that we analyzed this issue across all three investigations. As we stated in our preliminary determination, petitioner in its November 21, 1989, submission failed to provide adequate justification for expanding the POI. Specifically, petitioner did not adequately demonstrate that seasonal effects exists nor did it explain what bearing such effects would have on the investigation. For example, petitioner argued that a low percentage of yearly sales occurred during the months covered by the "normal" six-month POI. However, our analysis of the data provided by respondents in their Section A responses revealed that the percentage of yearly sales made during the normal POI varied greatly among producers and across the three countries whose exports of MMF sweaters are being investigated. Furthermore, petitioner did not explain why in this investigation a low percentage of sales during the POI for a particular firm would be necessarily indicative of unrepresentative prices. Accordingly, the POI was not changed.

Comment 2. Petitioner contends that the Department must reject entirely the submissions by most, if not all, of the Taiwanese respondents and instead use

the highest margin alleged in the petition as best information available for purposes of the final determination. Petitioner states that these submissions are generally unverifiable, inaccurate, incomplete and unreliable. Petitioner cites Photo Albums from Korea.

Respondents maintain that the Department should use the information supplied by the Taiwan respondents in their submissions rather than punitive best information available based on the petition because any difficulties which may have arisen at verification were due to lack of time and resources, clerical errors or misinterpretation of the questionnaire, not attempts to avoid dumping findings. Respondents further assert that if the Department finds it necessary to use best information available for a specific category of information which could not be verified for a company, then the Department should use an average of the verified figures obtained from all companies as best information available for that category of information.

DOC Position. During verification, we found substantial deficiencies, errors, and discrepancies in both the sales and cost responses submitted by Bay/Joy Flower, Chen Hwa, New Northern, Oriental, Supertex and Taih Yung. We found that these deficiencies, errors, and discrepancies were so significant as to prevent us from using the data contained in these responses for the calculation of a dumping margin for purposes of our final determination. Therefore, for these respondents we have used the highest weighted-average margin calculated for any other Taiwan respondent which supplied adequate and verifiable responses.

See "Best Information Available" section of this notice for further explanation. We find it inappropriate to use the highest margin alleged in the petition as best information available because none of the investigated companies refused to provide the information requested, refused verification, or otherwise significantly impeded the Department's investigation.

For Bonanza, Chung Ling, Chung Tai, Jia Farn, and Modern, we verified that their responses were substantially complete and provided a reliable basis upon which to calculate a dumping margin. We have, however, applied best information available for certain of these companies for various charges and adjustments, depending on whether the company attempted or refused to provide certain requested information. See "Best Information Available," "United States Price" and "Foreign Market Value" sections of this notice for further explanation.

Comment 3. Petitioner argues that for the three respondents that have gone out of business and have refused to participate in this investigation, the Department should use as best information available the highest margin alleged in the petition. Petitioner further contends that the Department should include these companies' margins based on best information available in calculating the "all others" rate in accordance with past Department practice. Among various other cases, petitioner cites Cellular Mobile Telephones and Subassemblies from Japan: Final Determination at Less than Fair Value, 50 FR 45447, 45449 (October 31, 1985), to support its position.

Respondents contend that the margins assigned to the companies which have gone out of business should be excluded from the "all others" rate. Respondents argue that Department and court precedents support excluding from the "all others" rate calculation, the dumping margins assigned to these non-responding firms because of circumstances beyond their control such as severe business difficulties or cessation of operations. Furthermore, the Department verified that Goodman, Knitwear and Nicewear had ceased operations. Respondents cite *Serampore Industries v. United States Department of Commerce*, 696 F. Supp. 665, 669 (CIT 1988) (*Serampore*), Final Determination of Sales at Less than Fair Value: Fresh Cut Flowers from Ecuador, 52 FR 2128, 2132 (January 20, 1987) (Flowers from Ecuador), and Final Determination of Sales at Less than Fair Value: Fresh Cut Roses from Colombia, 49 FR 30765 (August 1, 1984) to support their position.

Respondents further support their argument for excluding the out-of-business companies from the "all others" rate calculation on the basis that the companies subject to the "all others" rate in this case were unable to protect themselves against a rate which would include punitive best information available margins because the Department restricted the number of firms investigated due to administrative constraints and, therefore, precluded consideration of voluntary responses. Respondents maintain, however, that if the Department includes the margins assigned to the out-of-business companies in the "all others" rate calculation, then these margins should be based on the information contained in the questionnaire responses of those companies or the lowest verified rate for another respondent.

The United States Association of Importers of Textiles and Apparel

(USAITA) maintains that the Department should base the "all others" rate on the weighted-average margins of all verified companies. (USAITA) asserts that unlike previous cases where the inclusion of best information available rates could be justified, in this case the Department cannot presume that companies not submitting voluntary responses are dumping because the Department precluded the submission of voluntary responses by deciding to investigate only half of the POI volume of merchandise normally examined. USAITA further asserts that the Department did not undertake a sample because it determined that a representative sample could not be established. USAITA argues that where the Department employed neither the normal 60 percent minimum nor a recognized sampling technique, a weighted-average all others rate based, in part, on unverified data cannot be considered representative of the uninvestigated firms. Therefore, unrepresentative best information available margins should be excluded from the all others rate.

DOC Position. We verified that Goodman, Knitwear and Nicewear ceased operations and, consequently, failed to participate in the investigation. Therefore, as best information available, we have assigned to these companies the highest calculated rate for any other Taiwan respondent which provided adequate and verified responses. See "Best Information Available" section of this notice and DOC Position to Comment 2 above, for further explanation.

We have excluded these rates from the calculation of the "all others" rate. In the ordinary case, it is our general practice to include all rates based on best information available in our calculation of the "all others" rate. See forklift Trucks from Japan and AFBs from the FRG. However, in this case, we have determined that it is appropriate to exclude the rates assigned to the non-responding companies from the calculation of the "all others" rate for the following reasons: (1) their failure to cooperate in this investigation was due to circumstances beyond their control (see Flowers from Ecuador), (2) we examined only companies accounting for the top 30 percent of exports, and (3) the small number of firms investigated, i.e., 14 from potential pool of over 300. For the same reasons, we have also excluded the margin assigned to Bay/Joy Flower from the calculation of the "all others" rate. With respect to Bay/Joy Flower, we found that the problems encountered at verification and our

subsequent rejection of its response, were due to circumstances beyond its control, i.e., a fire at one of its factories which destroyed many records. See "Best Information Available" section of this notice for further explanation.

With respect to the arguments made by respondents and the USAITA concerning the Department's decision to limit the number of Taiwan companies investigated, at no time during the course of this investigation did we receive any indication that other companies in Taiwan considered filing responses. Moreover, we did not receive any requests for exclusion, as permitted by § 353.14 of the Department's regulations. The issue of whether or not the Department would have accepted such responses was never raised until briefs were filed in this case. In any event, since we have excluded the rates assigned to the three out-of-business companies, the issue is moot.

Comment 4. Petitioner asserts that the Department must follow its longstanding practice of including all margins based on best information available in the calculation of the "all others" rate for the final determination as it did in the preliminary determination of this investigation.

Respondents maintain that the Department should not include margins based on punitive elements in the calculation of the all others rate.

DOC Position. As stated in the DOC Position to Comment 3 above, it is our general practice to include all rates based on best information available in our calculation of the "all others" rate. Consistent with our standard practice, in this case, we have included in the calculation of the "all others" rate the margins, based on best information available, assigned to five of the six companies whose responses we rejected as significantly deficient and unverified for purposes of the final determination. See "Best Information Available" section of this notice and DOC Position to Comment 2 for further explanation. We have determined that it is appropriate to include these rates in the calculation of the "all others" rate. We find no circumstances in this investigation that justify deviating from our normal practice. For the reasons stated in the DOC Position to Comment 3 above, we have excluded the margins assigned to the three non-respondent companies and Bay/Joy Flower from our calculation of the "all others" rate.

Comment 5. Petitioner contends that consistent with past practice, the Department should exclude zero or *de minimis* margins from the "all others" rate calculation. Petitioner argues that

although the Department has included zero or *de minimis* margins in the "all others" rate calculation in cases where it has sampled companies, no such reason exists in the present case because the Department did not use a sampling approach when selecting respondents. Accordingly, the Department has no reason to include firms with zero or *de minimis* margins when calculating the "all others" rate.

USAITA asserts that the Department should include zero or *de minimis* margins in the all others rate, because similar to the facts set forth in the *Serampore* decision, the Department was unable to investigate the normal 60 percent of the POI exports and would have rejected voluntary responses in this investigation.

DOC Position. We agree with petitioner. We do not find that circumstances in this investigation justify deviation from our normal practice of excluding zero or *de minimis* rates in our calculation of the "all others" rate. In *Serampore*, the Court of International Trade found reasonable the Department's general practice of excluding respondent firms with zero or *de minimis* margins in calculating an "all others" rate. While the Department has made an exception to this practice when it relies on sampling in its selection of respondents (see Final Determination of Sales at Less Than Fair Value: Fresh Cut Flowers from Colombia, 52 FR 6842 (March 5, 1987)), the Department did not employ scientific or statistical sampling in selecting respondents in this investigation. Therefore, in accordance with our normal practice, we have excluded zero and *de minimis* margins from our calculation of the "all others" rate for purposes of our final determination in this investigation.

Comment 6. Respondents maintain that contingent quota fees should be treated as indirect selling expenses rather than direct selling expenses. Respondents explain that these fees are paid in anticipation of future sales and are not refundable. Furthermore, these fees are incurred without regard to any particular sale and exist whether or not a sale occurs. Therefore, respondents maintain that such fees are indirect selling expenses and should be treated as such by the Department for purposes of the final determination.

DOC Position. We agree with respondents in part. During verification of contingent quota fees at the various companies and the Taiwan Textile Federation, the Department observed that contingent quota is purchased in anticipation of future shipments. While

purchases of contingent quota are made in anticipation of future shipments, the Department established that for certain respondents, specifically Jia Farn and Bonanza, contingent quota is eventually applied to, and can be tied to, specific export transactions. Therefore, where the Department was able to tie contingent quota expenses to specific sales made during the POI, we have treated these expenses as direct selling expenses for purposes of the final determination. However, in the case of Chung Tai, we verified that although it purchased contingent quota during the POI, it did not use the contingent quota for any shipments of merchandise sold during the POI. Therefore, for Chung Tai, the Department has treated contingent quota expenses as indirect selling expenses.

Comment 7. Petitioner maintains that the Department appropriately decided not to pursue verification of indirect selling expenses for certain respondents due to a lack of information on the record.

Bonanza argues that, although it had not provided the Department with an itemized listing of indirect selling expenses prior to verification, its total operating expenses were provided to the Department and verified as part of the cost verification. Bonanza states that the total operating expenses verified include separate verification of total G&A expenses, total direct selling expenses, and total indirect selling expenses. Therefore, Bonanza contends, the Department has effectively verified indirect selling expenses and should use this amount as an adjustment to offset commissions.

Jia Farn argues that, although it did not report any indirect selling expenses with respect to its U.S. sales, it provided indirect selling expenses as part of its response to the Department's CV questionnaire. Further, it states that these expenses were verified during the Department's review of total selling, general and administrative expenses (SG&A) as part of its cost verification. Therefore, Jia Farn contends that if the Department makes any adjustments for circumstances of sale, corresponding adjustments should be made to CV.

Modern argues that the Department verified information from which indirect selling expenses can be determined based on the verification of G&A and non-G&A expense components of the reported SG&A expenses in the COP and CV responses. Modern states that it has misreported the numbers in the allocation formula identified in the narrative portion of the April 18, 1990 submission, but maintains that the indirect selling expense data reported

for each sale in the sales listing was correct. Modern asserts that it was denied the opportunity to correct this clerical error.

DOC Position. We disagree with respondents. The Department conducts the verification of selling expenses separately from that of G&A. While the accountant performing the cost verification may be concerned with the verification of total SG&A and its reconciliation to the financial statements, the accountant does not perform a detailed review of the selling expense component of SG&A. In order to verify indirect selling expenses, the Department would have selected specific expenses from an itemized list of indirect selling expenses to examine the accuracy of the expense incurred and its classification as an indirect selling expense. Therefore, the Department does not consider the verification of an aggregate amount of SG&A as an adequate verification of the indirect selling expenses contained within the selling expense component. For Bonanza, Jia Farn and Modern, as best information available, we have used the expenses reported in their respective sales listings in our calculation of COP for Bonanza, and CV for all other companies. For Bonanza, we have disallowed indirect selling expenses as an offset to commissions.

Comment 8. Petitioner states that certain respondents failed to provide actual profit information for purposes of CV.

Chung Ling contends it was not in the position to provide home market profit information because it did not maintain such records.

DOC Position. In accordance with section 773(e)(1)(B) of the Act, the Department must include in its CV calculation an amount for profit which is not less than eight percent of the sum of all general expenses and costs. For Jia Farn, Modern, and Taih Yung, there was no viable home or third country market. Therefore, we used the statutory minimum eight percent as the best information available for profit in all cases. For Bonanza, Chung Ling, and Chung Tai because we did not base FMV on CV, this issue is moot.

Comment 9. Petitioner contends that Bonanza, Chung Ling, and Chung Tai calculated their material costs for dyed yarn without adjusting for the cost of any excess yarn which could not be used in production. Petitioner argues that the Department must adjust these respondents' material costs based on the best information available to reflect these unreported scrap costs. Petitioner also states that while Chung Ling did

show examples of yarn reuse, it cannot be assumed for all cases.

Bonanza claims that its material costs are based on its records and are the most appropriate costs for the MMF sweaters under investigation. Bonanza claims, however, that if the Department must adjust material costs, it should base its calculations on the difference between ordered yarn amounts and actual usage for other sweater companies in Taiwan.

Chung Ling argues that the Department did not uncover any evidence that any of the unused yarn or material returned to inventory was discarded, written-off, or treated as waste or scrap. Chung Ling contends that without such evidence and in light of the positive proof of reuse, its method of calculating material cost should be accepted without any adjustment.

Chung Tai states that the quality of raw materials placed into production is the correct amount for COP/CV purposes. Further, it argues that since it is a yarn manufacturer, any excess yarn from sweater production could be sold.

DOC Position. For purposes of the final determination, the Department reviewed the methodologies used by Bonanza, Chung Ling, and Chung Tai and found no evidence that all yarn waste had been captured. Specifically, we observed that yarn dyed for a specific color and style of sweater was not used for that sweater's production or other sweaters' production. Bonanza, Chung Ling, and Chung Tai claim that excess yarn dyed for one sweater may be redyed or otherwise reused for other sweaters. However, at verification, we found no evidence that all, or in some cases any, of the waste had been sold or used for other orders. Therefore, in order to capture this type of waste, the Department used best information available. During a plant tour in the United States, the Department observed the general sweater manufacturing process and obtained a percentage of waste for unused yarn. At verification, the Department observed that the basic steps in the production process (e.g., dyeing yarn for specific orders) were similar to those in the United States. As best information available, the Department increased the material costs for the amount of yarn dyed and unused, either or that color and style of sweater or for any other purpose, by the waste factor defined as a result of the U.S. plant tour. For Jia Farn, we verified that the cost of all yarn specifically dyed for an order was included in the material costs reported and verified.

Comment 10. Bonanza argues that it correctly did not include in its reported

bank handling charges the interest expense included in the exchange memorandum reflecting the bank handling charges incurred on letters of credit. Bonanza contends that the interest expense should be treated as a short-term loan because, as the Department verified, Bonanza has recorded the payment of interest as an interest expense in its financial records. Bonanza states that if the Department decides that this interest expense should be included in bank handling charges, and if it becomes necessary to compare any U.S. sale to its constructed value, the interest expense element in constructed value should be adjusted.

DOC Position. Although Bonanza records the interest expense incurred on letters of credit in its interest expense account in the general ledger, the Department established at verification that these interest expenses were incurred on a transaction-specific basis and could be tied to specific shipments. Therefore, for purposes of the final determination, we have treated interest expenses incurred on U.S. and Canadian sales as direct selling expenses. Because we found all of Bonanza's Canadian sales to be above cost, we did not base FMV on CV and, therefore, no adjustment was made to the interest expense reported for CV.

Comment 11. Petitioner claims that Bonanza's methodology of allocating direct labor salaries based on piecework labor costs understates labor costs. Petitioner claims that since some processes such as knitting, washing and packing, are paid on a salaried basis, not a piecework basis, some salaries may not have been included in the allocation. Petitioner also claims that this inaccurate reporting of labor amounts results in distortion of factory overhead allocations.

Bonanza claims that all sweater styles had some salary payroll costs allocated to them and that the allocation fairly represents the actual labor costs of each sweater. Bonanza further states that the amount of labor cost at issue is a very small part of the total contract and in-house labor costs. Accordingly, if there is any distortion in the allocation of labor, it is minor.

DOC Position. While we do not agree with Bonanza that all sweater styles had some salary payroll costs allocated to them, we agree that the evidence found at verification did not reveal significant amounts of salary expenses incurred but not reported for the sweaters under investigation. We included labor costs as submitted in Bonanza's COP response for the purposes of our final determination because salary and wage labor costs were verified. We also

determined that because there may have been only minor, if any, misallocations in the reported labor costs, the factory overhead allocation was appropriate. Therefore, the Department made no adjustment to factory overhead as submitted by Bonanza.

Comment 12. Bonanza claims that losses on disposal of equipment should be included in the cost calculations, if necessary, using verified data obtained.

DOC Position. We recalculated factory overhead costs to include the loss on the sale of production equipment, since it was used in the production of the sweaters under investigation. This loss was allocated based on the ratio of the expense to cost of sales.

Comment 13. Bonanza claims that calculations of subcontract processing costs should be corrected using the verified data obtained by the Department. For some products, the costs were incorrectly calculated on the basis of production quantities rather than sales quantities.

DOC Position. For the purposes of the final determination, we increased Bonanza's reported subcontract processing costs included in the CV calculation by using the sales quantity data obtained at verification.

Comment 14. Bonanza argues that the Department should use verified information if it determines that Bonanza's allocation of interest expense based on sales price is inappropriate.

DOC Position. For the purposes of the final determination, we calculated Bonanza's interest expense as a percentage of cost of sales reported in the 1989 financial statements. We determined that the interest allocated to each product would be different for sweaters with the same COM if interest were allocated on the basis of sales price.

Comment 15. Petitioner states that Bonanza understated its G&A expenses. Petitioner contends that although Bonanza subtracted a portion of its 1989 bonus expenses pertaining to 1988, it failed to include a portion of its 1990 bonus expenses pertaining to 1989 in its total operating expenses.

Bonanza claims it appropriately excluded bonuses from G&A expenses and that no further adjustment is necessary.

DOC Position. We disagree with Bonanza. At verification, Bonanza failed to demonstrate that any of the 1989 bonus expenses related to the prior year. Therefore, we adjusted G&A expenses to capture all bonus expenses reported in its 1989 financial statements.

Comment 16. Chung Ling argues that the Department should not include

value-added tax (VAT) in the home market price. Chung Ling contends that it correctly reported home market prices net of VAT because, in Taiwan, VAT payments are isolated from all other aspects of sales transactions and over the course of the year are reconciled. Therefore, VAT does not represent a part of the price paid on such transactions.

DOC Position. We disagree with respondent. Section 772(d)(1)(C) of the Act requires the addition to the United States price of taxes collected on home market sales, which are not collected or are refunded on the exported merchandise. Because the VAT has not been included in the home market price in this case, we have added the VAT to both the FMV and United States price to ensure price comparisons on an equivalent basis. See *AFBs from the FRG*, 54 FR 18992, 19091 (May 3, 1989).

Comment 17. Chung Ling maintains the Department should accept the product matches it made when it selected the home market products it considered to be most similar to the products sold in the United States. Chung Ling argues that the Department should not use the matches it considered at the preliminary determination to be more appropriate under the product characteristic hierarchy set forth in the questionnaire.

DOC Position. We disagree with respondent. The Department created the product characteristic hierarchy for product comparison purposes based on extensive comments submitted by all parties in the investigation. The selection of similar products for matching purposes has been applied uniformly in this investigation and the concurrent investigation of MMF sweaters from Korea in order to ensure consistent treatment for all respondents.

Comment 18. Chung Ling argues that air freight charges should not be deducted from U.S. price because there charges were incurred unexpectedly, due to production delays, and were not contemplated by the parties at the time they negotiated the sales prices.

DOC Position. We disagree with respondent. Pursuant to section 772(d)(2)(A) of the Act, we deducted all movement charges incurred by Chung Ling from the reported price.

Comment 19. Chung Ling argues that the allocation of indirect selling expenses over sales defined in terms of the date of invoicing is reasonable. Chung Ling maintains that it does not keep its normal accounting or sales records based on the date of purchase orders, but rather based on the date of invoices. Chung Ling contends that it

would have been unreasonably burdensome to allocate indirect selling expenses based on dates of sale other than the dates of invoicing.

Petitioner argues that the Department should not rely on the amounts reported for indirect selling expenses because they could not be tied to specified sales, and, therefore, could not be verified.

DOC Position. Although we were able to verify the Chung Ling's reported 1989 indirect selling expenses, we disagree with the methodology used by Chung Ling to allocate these expenses. The Department has determined that it is most appropriate to allocate selling expenses over the value of sales for which such expenses were incurred. We agree, in part, with petitioner that invoice dates are not necessarily indicative of date of sale. Because Chung Ling did not present to the Department 1989 sales value, based on purchase orders received in 1989, we have used as best information available the value of sales made during the period October 1988 through September 1989, as reported in section A of its verified response, for purposes of reallocation.

Comment 20. Petitioner contends that Chung Ling's reported costs are not the actual costs incurred in producing the subject merchandise, but are average annual costs to produce the subject merchandise during 1989.

Chung Ling contends that the use of weighted-average annual per unit materials cost for certain production runs of a particular style is the most accurate and reasonable approach under its cost accounting system. Chung Ling contends that in nearly all of the instances where production runs included products not sold during the POI, the overwhelming majority of units produced were, in fact, sold during the POI and reported as such in its submission. Therefore, it is unlikely that its cost system would lead to any distortion of actual material costs for the products under investigation. Chung Ling also states that it was not possible to determine material costs for specific products based on its cost accounting records. Chung Ling states that any attempt to identify costs of products attributable to particular sales would have resulted in estimates, at best. Chung Ling contends that given the situation, the approach taken was the most reasonable and accurate under the circumstances.

DOC Position. We determined that Chung Ling's use of annual average costs was less accurate than the use of actual costs incurred during the period of production. Accordingly, we adjusted the submitted material costs of those

sweater styles for which average annual costs were reported by using the simple average difference between the average annual costs reported and the estimated period of production costs observed at verification.

Comment 21. Petitioner contends that Chung Ling's reported COP methodology understates costs by failing to include the cost of production overruns. Petitioner further states that the actual understatement may be significantly higher than Chung Ling's submission would indicate, because the Department was unable to verify actual costs for 11 products under investigation for which quantities sold were not reported by Chung Ling.

Chung Ling claims its calculation of cost based on units produced, instead of the quantities actually sold, accurately reflects the full COM. Chung Ling contends that excess sweaters produced are not scrapped, but placed in inventory at full cost for future sale.

DOC Position. The Department agrees with petitioner that Chung Ling's reported COP methodology understates costs by failing to include the cost of production overruns. Although Chung Ling may sell such production overruns from inventory at a future date, the costs associated with these sales are part of the original production order. Therefore, the Department adjusted Chung Ling's submitted costs, by adding the costs associated with additional sweaters produced as overruns. We based our adjustment on the simple average difference between quantities produced and quantities sold.

Comment 22. Petitioner contends that Chung Ling did not report actual monthly direct labor, indirect labor and factory overhead costs incurred and that this significantly understates the costs for certain products subject to investigation. Petitioner notes that Chung Ling refused to comply with the Department's request that it revise its response to report actual costs without an adjustment to correct seasonal cost fluctuations. Petitioner also contends that the submitted methodology for calculating direct labor understates these costs and, therefore, the Department can have no reasonable confidence that Chung Ling's reported direct labor costs are accurate.

Chung Ling contends that its indirect labor and factory overhead should be adjusted to correct substantial seasonal cost fluctuations because the sweater industry experiences seasonal production cycles with higher production in certain months of the year. However, Chung Ling states that it adjusted its reported costs only to reflect isolated period costs instead of

the costs associated with an entire production year or cycle. Moreover, Chung Ling holds that, should the Department decide not to accept seasonally-adjusted costs, it should not be penalized for reporting such costs because sufficient information is on the record to calculate costs without the seasonal adjustment. Chung Ling further contends that it used actual direct labor costs in its submission, and that the seasonal adjustment applied only to indirect labor costs.

DOC Position. The Department agrees with petitioner that Chung Ling's seasonally-adjusted amounts did not reflect the actual indirect costs incurred for the subject merchandise. Therefore, we revised Chung Ling's indirect labor and overhead costs to reflect actual costs incurred in producing the subject merchandise. Further, the Department verified that Chung Ling's seasonal adjustments did not affect its reported direct labor costs.

Comment 23. Petitioner contends that the Department discovered that Chung Ling purchased yarn from both related and unrelated suppliers. Further, the Department found that the prices from the unrelated supplier differed from the reported material costs for one model.

Chung Ling contends that its material costs for one model reflect fair market value even though the material was purchased from a related party. Although the price paid to a related supplier for one model's materials was less than the price paid to unrelated suppliers of the same material, Chung Ling maintains that this purchase is an isolated transaction. Therefore, this purchase should be viewed with all other purchases from related suppliers and should be stated at prices above those purchased from unrelated suppliers.

DOC Position. The Department agrees with Chung Ling that most purchases from related suppliers were at arm's-length prices. However, the Department determined that the purchases from one related supplier were not at arm's-length when compared to the purchases from unrelated suppliers. Accordingly, the Department used the arm's-length prices of unrelated suppliers found at verification instead of the reported material prices of the related supplier.

Comment 24. Petitioner contends that the cost of the Ah Mai plant closing should be included in Chung Ling's G&A expenses for 1989 as these expenses were included in its 1989 financial statements.

Chung Ling contends that the extraordinary cost associated with the Ah Mai plant closing should be

amortized over five years, and that including the entire cost in the reported G&A amounts would distort its costs. Chung Ling contends that the treatment of such an expense for tax purposes is not dispositive of its proper treatment in COP/CV analysis.

DOC Position. According to Generally Accepted Accounting Principles (GAAP), losses resulting from plant closings are not considered extraordinary, nor are they considered to provide any future benefit. To be consistent with GAAP and Chung Ling's treatment of these expenses on its financial statements, the Department adjusted Chung Ling's G&A expenses to include the entire costs associated with the closing of the Ah Mai plant as reported in its financial statement.

Comment 25. Petitioner contends that the combined interest expense of Chung Ling and Three Bell, should be included in its G&A expenses because Chung Ling purchased all of the production of Three Bell. Petitioner further contends that Chung Ling's interest expense should not be offset with interest income because the short-term nature of the income was not verified.

Chung Ling contends that if the Department aggregates the interest expense of Three Bell and Chung Ling, any interest payments between the two companies should be excluded from its G&A expenses. Furthermore, Chung Ling contends that certain other interest expenses related to production should not be included in its G&A expenses.

DOC Position. The Department considered the G&A expenses of Three Bell to be related to production, and those of Chung Ling to be indirect selling expenses, because Chung Ling functioned as the sales organization for Three Bell. Thus, the Department considered Chung Ling's interest expense to be an indirect selling expense. For purposes of its analysis, the Department did not exclude the interest paid by Three Bell to Chung Ling from Chung Ling's interest expenses. Although Chung Ling and Three Bell are related companies, the Department determined that no controlling relationship existed between them to warrant consolidation of the two companies. Further, the Department did not allow Chung Ling to offset interest income as it provided no evidence that such income was short-term in nature.

Comment 26. Petitioner contends that administrative expenses should be allocated based on the cost of sales instead of the COM because the COM does not include the cost of producing overruns. Hence, administrative expenses would be understated.

Chung Ling contends that the COM is an appropriate basis for allocating G&A costs, and consistent with the methodology it used to calculate sale specific costs. Chung Ling contends that it calculated G&A expenses based on COM because the sales-specific costs were calculated based on COM. Moreover, most companies do not calculate cost of sales on a sale-specific basis.

DOC Position. The Department allocated 1989 G&A expenses over 1989 cost of sales rather than COM. Although the COM was adjusted to include the cost of production overruns, the Department still relied on cost of sales as the basis for allocation. (See DOC Position to Comment 21.) Since G&A expenses are period expenses, the Department, in order to fully capture these expenses, allocates them over cost of sales.

Comment 27. Petitioner argues that the Department's letter dated January 30, 1990, specifically required Chung Tai to report all U.S. sales made during the POI by its related U.S. subsidiary, Formosa Titan. Petitioner contends that the Department should not exclude from its final analysis certain ESP sales including those characterized by Chung Tai as "stock lot" and "obsolete". With respect to "stock lot" sales and sales of "obsolete" merchandise, petitioner maintains that Chung Tai has not demonstrated that these sales were made outside the ordinary course of trade. As for those ESP sales submitted to the Department on April 20, 1990, petitioner argues that these sales were untimely reported and, as such, the Department should rely on best information available for these sales in margin analysis.

Chung Tai contends that the Department should exclude from its final analysis all sales of "stock lot" and "obsolete" merchandise, and accept the data relating to those ESP sales submitted on April 20, 1990. Regarding "stock lot" sales, Chung Tai argues that its records do not contain style-specific data on these sales to permit useful reporting because these sales comprised products sold in undifferentiated lots. With respect to Chung Tai's claimed "obsolete" sales, respondent argues that these sales comprised "obsolete" merchandise because they consisted of out-of-style merchandise from a prior season. Because of the style-oriented nature of the fashion industry, Chung Tai asserts that buyers and sellers regard a prior year's style as obsolete and set their prices accordingly. As for the ESP sales reported on April 20, 1990, Chung Tai states that because these sales were reported on the same basis

as those ESP sales previously accepted and verified by the Department, the information provided for these sales should also be deemed accurate and used in margin calculations.

DOC Position. We agree with petitioner that all Chung Tai's ESP sales made during the POI should be included for purposes of the final determination. However, we disagree with petitioner's argument that certain ESP sales should be included because respondent failed to demonstrate that those sales were not made in the ordinary course of trade. Although section 773 of the Act requires that foreign market value be based on sales made in the ordinary course of trade, there is no similar provision for U.S. price. The Department has, however, excluded certain unusual U.S. sales from its fair value analysis when such sales are complicated to report, and either (1) involve merchandise or types of transactions that will not occur after suspension of liquidation of merchandise, or (2) involve volumes so small that they would have an insignificant effect on margin analysis. In this case, we have determined that "stock lot" sales, sales of "obsolete" merchandise and those sales reported on April 20, 1990, together constitute a significant portion of total ESP sales made by Formosa Titan during the POI. Accordingly, we have included all ESP sales in our final analysis, as described below.

"Stock Lot" Sales: In a letter dated March 2, 1990, the Department informed Chung Tai that, based on its claim that it could not provide style-specific information on "stock-lot sales", Chung Tai would not be required to report these sales to the Department. Because the Department initially relieved respondent of the reporting requirement for these sales, we have used non-punitive best information available, i.e., the weighted-average margin calculated for Chung Tai's verified sales, for that portion of Chung Tai's sales sold as "stock lots". See also "United States Price" section of this notice.

"Obsolete" Sales: For that portion of Chung Tai's alleged sales of "obsolete" merchandise that were included in the February 14, 1990 submission, we used the data, as verified, in margin analysis. For that portion of these sales which were included in the April 20, 1990, submission, we used best information available, as described below.

April 20, 1990 Sales: Throughout this investigation, the Department repeatedly requested that Chung Tai report all ESP sales made during the POI no later than February 12, 1990. On February 14, 1990, Chung Tai reported a

portion of its related company's U.S. sales. Chung Tai requested that it be relieved of the requirement to report any additional related party sales. On March 2, 1990, the Department again informed respondent that we were denying its request to exclude these unreported sales from the reporting requirement and that because it failed to meet our deadline for the submission of this data, we would be compelled to use the best information otherwise available for these unreported sales, in accordance with § 353.37(a)(1) of the Department's regulations, for purposes of our determination. Notwithstanding the Department's letter of March 2, 1990, respondent submitted voluminous sales transactions to the Department on April 20, 1990, the date of the preliminary determination. This substantial revision to Chung Tai's previous submissions was received over two months after Chung Tai's deadline for reporting these sales and, therefore, was not verified. Accordingly, we have used the highest calculated margin for any other Taiwan company with a verified response as best information available for this portion of ESP sales. See also "Best Information Available" and "United States Price" sections of this notice.

Comment 28. Petitioner argues that the Department found Chung Tai's reported date of sale information for ESP sales to be arbitrary and without support because Formosa Titan does not maintain sales ledgers, journals or other accounting records to accurately determine date of sale. Therefore, the Department should use the highest rate alleged in the petition as best information available for Chung Tai's ESP sales.

Chung Tai argues that Formosa Titan only had dated shipping documents and invoices from which to report sales. Therefore, Formosa Titan reasonably used these invoice dates in determining the sales to be reported, as no other verifiable dates of sale existed. Chung Tai states that Formosa Titan has no other records, and argues that the information provided concerning dates of sale is accurate and that the shipments listed in its response accurately reflect sales made during the POI. Chung Tai contends that the date of sale reported was based on Formosa Titan's experience, and that for every sale shipped within the POI, the actual date of sale fell within the POI. Therefore, the date of sale should be accepted as verified.

DOC Position. Absent dated contracts or purchase order documents, the Department will consider the earliest written documentation bearing clear

and accurate date and terms of sale to determine date of sale. See *AFBs from the FRG and Final Determination of Sales at Less than Fair Value: Crankshafts from the Federal Republic of Germany*, 52 FR 28170, 28172 (July 28, 1987) (*Crankshafts from the FRG*). Based on information examined during verification, we have determined that the earliest documentation maintained by Chung Tai that firmly established the terms of the sale were shipping invoices. Therefore, as best information available, the Department has accepted the date of invoices as the date of sale for Chung Tai's ESP sales for purposes of our analysis.

Comment 29. Petitioner argues that the material costs reported by Chung Tai, which are based on prices Chung Tai charges unrelated customers, were found to be understated, and consequently, should not be relied upon. Moreover, no adjustment to these prices should be made because such an adjustment would be based on the assumption that yarn sales are at cost, an unreasonable assumption to make given the data on the record in this case.

Chung Tai contends that the market prices reported for its material costs are the appropriate basis for establishing material costs for COP and CV. Chung Tai contends that, since the company does not maintain a detailed accounting system and is unable to determine the actual cost associated with each type of yarn, the market value of the yarn is a reasonable method of valuing the yarn. Further, if any adjustment to the reported prices is deemed necessary, Chung Tai argues that the variance between the actual market price and the price noted at verification would be the most proper adjustment.

DOC Position. We agree with Chung Tai that the prices it charges to unrelated purchasers for yarn is a reasonable method of valuing the yarn in this case. However, we determined that Chung Tai did not report its actual prices. Therefore, we increased the material costs by the weighted-average difference between the reported prices and the actual market prices observed at verification.

Comment 30. Petitioner notes that Chung Tai calculated G&A expenses on a POI basis and not on an annual basis as expressly requested by the Department.

Chung Tai believes that its allocation of G&A expenses based on the period of production is appropriate. However, should the Department decide to reallocate these expenses, it should do so by using Chung Tai's verified information.

DOC Position. The Department specifically instructed Chung Tai to allocate 1989 G&A expenses based upon cost of sales for the year. We adjusted Chung Tai's G&A expense allocation to an annual basis.

The use of an annual G&A expense percentage most accurately reflects the costs incurred to produce the subject merchandise G&A expenses are not incurred directly with the level of production. These expenses may be incurred on an annual, semi-annual, or quarterly basis and may occur at irregular intervals throughout the year. Therefore, expenses relevant to the operations in a six-month period sometimes were recorded prior to or subsequent to such time. If the Department calculated G&A expenses using only a six-month basis, the expenses relevant to the production during the POI would not be fully captured.

Comment 31. Petitioner notes that Chung Tai omitted the cost of shoulder pads from the materials costs used in the reported COP/CV calculations.

DOC Position. We adjusted Chung Tai's material costs to include the cost of shoulder pads which were a part of the sweaters under investigation.

Comment 32. Jia Farn contends that the payments it made to its trading company should be considered a commission, not a rebate. Jia Farn contends that the trading company never takes possession of the merchandise, nor pays Jia Farn directly for the merchandise. In addition, Jia Farn states that these payments of commissions are recorded in its books as commissions, and are invoiced to Jia Farn by its trading company as commissions.

DOC Position. We agree with Jia Farn. At verification, the Department established that the trading company performed the functions of a commission agent. In this instance, after the sale is made between the U.S. customer and the trading company, the trading company, acting as an agent, negotiates the sales transaction between Jia Farn and the U.S. customer. Furthermore, we verified that the U.S. customer, not the trading company, pays Jia Farn for the merchandise. In addition, Jia Farn makes payments directly to the trading company for services rendered in the sales transaction. Therefore, we have treated this expense as a commission for purposes of the final determination.

Comment 33. Jia Farn claims that it had no interest expense, only interest income, during the POI. Therefore, its CV calculation should not only be adjusted to reflect the fact that it has no

interest expense, but should also be reduced by the interest income it received.

Petitioner states that interest should not be included in CV because Jia Farn did not incur any interest expense.

DOC Position. We agree that the interest expense submitted in error should be excluded from the calculation of CV. We do not offset other elements of G&A expenses with interest income for purposes of calculating CV.

Comment 34. Petitioner states that Jia Farn's reported material costs are misleading because it used an annual weighted-average yarn dyeing cost. Invoices related to the sweater production lots indicated that, on average, the price paid for dyeing the yarn was somewhat higher than Jia Farn's weighted-average cost.

DOC Position. We agree with petitioner. For purposes of calculating Jia Farn's material costs, the Department adjusted dyeing costs to reflect prices actually paid for dyeing the sweaters under investigation.

Comment 35. Petitioner claims that Jia Farn's maintenance and depreciation expense on trucks should be excluded from G&A, and included in overhead.

DOC Position. We agree. The Department reclassified maintenance and depreciation expenses on trucks from G&A to factory overhead because the trucks were used in the production process. Therefore, the Department considered these expenses as production costs rather than G&A expenses.

Comment 36. Petitioner notes that the Department requested Jia Farn to recalculate its G&A costs as a percentage of cost of sales, but Jia Farn refused to do so.

Jia Farn contends that its allocation of G&A expenses on the basis of sales is appropriate because this is consistent with its bookkeeping records. Jia Farn claims, however, that if the Department determines that an allocation based on cost of sales is necessary, the Department should use data obtained at verification to recalculate these costs.

DOC Position. We agree with petitioner. The calculation of G&A expenses should be based on the cost of sales. If allocated on the basis of sales, the amount of G&A expenses would be different for sweaters incurring the same COM. We revised G&A expenses, calculating them based on Jia Farn's 1989 annual cost of sales for the purposes of our CV calculation.

Comment 37. Petitioner argues that the Department can have no reasonable assurance that it has obtained accurate and complete information concerning all sales made by Modern and its affiliate

companies. Petitioner maintains that the Department should use best information available because the Department received no documentation to support the assertion that Sundial, an affiliated company, had made no sales in the United States during the POI. Furthermore, the Department was unable to confirm whether Modern had made sales to or through Sundial during the POI.

Modern maintains that it made no sales to or through Sundial during the POI and that it notified the Department of its relationship with Sundial in its January 5, 1990, submission. Modern states that the Department expressed no concern about sales to or through Sundial and requested no further information from Modern relating to Sundial at verification. Modern argues that the Department cannot penalize it for failing to provide records that it was not requested to provide.

DOC Position. In its January 5, 1990 response, Modern stated that it did not sell the products under investigation to Sundial or any other related company in the U.S. market during the POI. During verification, we found no evidence demonstrating that Modern made sales of MMF sweaters to or through Sundial during the POI. Absent sufficient information to the contrary, we cannot conclude that Modern did not accurately report sales made to the United States during the POI.

Comment 38. Modern contends that meal allowance expenses listed on its financial statements are not actual costs, but in fact, are "paper" expenses that allow a company to reduce its tax burden. Consequently, these expenses should not be included in the calculation of CV.

Petitioner maintains that at verification Modern failed to support its claims that the calculation of CV should not include meal allowance expenses.

DOC Position. We agree with petitioner. The Department included meal allowance expenses in its calculations of CV for Modern. Absent specific evidence to the contrary, the Department considers expenses recorded in a company's financial statements to reflect actual expenses incurred in its operations. At verification, Modern presented no evidence in support of its claim that recorded meal allowances were not actual expenses.

Comment 39. Modern contends that for the calculation of CV, its use of a January 1989 yarn cost for a specific type of yarn, as opposed to the cost immediately prior to production, is reasonable.

Petitioner notes that the Department reviewed later purchases of this yarn type at a higher price and, therefore, the January 1989 costs reported by Modern cannot be relied upon.

DOC Position. We disagree with Modern. We calculated the yarn cost for this type of yarn based on the actual price of this yarn type immediately before the production of the subject merchandise, rather than the January 1989 cost reported. In its submission, Modern stated that it does not maintain inventories of any yarn types. Accordingly, the cost of yarn purchased immediately before production is the appropriate value for the calculation of CV.

Comment 40. Modern argues that money set aside for pensions does not constitute an actual expense and should not be included in the calculation of CV because this money is still available to the company. Modern also contends that personal insurance premium expenses reported in its financial statements are unrelated to the production and sale of sweaters and, therefore, should not be included in the calculation of CV.

DOC Position. The Department included pension expenses and insurance expenses reported in Modern's financial statements in the calculation of CV. As stated above, absent specific evidence to the contrary, the Department considers the expenses recorded in a company's financial statements to reflect actual expenses incurred in its operations. Furthermore, at verification no evidence was presented in support of Modern's claim that recorded pension expenses and insurance expenses were not related to the production and sale of sweaters.

Comment 41. Petitioner argues that because Oriental failed to include in its questionnaire response sales and cost information for its related subsidiary, the Department should reject Oriental's response and use best information available for its margin equal to the highest rate alleged in the petition. Petitioner contends that respondent's claim that Oriental simply regards its related subsidiary as a financial investment is hard to reconcile with the facts that (1) Oriental and the related subsidiary shared the same sales office in Taipei, (2) Oriental and its individual shareholders own a large percentage of the related subsidiary, and (3) the related subsidiary performed subcontracting for Oriental outside the POI, providing both sweaters and sweater components. Citing several cases, including Photo Albums from Korea and Flowers from Columbia, petitioner argues that the Department

should, as it did in those cases, hold that a respondent's failure to provide requested information warrants the rejection of its response and the use of petitioner's information as the best information available.

Oriental argues that it had a reasonable, good faith belief that it should not report sales of a related Taiwan MMF sweater producer. According to Oriental, this belief was based on the fact that the cover letter to the Department's original questionnaire indicated that it should only report related U.S. party sales in contrast to prior investigations where the Department's questionnaire covered related domestic producers. Oriental also argues that although the Department's past practice of requiring companies to report their related domestic producers and their sales was explained to Oriental, a translation error caused miscommunication between counsel and Oriental. Furthermore, Oriental argues that although Section A, Question 1 of the Department's questionnaire did ask about related parties, Oriental regards its related subsidiary as a financial investment and, therefore, was convinced that the questionnaire only applied to Oriental and that it had fully cooperated with the Department's requests. Therefore, Oriental argues that it did not deliberately withhold information. Citing several cases, including *Olympic Adhesives v. U.S.* Slip Op. 89-1387 (Fed. Cir. 1990) (*Olympic Adhesives*), Oriental argues that it should not be punished for failure to provide information not requested of it by the Department. Oriental also argues that best information available for the related subsidiary should be the extent of dumping of a similarly situated producer, which is Oriental. Therefore, Oriental maintains that with respect to the sales of its related subsidiary, the best information available is the information which Oriental has provided.

Further, citing Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada; Final Results of Administrative Review, 55 FR 20175 (May 15, 1990) Oriental argues that the Department has accepted and used questionnaire responses even where insufficient data existed to determine a dumping margin. For example, Oriental cites Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems from Taiwan, 54 FR 42543 (October 17, 1989), emphasizing that although the Department discovered at verification that respondent failed to report relevant

domestic related parties, there was no intent to mislead and therefore the Department did not penalize the producer through adverse best information available.

DOC Position. We agree, in part, with petitioner. Oriental's relationship to its unreported subsidiary is such that it would have been appropriate to collapse the two companies for purposes of our analysis because (1) Oriental and the related subsidiary shared the same sales office in Taipei, (2) Oriental and its individual shareholders own a large percentage of the related subsidiary, and (3) the related subsidiary performed subcontracting for Oriental outside the POI, providing both sweaters and sweater components. Given the reasons stated above, it appears that the two companies do not operate as separate and distinct entities and, therefore, would have been collapsed by the Department. See Final Determinations of Sales at Less Than Fair Value: Certain Granite Products from Spain and Italy, 53 FR 24355, 24337 (June 28, 1987), and 53 FR 27187, 27189 (July 19, 1988), respectively. Although respondent argues that we did not require the reporting of related subsidiaries, the general instructions of the Department's questionnaire state that "[t]hroughout this questionnaire, wherever we refer to 'you', 'your company', 'your firm', etc., answer on behalf of all related entities" (See general instruction number 4 and footnote, page 2 of the Department's questionnaire). In addition, as acknowledged by respondent, the first question of Section A of the Department's questionnaire requires respondents to identify related entities. Therefore, *Olympic Adhesives* is inapposite because it is clear that the Department's questionnaire required the reporting of all related entities.

In addition to a related subsidiary, we also discovered significant discrepancies in Oriental's response at verification. These omissions and discrepancies in Oriental's response cast doubt on the reliability of Oriental's database as a whole. Therefore, the cases cited by the respondent do not reflect the magnitude of Oriental's deficiencies. For the rate assigned Oriental, see the "Best Information Available" section of this notice.

Comment 42. Petitioner argues that the errors discovered at verification, which include problems with bank fees, commissions, and foreign inland freight, are major errors which render the information submitted by Supertex almost completely unreliable.

Supertex argues that the Department should use Supertex's verified

responses. According to Supertex, the discrepancies found at verification were generally minor and/or reflecting (1) the heavy burden of collecting a large volume of information from a large number of sources in a very short period of time while also running a business, and/or (2) Supertex's conceptual difficulties with allocation methodologies. Where discrepancies appear, documentation necessary to substantiate the corrected information was provided. Supertex attributes discrepancies found at verification to the fact that it is a small, closely held corporation which does not maintain records except for tax purposes and, therefore, does not maintain most of the information requested by the Department in the ordinary course of business.

DOC Position. We agree with petitioner. The discrepancies found at verification were so numerous as to require resort to best information available. The Department frequently investigates small companies and, therefore, Supertex's situation is not unique. Neither the Act nor the Department's regulations differentiate between treatment of small and large companies with respect to reporting requirements. In addition, the Court of International Trade has rejected the notion that lack of manpower constitutes good grounds for an exception to the use of best information available. (See *Tai Yung Metal*, 712 F.2d at 977.) For the rate assigned Supertex, see the "Best Information Available" section of this notice.

Comment 43. Taih Yung argues that certain U.S. sales, identified as "stock" sales, should not be included in the Department's analysis for the final determination because (1) these sales were not made in the ordinary course of trade, but rather are analogous to sales of "clearance" or "obsolete" merchandise, and (2) the dates of sale, based on shipment date, are outside the POI. With respect to the ordinary course of trade argument, Taih Yung explains that stock sales are the resale of merchandise, produced pursuant to the specifications of an earlier customer who cancelled the order, at a reduced price. In addition, Taih Yung states that there is no evidence that it had such sales over any period other than the specific instances identified. To support its position that these sales should not be examined, Taih Yung cites AFBs from the FRG, 54 FR 18992, 19087 (May 3, 1989), Certain All-Terrain Vehicles from Japan, 54 FR 4864, 4867 (January 31, 1989), and Department of Commerce Position Paper #27. Concerning the date

of sale issue, Taih Yung argues that the appropriate date of sale for its stock sales is the date of shipment because the shipping document is the first document establishing the material terms of sale.

Petitioner argues that given that the Department found numerous inconsistencies with the date of shipment reported by Taih Yung, the date of sale cannot be reliably based on the shipment dates provided by Taih Yung. In addition, petitioner argues that nothing in the verification report or the information supplied by Taih Yung supports the claim that these sales were not in the ordinary course of trade.

DOC Position. Although section 773 of the Act requires that FMV be based on sales made in the ordinary course of trade, there is no similar provision for U.S. price. The Department has, however, excluded certain unusual U.S. sales from its fair value analysis when such sales are complicated to report, and either i) involve merchandise or types of transactions that will not occur after suspension of liquidation of merchandise or, ii) involve volumes so small that they would have an insignificant effect on the margin. Such facts do not exist in this case.

While Taih Yung indicated that stock sales were an isolated occurrence, data gathered at verification leads us to a different conclusion. The difference between stock sales and other Taih Yung sales is that price and quantity terms change significantly between the purchase order date and the date of shipment. Similar changes occurred with respect to a significant volume of Taih Yung's 1989 sales (see the Department's August 16, 1990, memorandum to the file).

Thus the evidence on the record supports the conclusion that there are other stock sales. The fact that Taih Yung's stock sales are not isolated occurrences, and given the significant effect these sales have on the less than fair value calculation, require that the Department include Taih Yung's stock sales in our final analysis.

We agree, however, with respondent's claim that the appropriate date of sale for these stock sales is the date of the earliest written evidence of the material terms (*i.e.*, price and quantity) of sale. Because original purchase orders were cancelled, and no subsequent purchase orders or other similar documentation exists with respect to the sale of stock merchandise, the Department agrees with respondent that shipment date is the appropriate date of sale for stock sales.

However, the record indicates that Taih Yung did not consistently use date

of shipment for determining whether a stock sale occurred in the POI. As noted above and in the August 16, 1990 memorandum to the file, evidence gathered at verification indicates that Taih Yung had other stock sales with original purchase order dates before the POI which were scheduled for shipment during the POI. For these stock sales with purchase order dates before the POI, Taih Yung used the purchase order date as the date of sale and hence did not report those sales. For those stock sales with purchase order dates within the POI, Taih Yung claims that the shipment date is the appropriate date of sale and hence claims that those sales should be excluded.

Because Taih Yung's methodology for identifying sales within the POI relied exclusively on purchase orders, and the appropriate date of sale for stock sales is the date of shipment, the Department determines that Taih Yung failed to report those stock sales, whose original purchase order was dated outside the POI, which were sold and shipped during the POI. A careful review of that merchandise that was scheduled to be shipped during the POI, leads us to conclude that the volume of such sales was significant. See August 16, 1990 memorandum to the file.

Because Taih Yung failed to include a significant portion of its sales during the POI in its U.S. sales listing, the Department cannot rely on Taih Yung's U.S. sales listing for purposes of the final determination. Accordingly, we have assigned Taih Yung the highest calculated weighted-average margin for a verified Taiwan respondent as the best information available.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of MMF sweaters from Taiwan, except for those of Jia Farn, 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 FMV of MMF sweaters from Taiwan exceeds the United States price as shown below.

We are also instructing the U.S. Customs Service to require that both the exporter of record and the manufacturer be listed on all invoices accompanying imports of MMF sweaters to the United States. If the manufacturer is not listed, the "all others" rate will be applied.

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
Bay/Joy Flower Knitting Co., Ltd. and all related companies	24.02
Bonanza Industries Co., Ltd. and all related companies	23.72
Chen Hwa Knitting Factory, Ltd. and all related companies, including: Dragontex Enterprise Co.	24.02
Chung Ling Co., Ltd. and all related companies, including: Three Bell Knitting Manufacturer, Ltd.	24.02
Chung Tai Industries Co., Ltd. and all related companies	4.75
Goodman Knitting Co., Ltd. and all related companies	24.02
Jia Farn Manufacturing Co., Ltd. and all related companies	0.00
Knitwear Express Co., Ltd. and all related companies	24.02
Modern Knitting Mills, Inc., and all related companies	5.68
New Northern Knitting Co., Ltd. and all related companies	24.02
Nicewear Knitting Co., Ltd.	24.02
Oriental Knitting Co., Ltd. and all related companies, including: Tung Yi Enterprises Co., Ltd.	24.02
Supertex Knitting Co., Ltd. and all related companies	24.02
Taih Yung Enterprise Co., Ltd. and all related companies	24.02
All others	21.38

¹ Negative.

ITC Notification

In accordance with section 735(c) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged 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 Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to the product under investigation, the applicable proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, The Department will issue an antidumping duty order directing Customs officials to assess

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antidumping duties on MMF sweaters from Taiwan entered or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the FMV exceeds the United States price.

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

Dated: August 16, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-19909 Filed 8-22-90; 8:45 am]

BILLING CODE 3510-05-M

APPENDIX C

LIST OF PARTICIPANTS IN THE HEARING

CALENDAR OF PUBLIC HEARING

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

Subject : Sweaters, Wholly or in Chief Weight of Manmade
Fibers, from Hong Kong, the Republic of Korea, and
Taiwan

Invs. Nos. : 731-TA-448, 449, & 450 (Final)

Date and time: August 9, 1990 - 9:30 a.m.

Sessions were held in connection with the subject investigations in the Main Hearing Room (Room 101) of the United States International Trade Commission, 500 E Street, S.W., in Washington, DC.

In support of the imposition of antidumping duties

Gibson, Dunn, & Crutcher--Counsel
Washington, DC
on behalf of--

The National Knitwear and Sportswear Association

Seth M. Bodner, Executive Director

Ivan Gordon, President
Gloray Knitting Mills
Herman S. Dichter, Co-Owner
Drasin Knitting Mills
Carl H. Horowitz, President
Cardinal Knitting Mills
Michael E. Kesselman, Vice President
Corporate Knitting
Justin Israel, Principal
Knitwaves, Inc.

Joseph H. Price--OF COUNSEL
Donald Harrison--OF COUNSEL
Kathrin Sears--OF COUNSEL

In opposition to the imposition of antidumping duties

Sharretts, Paley, Carter, & Blauvelt--Counsel
New York, NY
on behalf of

American Association of Exporters and Importers (AAEI) Sweater Group

Bruce Myers, Senior Buyer
K-Mart Corporation
Gary Kovie, Senior Buyer
K-Mart Corporation
Deborah Burdi, Buyer
Spiegel, Inc.

Gail Cumins--OF COUNSEL
Ned Marshak--OF COUNSEL

McDermott, Will, & Emery
Washington, D.C.
on behalf of

Sweater Retailers and Importers Coalition

Maurice Johnson, Vice-President
Associated Merchandising Corporation

Robert G. Kalik--OF COUNSEL

Grunfeld, Desiderio, Lebowitz, & Silverman
Washington, D.C.
on behalf of

Crystal Knitters, Ltd.; Comitex Knitters, Ltd.; Hong Kong Woolen and
Synthetic Knitting Manufacturers Association, Ltd.

Martin Trust, President and Chief Executive Officer
Mast Industries, Inc.

David L. Simon--OF COUNSEL
Bruce M. Mitchell--OF COUNSEL
Harold S. Grunfeld--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Steptoe & Johnson
Washington, D.C.
on behalf of

Cheonji Sanup Inc.; Chungchubangjuhk, Inc.; Dae Kyung Industries; Dae Kyung Moolsan Co., Ltd.; Daewoo; Daeyoo Tongsang; Dong Jin Industries; Dong Kun Co., Ltd.; Doo Sung Textile Co., Ltd.; Full Bright Ind. Co., Ltd.; Haeyang Trade; Hanil Habsum Sumryu Inc.; Heungwoo Muelsan Inc.; Hwangsun Trade Inc.; Hyubjin Yangheung Inc.; Kolon Sangsa Inc.; Kunja Ind. Co., Ltd.; Masan Co., Ltd.; Sam San Textile Inc. Co.; Samdo Muelsan Inc.; Samsung Muelsan; Seotong Sanup Inc.; Shin Won Tongsang Co., Ltd.; Sinwon Chongabgaebal; Ssangyong Corporation; Suhrim Chinheung Inc.; Sunkyung Inc.; Sunny Sangsa Inc.; Tae Kwang Sanup Inc.; Uksung Co., Ltd.; Wyoung Woo & Co., Ltd.; Yurim Company

Stewart A. Baker--OF COUNSEL
Gracia M. Berg--OF COUNSEL

William Finan, Economic Consultant

Ablondi & Foster
Washington, D.C.
Swidler & Berlin
Washington, D.C.
Donovan, Leisure, Newton, & Irvine
Washington, D.C.
Whitman & Ransom
Washington, D.C.
on behalf of

Chung Ling Co., Ltd.; Supertex Knitting; Bay Flower Knitting Co., Ltd.; Bonanza Industries Co., Ltd.; New Northern; Oriental Knitting; Jia Farn Manufacturing Co., Ltd.; Chung Tai Industrial Co., Ltd.; Modern Knitting; Taih Yung Enterprise Co., Ltd.; Chen Hwa Knitting Factory, Ltd.

Oren A. J. Yu, General Manager,
Herjih Industrial Co., Ltd.

Italo H. Ablondi--OF COUNSEL
Sturgis M. Sobin--OF COUNSEL
William D. Eberle--OF COUNSEL
Peter Koenig--OF COUNSEL
Robert Maguire--OF COUNSEL
H. P. Goldfield--OF COUNSEL

APPENDIX D

REPORTED APPARENT CONSUMPTION,
USING DATA SUBMITTED IN RESPONSE
TO COMMISSION QUESTIONNAIRES

Table D-1

Sweaters of manmade fibers: U.S. shipments 1/ by producers and importers, and apparent consumption, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Producers' U.S. shipments....	3,153	3,194	2,754	432	293
U.S. shipments of imports....	3,878	3,786	3,891	433	230
Apparent consumption.....	7,031	6,980	6,645	865	523
Value (1,000 dollars)					
Producers' U.S. shipments....	310,844	319,262	288,377	40,368	29,501
U.S. shipments of imports....	509,256	503,078	522,776	53,396	30,130
Apparent consumption.....	820,100	822,340	811,153	93,764	59,631
As a share of the quantity of apparent U.S. consumption (percent)					
Producers' U.S. shipments....	44.8	45.8	41.4	49.9	56.0
U.S. shipments of imports....	55.2	54.2	58.6	50.1	44.0
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0
As a share of the value of apparent U.S. consumption (percent)					
Producers' U.S. shipments....	37.9	38.8	35.6	43.1	49.5
U.S. shipments of imports....	62.1	61.2	64.4	56.9	50.5
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0

1/ 47 producers reporting, 56 importers reporting.

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

Table D-2

All sweaters: U.S. shipments 1/ by producers and importers, and apparent consumption, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
	Quantity (1,000 dozen)				
Producers' U.S. shipments..	5,712	5,471	5,423	797	617
U.S. shipments of imports..	6,588	7,982	8,030	1,313	1,124
Apparent consumption.....	12,300	13,453	13,453	2,110	1,741
	Value (1,000 dollars)				
Producers' U.S. shipments..	597,750	612,774	649,282	85,524	68,766
U.S. shipments of imports..	929,524	1,150,879	1,219,400	182,420	212,950
Apparent consumption.....	1,527,274	1,763,653	1,868,682	267,944	281,716
	As a share of the quantity of apparent U.S. consumption (percent)				
Producers' U.S. shipments..	46.4	40.7	40.3	37.8	35.4
U.S. shipments of imports..	53.6	59.3	59.7	62.2	64.6
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0
	As a share of the value of apparent U.S. consumption (percent)				
Producers' U.S. shipments..	39.1	34.7	34.7	31.9	24.4
U.S. shipments of imports..	60.9	65.3	65.3	68.1	75.6
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0

1/ 58 producers reporting, 60 importers reporting.

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

APPENDIX E

U.S. SHIPMENTS OF SWEATERS EXCLUDING SHIPMENTS BY JOBBERS

Table E-1

All sweaters: U.S. shipments of U.S. producers, 1/ by types, 1987-89, January-March 1989, and January-March 1990 2/

Item	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Total, U.S. shipments....	3,550	3,519	3,621	614	432
Value (1,000 dollars)					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Total, U.S. shipments....	362,825	391,479	438,266	65,579	49,413
Unit value (per dozen) 3/					
Company transfers.....	\$***	\$***	\$***	\$***	\$***
Domestic shipments.....	***	***	***	***	***
Average, U.S. shipments..	105	113	123	119	118

1/ 48 producers reporting.

2/ Data exclude firms acting as jobbers.

3/ Computed from data of firms providing data on both quantity and value of shipments.

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

Table E-2

Sweaters of manmade fibers: U.S. shipments of U.S. producers, 1/ by types, 1987-89, January-March 1989, and January-March 1990 2/

Item	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Total, U.S. shipments....	2,030	2,053	1,875	336	184
Value (1,000 dollars)					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Total, U.S. shipments....	200,538	206,122	196,969	31,160	19,483
Unit value (per dozen) 3/					
Company transfers.....	\$***	\$***	\$***	\$***	\$***
Domestic shipments.....	***	***	***	***	***
Average, U.S. shipments..	99	100	105	94	108

1/ 39 firms reporting.

2/ Data exclude firms acting as jobbers.

3/ Computed from data of firms providing data on both quantity and value of shipments.

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

APPENDIX F

TRADE AND EMPLOYMENT DATA FOR UPPER BODY GARMENTS WITH MORE THAN 9 STITCHES
PER 2 HORIZONTAL CENTIMETERS, WITH A KNIT-ON RIB AT THE BOTTOM

Table F-1

Upper body garments with more than 9 stitches per 2 horizontal centimeters,
with a knit-on rib at the bottom: Salient data, 1987-89, January-March 1989,
and January-March 1990

* * * * *

APPENDIX G

SELECTED FINANCIAL DATA FOR FIRMS PROVIDING
ESTABLISHMENT INCOME-AND-LOSS DATA
OF WHICH SWEATERS ACCOUNTED FOR LESS THAN
85 PERCENT OF ESTABLISHMENT SALES

Table G-1

Plant locations and estimated sweater sales as a percent of total establishment sales for those producers whose sweater sales constituted less than 85 percent of total establishment sales

* * * * *

Table G-2

Selected establishment income-and-loss data for those producers whose sales of sweaters constituted less than 85 percent of total establishment sales, accounting years 1987-89, January-March 1989, and January-March 1990

* * * * *

APPENDIX H

FIRMS PROVIDING USABLE FINANCIAL DATA ON
OPERATIONS PRODUCING ALL SWEATERS: SUMMARIES OF
PLANT LOCATIONS, SALES, OPERATING INCOME OR LOSS,
AND OPERATING INCOME OR LOSS AS A PERCENT OF SALES,
RANKED IN DESCENDING ORDER BY 1989 SALES

Table H-1

All sweaters: Plant locations, ranked in descending order by reported 1989 sales

* * * * *

Table H-2

All sweaters: Net sales, by firms, ranked in descending order by reported 1989 sales, 1987-89, January-March 1989, and January-March 1990

* * * * *

Table H-3

All sweaters: Operating income or (loss), by firms, ranked in descending order by reported 1989 sales, 1987-89, January-March 1989, and January-March 1990

* * * * *

Table H-4

All sweaters: Operating income or (loss) as a share of sales, by firms, ranked in descending order by reported 1989 sales, 1987-89, January-March 1989, and January-March 1990

* * * * *

APPENDIX I

FIRMS PROVIDING USABLE FINANCIAL DATA ON
OPERATIONS PRODUCING MANMADE-FIBER SWEATERS:
SUMMARIES OF OPERATING INCOME OR LOSS
AND OPERATING INCOME OR LOSS AS A PERCENT OF SALES

Table I-1

Manmade-fiber sweaters: Selected income-and-loss data, by firms, accounting years 1987-89, January-March 1989, and January-March 1990

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APPENDIX J

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS
OF SWEATERS OF MANMADE FIBERS FROM HONG KONG, KOREA, AND TAIWAN
ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL,
OR EXISTING DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of manmade-fiber sweaters from Hong Kong, Korea, or Taiwan on their firm's growth, investment, ability to raise capital, or existing development and production efforts. The following tabulation presents a summary of the responses of 28 producers that provided usable financial data:

<u>Type of response</u>	<u>Number</u>
No response <u>1</u> /.....	6
No or None.....	4
Yes.....	<u>18</u>
Total.....	28

1/ Respondent did not check either yes or no.

The six companies that did not respond are * * *.

The four companies that indicated no or none are * * *.

Of the 18 companies that indicated yes, only (* * *) did not provide any explanation. The narrative justifications of the other 17 companies are indicated below:

* * * * *

APPENDIX K

KOREAN PRODUCERS PROVIDING DATA IN RESPONSE TO
THE COMMISSION'S FOREIGN PRODUCER QUESTIONNAIRE

The following Korean producers provided data on capacity, production, home-market shipments, exports to the United States and to all other countries, and end-of-period inventories during 1987, 1988, 1989, January-March 1989, and January-March 1990. The firms also projected such data for calendar years 1990 and 1991.

* * * * *

APPENDIX L

CALCULATION OF U.S. IMPORTS OF SWEATERS USING INFORMATION
COMPILED FROM DATA SUBMITTED IN RESPONSE
TO COMMISSION QUESTIONNAIRES

Table L-1

Sweaters of manmade fibers: U.S. imports for consumption, by specified sources, 1987-89, January-March 1989, and January-March 1990 ^{1/}

Source	1987	1988	1989	January-March-- 1989	1990
Quantity (1,000 dozen)					
Hong Kong.....	734	667	755	129	59
Korea.....	1,432	1,447	1,466	215	80
Taiwan.....	1,348	1,225	1,350	231	127
Subtotal.....	3,514	3,339	3,571	575	266
All other sources.....	384	455	369	17	***
Total.....	3,898	3,794	3,940	592	***
Value (1,000 dollars)					
Hong Kong.....	79,823	74,344	83,005	12,175	5,654
Korea.....	175,153	179,509	189,109	24,878	11,702
Taiwan.....	162,160	151,128	156,595	20,716	8,528
Subtotal.....	417,136	404,981	428,709	57,769	25,884
All other sources.....	39,111	43,817	39,887	***	***
Total.....	456,247	448,798	468,596	***	***
Unit value (per dozen) 2/					
Hong Kong.....	\$109	\$111	\$110	\$94	\$93
Korea.....	122	124	129	114	146
Taiwan.....	120	123	116	89	66
Average.....	119	121	120	100	96
All other sources.....	102	96	108	***	63
Average.....	117	118	119	***	94

^{1/} 58 firms reporting.

^{2/} Computed from data of firms providing data on both quantity and value of imports.

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

Table L-2

All sweaters: U.S. imports for consumption, by specified sources, 1987-89, January-March 1989, and January-March 1990 ^{1/}

Source	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Hong Kong.....	1,967	3,045	3,013	580	***
Korea.....	2,246	2,396	2,211	381	152
Taiwan.....	1,768	1,834	1,856	401	***
Subtotal.....	5,981	7,275	7,080	1,362	1,073
All other sources.....	631	736	993	173	92
Total.....	6,612	8,011	8,073	1,535	1,165
Value (1,000 dollars)					
Hong Kong.....	238,848	362,870	418,533	69,041	***
Korea.....	270,121	290,207	292,104	44,259	21,202
Taiwan.....	208,151	254,691	244,997	49,891	***
Subtotal.....	717,120	907,768	955,634	163,191	182,971
All other sources.....	74,472	93,000	140,548	22,990	13,286
Total.....	791,592	1,000,768	1,096,182	186,181	196,257
Unit value (per dozen) 2/					
Hong Kong.....	\$121	\$119	\$139	\$119	\$127
Korea.....	120	121	132	116	138
Taiwan.....	118	139	132	124	187
Average.....	120	125	135	120	170
All other sources.....	118	126	141	133	143
Average.....	120	125	136	121	168

^{1/} 60 firms reporting.

^{2/} Computed from data of firms providing data on both quantity and value of imports.

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

APPENDIX M

U.S. IMPORTS OF MANMADE-FIBER SWEATERS INCLUDING SWEATERS ENTERING
UNDER TARIFF ITEMS RESERVED FOR KNIT SHIRTS

Table M-1

Sweaters of manmade fibers: U.S. imports from Hong Kong, Korea, Taiwan, and all other countries, 1987-89, January-March 1989, and January-March 1990 1/

Source	1987	1988	1989	January-March--	
				1989	1990
Quantity (1,000 dozen)					
Hong Kong <u>2/</u>	1,257	1,141	1,301	165	93
Korea.....	3,379	3,430	3,779	307	189
Taiwan <u>3/</u>	4,057	3,227	3,138	417	307
Subtotal.....	8,693	7,798	8,218	889	589
All other countries.....	3,087	2,342	3,120	264	303
Total imports <u>4/</u>	11,781	10,139	11,339	1,153	892
Value (1,000 dollars) 5/					
Hong Kong <u>2/</u>	149,353	121,048	153,218	18,252	11,932
Korea.....	390,236	396,675	455,704	30,190	20,105
Taiwan.....	531,160	402,695	382,912	36,452	27,589
Subtotal.....	1,070,749	920,418	991,834	84,894	59,626
All other countries.....	243,071	194,220	255,701	20,090	23,240
Total imports <u>4/</u>	1,313,820	1,114,638	1,247,535	104,985	82,866
Unit value (per dozen)					
Hong Kong.....	\$119	\$106	\$118	\$111	\$128
Korea.....	115	116	121	98	107
Taiwan.....	131	125	122	87	90
Average.....	123	118	121	95	101
All other countries.....	79	83	82	76	77
Average, all imports....	112	110	110	91	93

1/ Includes imports of fine-knit manmade-fiber sweaters that enter under items reserved for knit shirts. In most instances, Commission staff estimated the proportion of imports consisting of such sweaters entering under those items to be 1 percent; the actual percentages, however, are likely to be lower. As a result, import data for sweaters as presented here are somewhat overstated.

2/ Data include imports by Crystal Knitters, Ltd., and Laws Fashion Knitters, Ltd.

3/ Data include imports by Jia Farn Manufacturing Co., Ltd.

4/ Because of rounding, figures may not add to totals shown.

5/ C.i.f. duty-paid value.

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPENDIX N

MARKET PENETRATION BY U.S. IMPORTS OF SWEATERS
CALCULATED USING INFORMATION COMPILED FROM DATA SUBMITTED
IN RESPONSE TO COMMISSION QUESTIONNAIRES

Table N-1

Sweaters of manmade fibers: U.S. shipments by producers and importers, apparent U.S. consumption, and market penetration, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
	Quantity (1,000 dozen)				
Producers' U.S. shipments....	3,153	3,194	2,754	432	293
U.S. shipments of imports from--					
Hong Kong.....	734	669	739	101	***
Korea.....	1,411	1,454	1,464	171	73
Taiwan.....	1,354	1,216	1,314	142	83
Subtotal.....	3,499	3,339	3,517	414	***
All other sources.....	379	448	374	19	***
Total 1/.....	3,878	3,786	3,891	433	230
Apparent consumption.....	7,031	6,980	6,645	865	523
	Value (1,000 dollars)				
Producers' U.S. shipments....	310,844	319,262	288,377	40,368	29,501
U.S. shipments of imports from--					
Hong Kong.....	88,187	79,875	89,156	***	6,126
Korea.....	188,191	196,431	205,675	20,902	12,043
Taiwan.....	194,652	182,150	187,360	19,098	10,618
Subtotal.....	471,030	458,456	482,191	***	28,787
All other sources.....	38,226	44,622	40,585	***	1,343
Total.....	509,256	503,078	522,776	53,396	30,130
Apparent consumption.....	820,100	822,340	811,153	93,764	59,631
	As a share of the quantity of apparent U.S. consumption (percent)				
Producers' U.S. shipments....	44.8	45.8	41.4	49.9	56.0
U.S. shipments of imports from--					
Hong Kong.....	10.4	9.6	11.1	11.7	***
Korea.....	20.1	20.8	22.0	19.8	14.0
Taiwan.....	19.3	17.4	19.8	16.4	15.9
Subtotal.....	49.8	47.8	52.9	47.9	***
All other sources.....	5.4	6.4	5.6	2.2	***
Total 1/.....	55.2	54.2	58.6	50.1	44.0
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0
	As a share of the value of apparent U.S. consumption (percent)				
Producers' U.S. shipments....	37.9	38.8	35.6	43.1	49.5
U.S. shipments of imports from--					
Hong Kong.....	10.8	9.7	11.0	***	10.3
Korea.....	22.9	23.9	25.4	22.3	20.2
Taiwan.....	23.7	22.2	23.1	20.4	17.8
Subtotal 1/.....	57.4	55.8	59.4	***	48.3
All other sources.....	4.7	5.4	5.0	***	2.3
Total 1/.....	62.1	61.2	64.4	56.9	50.5
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0

1/ Because of rounding, shares may not add to totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; includes data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

Table N-2

All sweaters: U.S. shipments by producers and importers, apparent U.S. consumption, and market penetration, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
	Quantity (1,000 dozen)				
Producers' U.S. shipments..	5,712	5,471	5,423	797	617
U.S. shipments of imports of manmade-fiber sweaters from--					
Hong Kong.....	734	669	739	101	***
Korea.....	1,411	1,454	1,464	171	73
Taiwan.....	1,354	1,216	1,314	142	83
Subtotal.....	3,499	3,339	3,517	414	***
U.S. shipments of non-subject imports 1/...	3,089	4,643	4,513	899	***
Total 2/.....	6,588	7,982	8,030	1,313	1,124
Apparent consumption.....	12,300	13,453	13,453	2,110	1,741
	Value (1,000 dollars)				
Producers' U.S. shipments..	597,750	612,774	649,282	85,524	68,766
U.S. shipments of imports of manmade-fiber sweaters from--					
Hong Kong.....	88,187	79,875	89,156	***	6,126
Korea.....	188,191	196,431	205,675	20,902	12,043
Taiwan.....	194,652	182,150	187,360	19,098	10,618
Subtotal.....	471,030	458,456	482,191	***	28,787
U.S. shipments of non-subject imports 1/...	458,494	692,423	737,209	***	184,163
Total.....	929,524	1,150,879	1,219,400	182,420	212,950
Apparent consumption.....	1,527,274	1,763,653	1,868,682	267,944	281,716

See footnotes at end of table.

Table N-2--Continued

All sweaters: U.S. shipments by producers and importers, apparent U.S. consumption, and market penetration, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
As a share of the quantity of apparent U.S. consumption (percent)					
Producers' U.S. shipments....	46.4	40.7	40.3	37.8	35.4
U.S. shipments of imports of manmade-fiber sweaters from--					
Hong Kong.....	6.0	5.0	5.5	4.8	***
Korea.....	11.5	10.8	10.9	8.1	4.2
Taiwan.....	11.0	9.0	9.8	6.7	4.8
Subtotal 2/.....	28.4	24.8	26.1	19.6	***
U.S. shipments of non-subject imports 1/.....	25.1	34.5	33.6	42.6	***
Total 2/.....	53.6	59.3	59.7	62.2	64.6
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0
As a share of the value of apparent U.S. consumption (percent)					
Producers' U.S. shipments....	39.1	34.7	34.7	31.9	24.4
U.S. shipments of imports of manmade-fiber sweaters from--					
Hong Kong.....	5.8	4.5	4.8	***	2.2
Korea.....	12.3	11.1	11.0	7.8	4.3
Taiwan.....	12.7	10.3	10.0	7.1	3.8
Subtotal 2/.....	30.8	26.0	25.8	***	10.2
U.S. shipments of non-subject imports 1/.....	30.0	39.3	39.5	***	65.4
Total 2/.....	60.9	65.3	65.3	68.1	75.6
Apparent consumption.....	100.0	100.0	100.0	100.0	100.0

1/ Includes shipments of imports of sweaters of other fibers from Hong Kong, Korea, and Taiwan, and shipments of imports of all sweaters from all other sources.

2/ Because of rounding, shares may not add to totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; includes data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

APPENDIX O

MARKET PENETRATION BY IMPORTS OF MENS' AND WOMENS' SWEATERS

Table O-1

Mens' manmade-fiber sweaters: U.S. production, imports, apparent consumption, and shares of imports in apparent consumption, 1987-89 ^{1/}.

Item	1987	1988	1989
	Quantity (1,000 dozen)		
U.S. production.....	1,183	1,000	936
Imports from--			
Hong Kong.....	161	198	236
Korea.....	1,086	1,252	1,643
Taiwan.....	412	441	562
Subtotal ^{2/}	1,660	1,892	2,440
All other sources.....	717	608	695
Total imports.....	2,377	2,500	3,135
Apparent consumption.....	3,560	3,500	4,071
	As a share of the quantity of apparent consumption (percent)		
U.S. production.....	33.2	28.6	23.0
Imports from--			
Hong Kong.....	4.5	5.7	5.8
Korea.....	30.5	35.8	40.4
Taiwan.....	11.6	12.6	13.8
Subtotal ^{2/}	46.6	54.1	59.9
All other sources.....	20.1	17.4	17.1
Total ^{2/}	66.8	71.4	77.0
Apparent consumption.....	100.0	100.0	100.0

^{1/} Imports may be slightly overstated because several TSUS and HTS items are reserved for mens' and boys' sweaters. Data from TSUS and HTS items under which the majority of mens' sweaters were entered are not affected, however.

^{2/} Because of rounding, figures and/or shares may not add to totals shown.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census. Imports: Compiled from official statistics of the U.S. Department of Commerce; include data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

Table O-2

Mens' sweaters: U.S. production, imports, apparent consumption, and shares of imports in apparent consumption, 1987-89 1/

Item	1987	1988	1989
<u>Quantity (1,000 dozen)</u>			
U.S. production.....	2,471	2,107	1,957
U.S. imports of manmade-fiber mens' sweaters from Hong Kong, Korea, and Taiwan.....	1,660	1,892	2,440
U.S. nonsubject imports <u>2/</u>	3,379	2,776	2,984
Subtotal.....	5,039	4,668	5,424
U.S. consumption.....	7,510	6,775	7,381
<u>Share of consumption quantity (percent)</u>			
U.S. production.....	32.9	31.1	26.5
U.S. imports of manmade-fiber mens' sweaters from Hong Kong, Korea, and Taiwan.....	22.1	27.9	33.1
U.S. nonsubject imports.....	45.0	41.0	40.4
Subtotal.....	67.1	68.9	73.5
Total.....	100.0	100.0	100.0
<u>Value (1,000 dollars) <u>3/</u></u>			
U.S. production.....	435,900	330,800	321,200
U.S. imports of manmade-fiber mens' sweaters from Hong Kong, Korea, and Taiwan.....	197,400	223,331	291,791
U.S. nonsubject imports <u>2/</u>	497,943	476,580	518,001
Subtotal.....	695,343	699,911	809,792
U.S. consumption.....	1,131,243	1,030,711	1,130,992
<u>Share of consumption value (percent)</u>			
U.S. production.....	38.5	32.1	28.4
U.S. imports of manmade-fiber mens' sweaters from Hong Kong, Korea, and Taiwan.....	17.4	21.7	25.8
U.S. nonsubject imports.....	44.0	46.2	45.8
Subtotal <u>4/</u>	61.5	67.9	71.6
Total.....	100.0	100.0	100.0

1/ Imports may be slightly overstated because several TSUS and HTS items are reserved for mens' and boys' sweaters. Data from TSUS and HTS items under which the majority of mens' sweaters were entered are not affected, however.

2/ Includes imports of mens' sweaters of other fibers from Hong Kong, Korea, and Taiwan, and imports of all mens' sweaters from all other sources.

3/ C.i.f., duty-paid value.

4/ Because of rounding, shares may not add to totals shown.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census; Imports: Compiled from official statistics of the U.S. Department of Commerce; include data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

Table O-3

Womens' manmade-fiber sweaters: U.S. production, imports, apparent consumption, and shares of imports in apparent consumption, 1987-89 1/

Item	1987	1988	1989
	Quantity (1,000 dozen)		
U.S. production.....	2,744	2,273	2,027
Imports from--			
Hong Kong.....	1,042	893	1,001
Korea.....	2,138	1,994	1,826
Taiwan.....	3,525	2,580	2,176
Subtotal.....	6,705	5,467	5,003
All other sources.....	1,789	1,266	1,423
Total imports.....	8,494	6,733	6,426
Apparent consumption.....	11,238	9,006	8,453
	As a share of the quantity of apparent consumption (percent)		
U.S. production.....	24.4	25.2	24.0
Imports from--			
Hong Kong.....	9.3	9.9	11.8
Korea.....	19.0	22.1	21.6
Taiwan.....	31.4	28.6	25.7
Subtotal <u>2/</u>	59.7	60.7	59.2
All other sources.....	15.9	14.1	16.8
Total <u>2/</u>	75.6	74.8	76.2
Apparent consumption.....	100.0	100.0	100.0

1/ Imports may be slightly overstated because several TSUS and HTS items are reserved for womens', girls', and infants' sweaters.

2/ Because of rounding, figures and/or shares may not add to totals shown.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census. Imports: Compiled from official statistics of the U.S. Department of Commerce; include data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

Table O-4

Womens' sweaters: U.S. production, imports, apparent consumption, and shares of imports in apparent consumption, 1987-89 1/

Item	1987	1988	1989
<u>Quantity (1,000 dozen)</u>			
U.S. production.....	6,472	6,073	4,646
U.S. imports of manmade-fiber womens' sweaters from Hong Kong, Korea, and Taiwan.....	6,705	5,467	5,003
U.S. nonsubject imports <u>2/</u>	13,709	9,387	13,060
Subtotal.....	20,414	14,854	18,063
U.S. consumption.....	26,886	20,927	22,709
<u>Share of consumption quantity (percent)</u>			
U.S. production.....	24.1	29.0	20.5
U.S. imports of manmade-fiber womens' sweaters from Hong Kong, Korea, and Taiwan.....	24.9	26.1	22.0
U.S. nonsubject imports.....	51.0	44.9	57.5
Subtotal.....	75.9	71.0	79.5
Total.....	100.0	100.0	100.0
<u>Value (1,000 dollars) <u>3/</u></u>			
U.S. production.....	718,200	657,900	529,900
U.S. imports of manmade-fiber womens' sweaters from Hong Kong, Korea, and Taiwan.....	845,264	662,496	639,853
U.S. nonsubject imports <u>2/</u>	1,670,202	1,287,032	1,774,104
Subtotal.....	2,515,466	1,949,528	2,413,957
U.S. consumption.....	3,233,666	2,607,428	2,943,857
<u>Share of consumption value (percent)</u>			
U.S. production.....	22.2	25.2	18.0
U.S. imports of manmade-fiber womens' sweaters from Hong Kong, Korea, and Taiwan.....	26.1	25.4	21.7
U.S. nonsubject imports.....	51.7	49.4	60.3
Subtotal.....	77.8	74.8	82.0
Total.....	100.0	100.0	100.0

1/ Imports may be slightly overstated because several TSUS and HTS items are reserved for womens', girls, and infants' sweaters.

2/ Includes imports of womens' sweaters of other fibers from Hong Kong, Korea, and Taiwan, and imports of all womens' sweaters from all other sources.

3/ C.i.f., duty-paid value.

Source: U.S. production: Bureau of the Census, U.S. Department of Commerce, Current Industrial Reports: Apparel 1988, October 1989, as adjusted and updated by Commission staff, based on information made available to the Commission by the Industry Division, Bureau of the Census; Imports: Compiled from official statistics of the U.S. Department of Commerce; include data from Crystal Knitters, Ltd., Laws Fashion Knitters, Ltd., and Jia Farn Manufacturing Co., Ltd.

