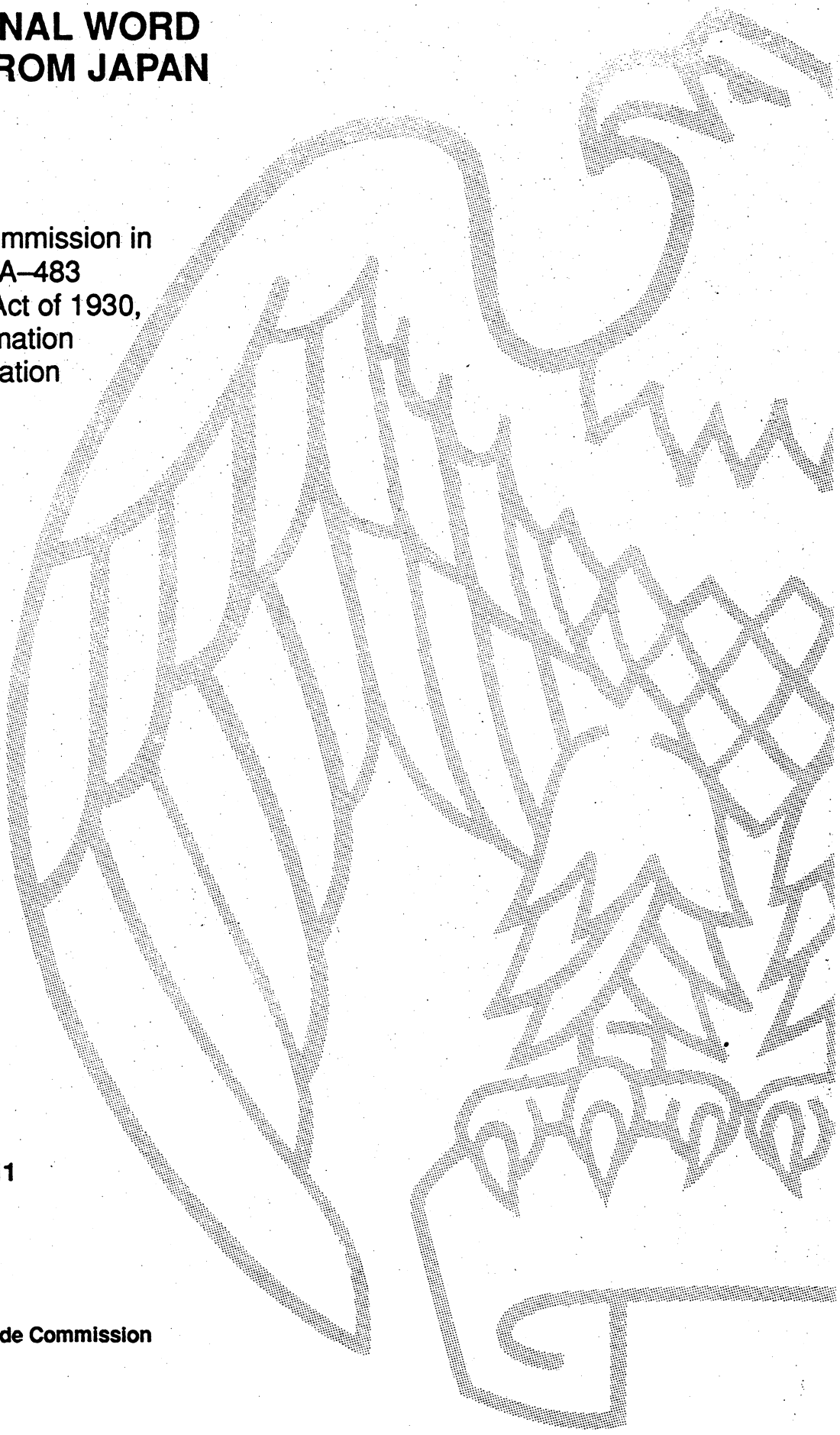
CERTAIN PERSONAL WORD PROCESSORS FROM JAPAN

Determination of the Commission in Investigation No. 731–TA–483 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



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Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Anne E. Brunsdale, Acting Chairman

Seeley G. Lodwick

David B. Rohr

Don E. Newquist

Charles Ervin,
Director of Operations

Staff assigned:

Rebecca Woodings, Investigator
Kayla Taylor, Industry Analyst
Joshua Levy, Economist
James Stewart, Accountant
Frances Marshall, Attorney

Robert Carpenter, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-483 (Final)

Certain Personal Word Processors from Japan

Determinations

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Japan of certain personal word processors, excluding office typing systems,[2] provided for in subheadings 8469.10.00 and 8473.10.00 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). The Commission further determines, pursuant to section 735(b) of the act (19 U.S.C. § 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of office typing systems, provided for in subheadings 8469.10.00 and 8473.10.00 of the HTS, that have been found by the Department of Commerce to be sold in the United States at LTFV.

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

[2] For a comprehensive description of the merchandise subject to this investigation, see International Trade Administration, Final Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan (56 F.R. 31101, July 9, 1991). For the purpose of this investigation, imported office typing systems are defined as personal word processors and major finished units thereof (as defined in the Commerce notice) with weight at least equivalent to that of the models described on page B-31 of the Report, that have a print speed of 20 characters per second or more and a print line width of 11.5 inches or more, and that offer proportionally spaced printing.

Background

The Commission instituted this investigation effective April 22, 1991, following a preliminary determination by the Department of Commerce that imports of certain personal word processors from Japan were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 8, 1991 (56 F.R. 21391). The hearing was held in Washington, DC, on July 10, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF COMMISSIONERS SEELEY G. LODWICK, DAVID B. ROHR, AND DON E. NEWQUIST

We determine that the domestic industry producing personal word processors in the United States is materially injured by reason of imports of certain personal word processors (other than office typing systems) from Japan that the Department of Commerce (Commerce) has determined are sold at less than fair value (LTFV). We also determine that the domestic industry producing office typing systems is neither materially injured, nor threatened with material injury, by reason of LTFV imports of office typing systems from Japan.[1]

I. LIKE PRODUCT

In order to make our material injury determination under title VII, we first must make factual determinations with respect to the "like product" and the "domestic industry." Section 771(4)(A) of the Tariff Act of 1930 defines the relevant domestic industry as the "domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of the product."[2] The statute defines "like product" as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[3]

Commerce has defined the imported articles subject to this investigation as:

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[1] Material retardation is not an issue in this final investigation, and will not be discussed further.

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(10).

... integrated personal word processing systems and major finished units thereof ("word processors"), which are defined as devices designed principally for the composition and correction of text. All word processors within the scope of this investigation have the following essential features: (1) A customized operating system designed exclusively for a manufacturer's word processor product line which is unable to run commercially available software and which is permanently installed by the manufacturer before or after importation; (2) a word processing software/firmware program which is designed exclusively for the word processor product line and which is permanently installed by the manufacturer before or after importation; and (3) internal memory (both read-only memory (ROM) and read-write random access memory (RAM) for word processing.

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All word processors included within the scope of this investigation contain the following three units: (1) A keyboard for the entry of characters, numerals and symbols; (2) a video display; and (3) a chassis or frame containing the essential word processing features listed above. These units may either be integrated into one word processing system or be combined by the user into one working system. Word processors may include, as a fourth unit, a printer with a platen (or equivalent text-to-paper transfer system) and printing mechanism to permit the printing of text on paper. However, word processors which do not include a printer as one of the major units are also included within the scope of the investigation.

Word processors may be imported as integrated systems, or the major finished units may be imported separately. With respect to major finished units, only the major finished units listed above are covered by this investigation. Keyboards and chassis/frames are included in this investigation if they are designed for use in word processors. Printers and video displays are included in this investigation only if they are dedicated exclusively for use in word processors.

Major finished units are distinguished from parts or subassemblies in that they do not require any additional manufacturing before functioning as a complete unit of a word processor. Neither parts nor subassemblies are included in the scope of this investigation.

Commerce specifically excluded from the scope of this investigation personal word processors meeting the definitional criteria of an existing order on portable electric typewriters (e.g., portable electric word processors), personal computers (PCs), including PCs capable of word

processing, and automatic typewriters with one- or two-line displays.[4] The scope of Commerce's investigation includes laptop word processors and makes no distinction between products for home or personal use and those for office use.

While we must accept Commerce's description of the articles sold at LTFV, we determine what domestic products are like the imported articles subject to investigation by Commerce.[5] Our decision as to which U.S. product or products are like the articles subject to investigation is a factual determination. We apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[6] In analyzing like product issues, we generally consider a number of factors including: (1) physical characteristics and uses, (2) interchangeability of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees, and (6), where appropriate, price.[7] No single factor is dispositive, and we may consider other factors we deem relevant based on the facts of a given investigation. We may find a like product to be broader than the imported

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[4] 56 Fed. Reg. 31102 (July 9, 1991).

[5] See Algoma Steel Corp. Ltd. v. United States, 12 CIT ___, 688 F. Supp. 639, at 9-10 (1988), aff'd, 865 F.2d 240, (Fed. Cir. 1989); Torrington v. United States, 14 CIT ___, 747 F. Supp. 744 (1990), aff'd, Slip op. 91-1084 (Fed. Cir. July 3, 1991).

[6] Asociacion Colombiana de Exportadores de Flores v. United States, 12 CIT ___, 693 F. Supp. 1165, 1168, n.4 (1988) (Asocoflores); Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (Jan. 1989).

[7] E.g., Fresh and Chilled Atlantic Salmon From Norway, Invs. Nos. 701-TA-302, 731-TA-454 (Final), USITC Pub. 2371 (Apr. 1991); Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (Mar. 1989).

products described in Commerce's scope of investigation,[8] or we may find two or more like products corresponding to a class or kind of merchandise as defined by Commerce.[9] We have found minor variations to be an insufficient basis for a separate like product analysis. Rather, we look for clear dividing lines among possible like products.[10]

In this final investigation, we determine that there are two like products: (1) office typing systems, which are heavy duty office word processors, and (2) all personal word processors, which includes both portable electric word processors and all other personal word processors and excludes office typing systems. We agree with all the parties that all typewriters, whether of the portable electric, portable automatic, or office varieties are not included in either like product.

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[8] See, e.g., Chrome-Plated Lug Nuts from the People's Republic of China, Invs. Nos. 731-TA-474 and 475 (Preliminary), USITC Pub. 2342 (Dec. 1990); Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (Aug. 1989); Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (Sept. 1988); Natural Bristle Paint Brushes from the People's Republic of China, Inv. No. 731-TA-244 (Final), USITC Pub. 1805 (Jan. 1986).

[9] See, e.g., American NTN Bearing Manufacturing Corp. v. United States, 14 CIT ___, 739 F. Supp. 1555, 1560 n.6 (1990) ("An ITC 'like product' investigation is conducted for a different purpose than the 'class or kind' investigation made by ITA . . . ITC may determine during the course of its investigation that the class or kind of merchandise defined by ITA as being within the scope of ITA's investigation may consist of more than one like product. ITC can reach this result despite the finding by ITA that only one class or kind of merchandise is covered by ITA's investigation").

[10] E.g., 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, Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989).

There are seven "text creation" products that could potentially be included within the like product, or products, in this final investigation. They are: personal computers (PCs), office typing systems, certain personal word processors (generally defined as personal word processors other than portable electric word processors), portable electric word processors, office typewriters, portable automatic typewriters (PATs), and portable electric typewriters (PETs). Petitioner Smith Corona argued that the like product should be limited to certain personal word processors.[11] Respondents argued that one like product should be defined as all personal word processors, including portable electric word processors, and that office typing systems should be a separate like product.

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[11] Petitioner argued that the Commission cannot, or should not, include products covered by an existing antidumping order within the domestic like product. We disagree. The existence of an outstanding antidumping order from a previous investigation that includes imported PETs, PATs, and portable electric word processors from Japan does not prevent us from including U.S. produced products of these types within our definition of the like product in this investigation. The Commission routinely finds the same like product and industry in subsequent investigations where earlier investigations have resulted in the imposition of an order. Compare Industrial Nitrocellulose from Brazil, Japan, the People's Republic of China, the Republic of Korea, United Kingdom, West Germany and Yugoslavia, 731-TA-439 through 445 (Preliminary), USITC Pub. 2231 (Nov. 1989) with Nitrocellulose from France, Inv. No. 731-TA-96 (Final), USITC Pub. 1409 (July 1983).

Petitioner's arguments on this issue are similar to the contention that the domestic like product must be identical to the definition of the scope set forth by petitioner in the petition. This argument has been rejected by the Federal Circuit, the CIT, and the Commission which have all noted that the Commission has the authority to define the like product and that it is not limited by the language of the scope of investigation. See, e.g., Torrington Co. v. United States, 14 CIT ___, 747 F. Supp. 744, 748 (1990), aff'd, Slip op. 91-1084 (July 3, 1991 Fed. Cir.); Minivans from Japan, Inv. No. 731-TA-522 (Preliminary), USITC Pub. 2402 (July 1991) at 11.

1. All personal word processors

We find that all personal word processors are a like product distinct from office typing systems. Portable and office typewriters are not included within this like product.

Physical characteristics and uses -- Physically, personal word processors can be distinguished from typewriters. All domestically produced personal word processors, whether portable or not, have: (1) a display of 8-24 lines, either a liquid crystal display (LCD) or a cathode ray tube display (CRT), and (2) standard external storage that permits storage of 32k to 240k per disk.[12] By contrast, typewriters, whether portable electric/electronic, portable automatic, office electric/electronic, or office automatic, have a maximum two-line display and do not have standard external storage capabilities.[13] In addition, personal word processors have more advanced software than typewriters, software that enables personal word processors to perform relatively sophisticated text-editing functions that cannot be performed on automatic typewriters.[14]

Although personal word processors and typewriters both create printed text, they have distinct end uses. The word processing software on personal word processors permits the user to draft long documents, automatically paginate, footnote, edit, and build a library of documents for future use.[15] There is evidence in the record indicating that typewriters are primarily used in applications such as typing of predrafted text, envelopes, memoranda,

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[12] Report at B-25-B-29, appendix D.

[13] Report at B-25, B-32, appendix D.

[14] Report at A-7, A-9.

[15] Matsushita's prehearing brief at 17.

invoices, letters, and statistics, while personal word processors are primarily used to draft and print newsletters, proposals, presentations, reports, and tables.[16] Lacking external storage capabilities, typewriters cannot be used to permanently store documents, while personal word processors have infinitely expandable storage capacity through the use of additional storage diskettes.[17] For these reasons, we find that personal word processors are physically distinct from, and have different uses than, typewriters.

For purposes of this final investigation, we also determine that physical characteristics and uses do not provide a clear dividing line between portable electric word processors and all other word processors. (Office typing systems are discussed separately below.) The use of portability as a distinguishing feature between various "text creation" devices dates from the original Commission decisions involving portable electric typewriters.[18] At the time those determinations were made, typewriter technology was relatively unsophisticated. Typewriters were either manual or electric, and either large office machines or small portable machines. Portability itself was not so much a distinguishing physical characteristic in the Commission's analysis as a simple use distinction between typewriters intended for, and used in, general consumer applications and those principally used in office or professional applications. The distinction between general or consumer

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[16] Matsushita's prehearing brief at 18.

[17] The record also shows that the majority of portable typewriter owners use their machines 0-3 hours per week, while the majority of personal word processors owners use their machines 4-20 hours per week. Matsushita's prehearing brief at 18.

[18] See Portable Electric Typewriters from Japan, AA1921-145, USITC Pub. 732 (June 1975); Portable Electric Typewriters from Japan, Inv. No. 731-TA-12 (Final), USITC Pub. 1062 (May 1980).

products and industrial or professional type products is one which the Commission has frequently made.[19] The issue in this investigation is, thus, whether portability is a distinguishing characteristic with respect to personal word processors.

After evaluating the purpose of the typewriter portability distinction and the evolution of word processing technology, we are convinced that portability is not a valid distinguishing characteristic for our like product analysis of personal word processors in this final investigation. Both portable electric word processors (as defined by Commerce) and all other personal word processors are considered consumer or home-use products, and not primarily office-use products. Thus, "portable" as defined by Commerce, does not serve to distinguish between consumer and office word processors as it does with typewriters. Moreover, "portable," as defined by Commerce, does not draw a clear line between various models of personal word processors. Although portable electric word processors have a handle that makes them easier to transport than some other personal word processors, several types of "nonportable" word processors, including but not limited to laptop word processors, are lighter in weight, and more easily transported than some portable electric word processors.

Further, portable and nonportable personal word processors share many characteristics. They both contain a platen, although laptop word processors, which are not considered portable, do not. Both portable and nonportable word processors display at least 8 lines of text on their screens and have external

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[19] See, e.g., Certain Electric Fans from the People's Republic of China, Inv. No. 731-TA-473 (Preliminary), USITC Pub. 2340 (Dec. 1990) at 6-10; Certain Residential Door Locks from Taiwan, Inv No. 731-TA-433 (Preliminary), USITC Pub. 2198 (June 1989) at 9-12; Drafting Machines and Parts Thereof from Japan, Inv. No. 731-TA-432 (Preliminary), USITC Pub. 2192 (May 1989) at 10-13.

memory capabilities. Both share comparable text edit features and share the same end uses.[20] For these reasons, we include portable electric word processors within the personal word processors like product.

Interchangeability -- Generally, word processors and typewriters are not functionally interchangeable. While both types of machines may be used to generate printed text, the basic purpose of the machines is different. As we found in our preliminary determination in this investigation:

> The basic purpose of a typewriter is to type, i.e., to impress letters on paper. The basic purpose of a word processor, in contrast, is to draft and edit text, as well as to print it out.[21]

On a typewriter it is not possible to view pages of text before they are imprinted on the page, move large blocks of text within a document, or store a lengthy document for filing or future use in electronic format. The word processor has supplanted the typewriter as the primary long document text-creation device. It is true, however, that personal word processors which contain a daisy wheel printer and a platen can function as a typewriter in type-through mode.[22]

Customer and producer perceptions -- There is evidence in the record that portable typewriter consumers perceive portable typewriters to have certain advantages for their particular purposes over PCs or personal word processors and vice versa. Purchasers of typewriters find them easier to use, better suited to fill-out preprinted forms, type on odd sized paper, and address envelopes, and cheaper than personal word processors.[23] The type of

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[20] Report at A-7, A-9, and appendix D.

[21] Personal Word Processors from Japan and Singapore, Invs. Nos. 731-TA-483 and 484 (Preliminary), USITC Pub. 2344 (Dec. 1990) at 9.

[22] See Personal Word Processors, CONSUMER REPORTS (Oct. 1990) at 664.

[23] Matsushita's prehearing brief, tab A at IV-67.

work purchasers perform on portable typewriters are the least likely activities to be performed on a personal word processor, e.g., envelopes, memoranda, invoices, letters, and statistical typing.[24] We acknowledge that producers of personal word processors disagree about the degree to which the products are related. BIUSA maintains that there are significant differences between personal word processors and typewriters. Smith Corona contends that its portable typewriter and word processor products are a continuum, beginning with the most basic typewriter and ending with the most advanced word processor.[25]

Production processes, facilities, employees and channels of distribution -- We also acknowledge that these two factors do not show a dividing line between "nonportable" personal word processors and portable electric word processors, or a dividing line between all personal word processors, excluding office typing systems, and PETs and PATs. Both BIUSA and Smith Corona produce personal word processors and portable electric/automatic typewriters using the same production equipment, and the manufacturing processes for these products are very similar. Domestic producers reported minimal downtime in order to shift production between "nonportable" personal word processors, portable electric word processors, PATs, and PETs.[26] Portable typewriters and word processors are distributed to unrelated purchasers through the same channels of distribution: mass

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[24] Matsushita's prehearing brief, tab A at fig. V-29, V-30.

[25] Report at A-7; Hearing Transcript (Tr.) at 14; video tape of Smith Corona plant tour.

[26] Report at A-10.

merchandisers, department stores, catalog houses, and electronics discount stores.[27]

Price -- In this final investigation, we considered pricing information of personal word processors and PETs and PATs. The pricing information on PETs and PATs was gathered during our PETs from Singapore preliminary investigation[28] and incorporated into this record.

During the period of investigation, there was no overlap among the prices of PETs/PATs and personal word processors. The existence of at least a significant difference in price between the least expensive personal word processor and the most expensive PAT supports our determination that personal word processors are distinguishable from PETs and PATs.[29] Moreover, a comparison of the unit values of PETs, PATs, portable electric word processors, and "nonportable" personal word processors, shows a more significant difference between the unit values of PATs and portable electric word processors, than between the unit values of either PETs and PATs or portable electric word processors and "nonportable" personal word processors.[30]

2. Office typing systems are a separate like product

We also determine that office typing systems are a like product separate and distinct from all other personal word processors. Office typing systems have certain physical characteristics that distinguish them from other personal word processors. They weigh in excess of 35 pounds, have a print

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[27] Report at A-19.

[28] Portable Electric Typewriters from Singapore, Inv. No. 731-TA-515 (Preliminary), USITC Pub. 2388 (June 1991).

[29] Report at A-42; B-59-B-60, appendix J.

[30] Report at A-21, Table 6.

speed of 20 characters per second or more, have a print line width of 11.5 inches or more, and offer proportionally spaced printing.[31] None of the U.S.-produced personal word processors shares even three of these four characteristics. The office typing system can offer faster printing with a broader variety of print features and can accommodate wider paper than any other personal word processor. The chassis of an office typing system is larger, heavier, and more durable than the chassis of a personal word processor.[32] These are appropriate distinctions between an office-use product, such as office typing systems, and a consumer-use product, such as personal word processors.

During the period of investigation, there were two domestic producers of office typing systems. These companies do not produce PETs, PATS, portable electric word processors, or other personal word processors; thus, there are no common production facilities or employees between office typing systems and these other products.[33] Office typing systems are sold through authorized dealers, whereas personal word processors are sold through a variety of other channels.[34] In addition, the pricing data indicate that the prices of office typing systems are significantly higher than those of personal word processors.[35]

Moreover, petitioner itself did not include office typing systems within its proposed like product. Smith Corona does not produce office typing

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[31] Report at A-8, Table 1.

[32] Report at A-9.

[33] Report at A-14-A-15.

[34] Report at A-19.

[35] Report at A-44.

systems and conceded at the hearing that office typing systems were not "like" other products under consideration.[36] Moreover, petitioner's analysis of the domestic industry data does not include production of office typing systems.[37]

Thus, we determine that office typing systems are a separate like product because they have different physical characteristics, somewhat differing uses, are produced in different facilities, have a different channel of distribution, are perceived differently by producers such as petitioner, and are sold at a much higher price than other personal word processors.

We do not include office **typewriters** within this like product. Physically, office typing systems and office typewriters look quite similar. Office typing systems may generally be distinguished from office typewriters, however, in the same way that word processors are distinguished from portable typewriters by the presence of: (1) a display of 8-24 lines (either LCD or CRT), and (2) no standard external storage.[38] Office typing systems have more advanced internal word processing software than do office typewriters, which permits office typing systems to perform text editing in addition to the traditional typewriter tasks of filling out preprinted forms and addressing envelopes. Office typewriters and office typing systems are both sold to the office market, but office typing systems are designed primarily for use by the

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[36] Tr. at 61 (statement of Mr. G. Lee Thompson).

[37] Respondent Matsushita argues that Smith Corona does not have standing to include office typing systems within the scope of the imports subject to investigation because they do not produce them. Once again, we state that we do not have authority under the statute to terminate an investigation for lack of standing. See Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (Apr. 1991) at 3-13; Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Invs. Nos. 731-TA-458 and 459 (Final), USITC Pub. 2383 (May 1991) at 20.

[38] Report at B-30-B-31.

professional secretary, who is more likely to need to draft and save longer letters and documents than users of office typewriters.[39] Although the two types of machines share common production facilities and are produced by common production employees,[40] a comparison of unit values of office typing systems and office typewriters shows a significant price differential between the two products over the period of investigation.[41] For these reasons, we have decided not to include office typewriters within this like product. We note however, that inclusion of these products within our office typing systems like product would not change our conclusions on material injury or threat of material injury.

3. Personal computers are not part of either like product nor a separate like product

In our preliminary Word Processors determinations, we did not include personal computers within the like product, stating:

> . . . we do not believe that personal computers are like personal word processors. Because of their proprietary operating system, personal word processors lack the capability to operate the types of software available for personal computers, which have industry-standard operating systems. 35/ Further, the software in personal word processors is "captive" and cannot be altered, while personal computers can use different types of software and can, in fact, be used to create software. Personal computers typically are offered as a package of separate components, unlike personal word processors, which are for the most part sold complete. 36/ Because personal computers have greater capabilities than personal word processors, they have a somewhat different end-use and are perceived differently by consumers. 37/ Also, although personal word processors and personal computers are interchangeable to the extent that both can be used for typing a document, personal computers have far greater storage capabilities. 38/ In addition, personal computers are sold at a higher price than personal word processors. 39/ Finally, personal computers are for the most part

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[39] Investigative meeting notes of R. Woodings, investigator.

[40] Report at A-14-A-15.

[41] Report at A-21.

> manufactured by different producers, using different facilities and employees, and are largely sold through different channels of distribution. 40/

Certain Personal Word Processors from Japan and Singapore, Invs. Nos. 731-TA-483 and 484 (Preliminary), USITC Pub. 2344 (Dec. 1990) [footnotes omitted]. The record in this final investigation has not altered our original analysis.

For these reasons, we find two like products: (1) office typing systems, and (2) all other personal word processors, including portable electric word processors.

II. DOMESTIC INDUSTRY

Since we determine that there are two like products, we concomitantly find that there are two separate domestic industries, the office typing systems industry and the personal word processors industry. The office typing systems industry consists of all domestic producers of office typing systems. We must resolve two further issues in order to determine the parameters of the personal word processor industry. These issues are: (1) whether BIUSA is a domestic producer of personal word processors, and (2) if BIUSA is a domestic producer, whether it should be excluded from the domestic industry as a related party. For the reasons explained below, we determine that BIUSA is a domestic producer of personal word processors and that appropriate circumstances to not exist to exclude BIUSA from the domestic industry. Thus, the domestic personal word processors industry consists of both domestic producers, Smith Corona Corporation and BIUSA.[42]

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[42] Commissioner Newquist has determined that BIUSA is not within the domestic industry producing word processors and therefore does not join in section II of this opinion as it relates to the domestic industry/related parties producing personal word processors. See Additional Views of Commissioner Newquist.

A. Domestic producer

Section 771(4)(A) of the Tariff Act of 1930 defines domestic industry as:

> . . . the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[43]

In considering whether a U.S. firm is a producer, we have looked to the overall nature of production-related activities in the United States. Specifically, the Commission has examined in the past such factors as: (1) the extent and source of a firm's capital investment, (2) the technical expertise involved in U.S. production activity, (3) the value added to the product in the United States, (4) employment levels, (5) the quantities and types of parts sourced in the United States, and (6) any other costs and activities in the United States directly leading to production of the like product.[44]

We have emphasized that no single factor, including value added, is determinative and that value added information becomes more meaningful when other production activity indicia are taken into account.[45] We have also

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[43] 19 U.S.C. § 1677(4)(A).

[44] See, e.g., Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (Aug. 1989); Certain All-Terrain Vehicles from Japan, 731-TA-377 (Final), USITC Pub. 2163 (Mar. 1989); Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (Dec. 1986) at 11 & n.23; Low-Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (Nov. 1985) at 6.

[45] See, e.g., Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 (May 1984) at 7, 8.

stated that it will consider any other factors we deem relevant in light of the specific facts of any investigation.[46]

We determine that BIUSA is engaging in sufficient production-related activity to be considered a producer of personal word processors. Personal word processors are a consumer electronic product produced by assembling increasingly more sophisticated components into finished products. Therefore, the production activity at issue is the assembly of personal word processors, and not the production of parts or components produced by vertically integrated producers of personal word processors.[47]

We recognize that BIUSA does not do any significant product development or design. BIUSA, however, has made significant capital investment in production activities related to all personal word processors at its facility in Bartlett, Tennessee.[48] Further, BIUSA adds significant value to the personal word processors it produces,[49] and employs a not insignificant number of workers who produce personal word processors. Moreover, we find BIUSA's activities at Bartlett go beyond mere attaching of tool handles that the Commission found not to constitute domestic production in Heavy Forged Handtools from the People's Republic of China.[50] BIUSA not only produces the finished product, but also assembles an important component, printed circuit

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[46] Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (Dec. 1986).

[47] Minivans from Japan, Inv. No. 731-TA-522 (Preliminary), USITC Pub. 2402 (July 1991) at 21.

[48] Report at A-28.

[49] Report at B-41-B-42, appendix F.

[50] Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (Feb. 1991) at 17-18.

boards. For these reasons, we find that BIUSA is a domestic producer of personal word processors.

B. Related parties

Under section 771(4)(B) of the Tariff Act of 1930, when a producer is related to an exporter or importer of the product under investigation, or is itself an importer of that product, we may exclude such producers from the domestic industry in "appropriate circumstances."[51] Application of the related parties provision is within our discretion based upon the facts presented in each case.[52]

We generally apply a two-step analysis in determining whether to exclude a domestic producer from the domestic industry under the related parties provision. We consider first whether the company qualifies as a related party under section 771(4)(B), and second whether in view of the producer's related status there are "appropriate circumstances" for excluding the company in question from the definition of the domestic industry. We employ the related parties provision to avoid any distortion in the aggregate data bearing on the condition of the domestic industry that might result from including related parties whose operations are shielded from the effects of the subject imports.[53]

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[51] 19 U.S.C. § 1677(4)(B).

[52] Empire Plow Co. v. United States, 11 CIT 847, 675 F. Supp. 1348, 1352 (1987).

[53] S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979) ("... where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry.")

We generally examine three factors in deciding whether appropriate circumstances exist to exclude related parties:

> (1) the position of the related producers vis-a-vis the rest of the domestic industry;
>
> (2) the reasons why the domestic producers have chosen to import the product under investigation; and
>
> (3) the percentage of domestic production attributable to related producers.[54]

We have also considered whether a company's data regarding domestic production activities are segregated from its importing operation and whether the primary interests of the related producers lie in domestic production or in importation.[55]

BIUSA, which produces personal word processors in Bartlett, Tennessee, is a wholly-owned subsidiary of Brother Industries, Ltd. of Japan, an exporter of certain word processors from Japan sold at LTFV. In addition, BIUSA is a sister corporation of the U.S. firm that imports certain personal word processors from Japan, Brother International Corporation (BIC). BIC also distributes all of BIUSA's production. For these reasons, BIUSA is a related party.[56]

The data gathered in this final investigation indicate that BIUSA's domestic word processor operations may have been shielded from the effects of imports subject to investigation.[57] However, BIUSA began production of personal word processors in the United States near the end of the period of

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[54] See, e.g, Heavy Forged Handtools From The People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (Feb. 1991) at 18.

[55] See, e.g, id. at 19.

[56] Report at A-13.

[57] Report at A-26, Table 12.

investigation. Thus, inclusion of BIUSA's data within the domestic industry would have the most impact on the interim 1991 data, the time period that BIUSA become a significant producer of personal word processors.[58] During that time period, BIUSA's primary interest appears to have been in the production, not importation, of personal word processors, given the significant investment BIUSA has made in its U.S. production facilities.[59] Further, BIUSA and BIC maintain separate records so BIUSA was able to provide the Commission with profit-and-loss data that did not include BIC's importing operations. Most importantly, exclusion of BIUSA from the domestic industry would not affect most of the Commission's data because BIUSA only began producing personal word processors in mid-1990. For these reasons, we do not exclude BIUSA from the domestic industry as a related party.

III. CONDITION OF THE DOMESTIC INDUSTRIES [60]

In assessing the condition of the domestic industry, we consider, among other factors, domestic consumption, production, capacity, capacity utilization, shipments, inventories, employment, financial performance, capital investment, and research and development efforts.[61] No single factor is dispositive, and in each investigation we consider the particular nature of the industry involved and the relevant economic factors that have a bearing on

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[58] Report at B-37, Tables E-1 and E-2, appendix E.

[59] Report at A-28, Table 16.

[60] We note that much of the information on which we base our decision is business proprietary, and therefore, our discussion of the domestic industries must necessarily be of a general nature.

[61] 19 U.S.C. § 1677(7)(C)(iii).

the state of the industry.[62] Material injury is "harm which is not inconsequential, immaterial or unimportant."[63]

B. The personal word processors industry

We noted in our preliminary determinations that the trade data and the financial indicators showed that the personal word processor industry expanded through 1989, but that there was a significant downturn in 1990 evidenced by interim data through September 1990.[64] Although the Commission now possesses full data for 1990, as well as interim data for 1991, confidentiality problems, and Brother Industries' refusal to consent to a discussion of data trends in this opinion, prevent a direct discussion of our data or of the differences between the data gathered in this final investigation and those gathered during our the preliminary investigation.

To summarize what we can say about the data, in general full-year 1990 provides strong support for the conclusion that the domestic industry is experiencing material industry, while any conclusions that may be drawn from the interim 1991 data are not sufficient to convince us otherwise.[65]

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[62] See 19 U.S.C. § 1677(7)(C)(iii), which requires us to consider the condition of the industry in the context of the business cycle and condition of competition that are distinctive to the domestic industry. See also H.R. Rep. 317, 96th Cong., 1st Sess. 49 (1979); S. Rep. 249, 96th Cong., 1st Sess. 88 (1979).

[63] 19 U.S.C. § 1677(7)(A).

[64] Certain Personal Word Processors from Japan and Singapore, Invs. Nos. 731-TA-483 and 484 (Preliminary), USITC Pub. 2344 (Dec. 1990) at 16.

[65] Commissioner Newquist notes that, due to his determination that BIUSA is not in the domestic industry producing word processors, in analyzing the condition of that industry and the issue of causation he has relied upon data that are somewhat different, particularly for interim 1991, from those relied upon by Commissioners Lodwick and Rohr. Where these data differ, however, they provide even stronger support for a determination that the domestic industry is suffering material injury by reason of LTFV imports of certain personal word processors from Japan.

Domestic apparent consumption of personal word processors provides a backdrop for evaluating the performance of the industry. These data, whose trends are not confidential, show strong growth in demand for personal word processors between 1988 and 1989, a flattening of demand in 1990, and renewed strong growth in demand in interim 1991.[66]

We find that, through 1990, the data for production provide strong support for the conclusion that the industry is materially injured, while the shipment data support the same conclusion, albeit less strongly. Capacity figures themselves do not support an affirmative determination. Capacity utilization data provide some additional support for an affirmative determination, but we find that it provides only moderate support for an affirmative determination because of the relationship between changes in production and changes in capacity. Changes in the unit value of shipments strongly support an affirmative determination while changes in inventories tend to support, to a moderate degree, a negative determination. Changes in domestic market share are ambiguous, providing less support for our affirmative determination.[67]

In contrast to the 1990 data, interim 1991 trade data provide less support for an affirmative conclusion for most indicators, except for the unit value of shipment numbers. We believe that trade data from the three month interim period, standing alone, have limited probative value because they reflect activity while this investigation was taking place. We conclude that, on balance, the trade data provides moderate support for an affirmative

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[66] INV-O-156, Table B (Aug. 6, 1991).

[67] INV-O-156, Table A (Aug. 6, 1991).

determination that the personal word processor industry is currently experiencing material injury.[68]

Our overall evaluation of the employment indicators is that they are of limited probative value in indicating the condition of this industry because they reflect a limited number of actions by a small number of producers. Overall, we conclude that the 1990 data support an affirmative determination and 1991 interim data, to the extent that they can be viewed as reliable, provide less support for an affirmative conclusion.[69]

The financial indicators follow the same general pattern of the other indicators in this investigation, with 1990 data supporting, quite strongly in most cases, an affirmative injury finding. Interim 1991 financial data are more mixed, but they support an affirmative finding in several important indicators. On balance, we conclude that the financial indicators of this industry provide strong support for a finding that the domestic industry is experiencing material injury.[70]

Accordingly, we find that the domestic word processor industry is materially injured.

C. The office typing systems industry

Our discussion of the office typing systems industry is also limited by the need to protect business proprietary information. Apparent domestic consumption of office typing systems fell sharply during the period of investigation.[71] We find that the industry's production of office typing

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[68] Id.

[69] Id.

[70] Report at A-26, A-28-A-29.

[71] Report at A-18, Table 3.

systems, its capacity to produce office typing systems, capacity utilization, domestic shipments, employment levels, and financial performance during the period of investigation all support our conclusion that the office typing systems industry is materially injured.[72] Only the inventory levels of office typing systems tends to support a negative determination.[73] Accordingly, we find the domestic office typing systems industry to be materially injured.

IV. MATERIAL INJURY BY REASON OF LTFV IMPORTS FROM JAPAN

In making a final determination in an antidumping or countervailing duty investigation, we determine whether an industry in the United States is materially injured "by reason of" the imports under investigation.[74] We consider alternative causes of injury, but we do not weigh causes.[75] We do not determine that imports are the principal or even a substantial cause of

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[72] Report at A-20, Table 5; A-21, Table 6; A-22-A-23, Table 8; A-28, Table 15. We note that we have used 19 U.S.C. § 1677(4)(D) product line analysis with respect to this industry's financial data.

[73] Report at A-22, Table 7.

[74] 19 U.S.C. § 1673d(b).

[75] E.g., 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).

material injury.[76] Rather, we determine whether imports are a cause of material injury.[77]

B. The personal word processors industry

In this final investigation, we find that the volume of imports of certain personal word processors from Japan, excluding office typing systems, is significant. The volume and value of imports of certain personal word processors from Japan were consistently high during the period of investigation. The interim 1991 data also show that the volume and value of imports remains high as compared to the interim 1990 data.[78] The U.S. market share of imports of certain personal word processors from Japan in terms of volume decreased slightly over period of investigation, but these Japanese imports retained a significant market share, over 30 percent, from 1988 to 1990. The U.S. market share of imports from Japan in terms of value showed similar trends, holding over 35 percent of the U.S. market from 1988 to 1990. The interim 1991 data show an increase in the subject imports' market share as compared to interim 1990.[79]

The data in this final investigation indicate that the prices of imported word processors from Japan have depressed prices of domestic personal

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[76] "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." S. Rep. No. 249 at 74-75.

[77] LMI-La Metalli 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, 593 F. Supp. 405, 413 (1984); Hercules, Inc. v. United States, 11 CIT 710, 673 F. Supp. 454, 481 (1987). See also Maine Potato Council v. United States, 9 CIT 293, 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.)

[78] Report at A-33-A-34, Table 21.

[79] INV-O-156 at Table B (Aug. 6, 1991).

word processors. During the time period when Japanese imports maintained their significant market presence, prices of personal word processors, both domestic and imported, fell considerably.[80] In 34 quarters of price comparisons reported by producers and importers, underselling by imports of certain personal word processors occurred in 26 quarters, or in over 76 percent of the price comparisons.[81] [82] We find the underselling by the subject imports to be significant. We further find that it played a significant role in the depression of domestic prices, while recognizing that the U.S. and Japanese products are not perfectly comparable because of the many differences in features.[83]

We are aware that factors other than the LTFV imports may have put downward pressure on the price of domestic personal word processors. A general economic downturn beginning in 1989 may have caused purchasers to postpone buying nonessential items such as personal word processors. The one-year product life cycle of word processors may encourage discounts of old models as new models appear. Further, declining prices of personal computers may be influencing the price of personal word processors.[84] As noted

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[80] Report at A-42.

[81] Report at A-42-A-43.

[82] Commissioner Newquist notes that these comparisons do not include any prices of products produced by BIUSA.

[83] Report at A-42-A-43.

[84] Commissioner Lodwick notes that, in the preliminary investigations, he pointed out that the personal word processor industry's fortunes are handicapped by the continuing decline in PC prices. That is, as PCs (equipped with similar features for word processing and the potential for many more capabilities) decline in price, they will continue to heavily influence the maximum price people will pay for personal word processors and accelerate the switch from personal word processors to PCs. See Certain Personal Word Processors from Japan and Singapore, Inv. No. 731-TA-483 and 484

(continued...)

previously, the Commission does not weigh causes or determine which factors are primarily responsible for material injury to the domestic industry. It is sufficient that the imports "contribute, even minimally, to material injury."[85] Thus, despite the presence of these other factors, we find that the underselling by the LTFV imports from Japan has had a price depressing effect on the domestic personal word processor industry.

Further evidence that Japanese imports are having a negative effect on the domestic personal word processor industry appears in the financial

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[84](...continued)
(Preliminary), USITC Pub. No. 2344 (Dec. 1990) at 29-31. The record confirms that most people who buy PCs for their personal use primarily use the devices for word processing. Economic Consulting Services, Inc. prehearing brief on behalf of the Respondents. In addition, the record also shows that PC prices are continuing to decline. Also, it is most obvious that computer software companies are going to great efforts to make PCs more user-friendly, thus less intimidating to the unsophisticated user, a prime buyer of personal word processors.

Despite the facts discussed above, petitioner asserts that PCs are not relevant to its market. Petitioner claims that, unlike PCs, people buy word processors for one purpose, "to put printed words on paper." (Tr. at 59) Petitioner's own product development activities demonstrate that PCs are competing with personal word processors in the market and that the company must respond. First, Smith Corona is equipping its personal word processors with a number of PC features, including fax/modem capabilities, spreadsheets, and the ability to create MS DOS compatible files. Second, Smith Corona is even introducing its own line of PCs. Canon's prehearing brief at attachments.

Although complete PC systems priced under $1,000 are a serious competitive pressure to the personal word processor industry, there is still a residual market for those who are very price sensitive, who explicitly do not want a system for anything other than word processing, and/or who remain intimidated by PC software/firmware. The record shows that personal word processors are purchased by students and lower middle income families, groups who may have a definite interest in a single-function machine at a very low price. INV-O-156 (Aug. 6, 1991). Commissioner Lodwick believes that it is in this market that the LTFV imports are taking away sales from domestic personal word processors.

[85] La Metalli Industriale, S.p.A. v. United States, 13 CIT ___, 712 F. Supp. 959, 971 (1989).

performance of the personal word processor industry which we cannot discuss in detail.[86]

Given the significant volume and market share of the subject imports at a time of flat demand, declining U.S. prices, the substantial evidence of underselling by those imports, and other financial factors, discussion of which would reveal business proprietary information, we determine that the domestic personal word processor industry is materially injured by reason of imports from Japan of personal word processors sold at LTFV.

C. The office typing systems industry

In this final investigation, we find an insufficient causal link between the condition of the U.S. office typing systems industry and the LTFV imports of office typing systems from Japan. We recognize that imports have gained market share during the period of investigation, and that our pricing data are inconclusive. We do not believe, however, that imports of office typing systems from Japan have been a cause of material injury to the domestic industry. The record in this investigation shows that demand for office typing systems is being sharply curtailed by the growing consumer preference for PCs, and that the difficulties of the domestic industry are due solely to this contraction in demand for office typing systems.[87] This investigation is an anomalous one because no party to this investigation, including petitioner, argued that Japanese imports of office typing systems subject to investigation are a cause of material injury to the domestic office typing systems industry. Indeed, domestic producers of office typing systems have showed no interest whatsoever in this investigation. They provided us with less information than

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[86] Report at A-26, Tables 11 and 12; A-29, Table 18; INV-O-150 (Aug. 5, 1991).

[87] Report at A-19.

we requested and did not enter an appearance in our proceedings.[88] Moreover, information provided by domestic producers regarding the impact of office typing systems from Japan on the domestic industry does not support an affirmative finding of causation.[89] Evidence in the record convinces us that the domestic office typing systems industry is not being injured by imports of office typing systems from Japan. Therefore, we find that the domestic office typing systems industry is injured by causes other than Japanese imports of office typing systems, and that it is not materially injured by reason of LTFV imports of office typing systems from Japan.

V. NO THREAT OF MATERIAL INJURY TO THE OFFICE TYPING SYSTEMS INDUSTRY BY REASON OF IMPORTS OF OFFICE TYPING SYSTEMS FROM JAPAN

Having determined that the office typing systems industry is not materially injured by reason of LTFV imports from Japan, we also determine that the office typing systems industry is not threatened with material injury by reason of those imports.

Section 771(7)(F) of the Tariff Act of 1930 directs us to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."[90]

We must consider the following ten factors in our threat analysis:

> (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the

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[88] See also Report at A-14-A-15.

[89] Office typing systems producers' questionnaire responses at 28.

[90] 19 U.S.C. § 1677(7)(F)(ii).

subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement).

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

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

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

(IX) in any investigation under this subtitle which involves imports or both a raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title 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.

In addition, we must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry.[91]

The statutory factors relevant to this investigation[92] indicate several facts might have supported an affirmative threat determination. There is currently substantial unused and underutilized production capacity for word processors (including office typing systems) in Japan. Portable typewriters from Japan are currently subject to an antidumping order as are portable electric word processors which creates the potential for product shifting, at least with regard to those products produced on the same lines. Soon personal word processors from Japan will be subject to an antidumping order as well which will further increase the potential for such product shifting.[93] However, the record also indicates that office typing systems are produced on the same production lines as office typewriters, which are not, and will not be, subject to an antidumping order. Thus, the potential for Japanese product shifting to office typing systems may be sharply limited. In addition, the record suggests that there are significant alternative markets for Japanese certain personal word processors so that Japanese exports of office typing systems may be directed elsewhere.[94] We also recognize, however, that market penetration by LTFV imports from Japan of the U.S. office typing systems

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[91] 19 U.S.C. § 1677(7)(F)(i), (iii).

[92] With respect to factor (I), there is no subsidy involved in this antidumping determination. With respect to factor (XI), personal word processors are not an agricultural product.

[93] Report at A-2-A-3.

[94] Report at A-32.

market has increased significantly during the period of investigation, particularly in interim period 1991 as compared to interim period 1990.[95]

Notwithstanding these problematic facts, information obtained from domestic producers of office typing systems regarding anticipation of any negative impact from imports of office typing systems from Japan does not support an affirmative finding of a real and imminent threat to the domestic office typing systems industry.[96] We conclude that this information from the domestic industry is the best information available to us on the issue of threat to this domestic industry by imports of office typing systems from Japan. No party to this investigation, nor any U.S. producer of office typing systems, has suggested that the office typing industry is threatened by imports of office typing systems from Japan. Moreover, domestic producers of office typing systems provided us with less information than we requested and they did not participate in our proceedings.[97] The evidence in the record convinces us that imports of office typing systems from Japan do not pose a real and imminent threat to the U.S. office typing systems industry. Therefore, we determine that the domestic office typing systems industry is not threatened with material injury by imports of office typing systems from Japan.

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[95] Report A-34.

[96] Office typing systems producers' questionnaire responses at 28.

[97] See also report at A-14-A-15.

VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE
CERTAIN PERSONAL WORD PROCESSORS FROM JAPAN
Inv. No. 731-TA-483 (Final)

I concur in the Commission's determinations that a domestic industry is materially injured by reason of dumped imports of certain personal word processors (CPWPs) from Japan, not including office typing systems (OTSs), and that a domestic industry is not materially injured or threatened with material injury by reason of dumped imports of OTSs from Japan. I join my colleagues' discussion of domestic industry, related parties, and threat of material injury.[1] In these additional views I will discuss my analysis of like product, cumulation, and causation.

Like Product

In the preliminary determinations the Commission found the domestic like product to be all personal word processors (PWPs), including OTSs and excluding portable automatic and electric typewriters (PATs and PETs). In the final investigation, we gathered additional information and had the opportunity to visit both Smith Corona's and Brother's domestic manufacturing facilities. In addition, we were able to view the full assortment of products and examine them closely. I have determined in this investigation that there are two domestic like products, (1) PWPs, PETs and PATs and (2) OTSs and office

[1] Although my definition of like product differs from that of my colleagues, their discussion of those issues is also relevant for my determination.

typewriters.

There are five important issues in determining the like product in this case: (1) Is certain word processors (petitioner's preferred like product) the correct like product? (2) Are OTSs like PWPs, or should they be considered a separate like product? (3) Should personal computers (PCs) be included as part of the like product? (4) Should the like product include PETS and PATS as well as PWPs? (5) Should the like product OTSs include office typewriters?

I agree with the majority on the first three questions. There is no meaningful distinction between PWPs and CPWPs,[2] PCs are not like PWPs, and OTSs are not like PWPs. These issues are discussed at length in the majority opinion and I will not repeat their analysis here. Instead, I will concentrate my discussion on the two areas where my conclusions differ from those of my colleagues.

The various factors that determine like product can be categorized as either demand side factors or supply side factors.[3] This includes the six to eight factors listed in

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[2] The portability distinction that Commerce used to distinguish CPWPs from other word processors seems completely arbitrary. For instance, if the keyboard is attached to the word processor by hinges and the screen is embedded in the chassis, it is included in the like product CPWPs, whereas if the screen is attached by hinges and the keyboard is embedded in the chassis it is excluded from that category. In addition, laptop word processors do not meet the portability criteria because they lack a printer.

[3] My analysis of like product has been presented in detail in previous opinions. See, Dissenting Views of Acting Chairman Anne E. Brunsdale, Polyethylene Terephthalate Film, Sheet, and Strip

(continued...)

virtually all Commission majority opinions. For example, physical appearance, end uses, interchangeability, and customer perceptions are demand side factors, whereas common manufacturing facilities and production employees are supply side factors.

While the traditional Commission opinion does not discuss the relevance of consumers being able to switch from using one product to using another or producers being able to switch from producing one product to producing another, those six to eight factors make the most sense when viewed as proxies for a more direct analysis of substitutability both from the supply side and the demand side. Because certain factors encompass the others, i.e. customer perceptions may be based on physical appearance, interchangeability and price, it makes no sense to base a decision on the majority of factors. Rather, it must be clear which factors are important to a particular decision, and why those factors are used as a basis for the like product determination.

In addressing the issue of whether PETs and PATs should be included in the same like product as PWPs, the parties primarily addressed demand side issues. Respondents argued that customers use the products for different purposes, typing versus editing text, and that PWPs are more like PCs than like PATs and PETs.[4]

[3](...continued)
from Japan and The Republic of Korea, Inv. Nos. 731-TA-458 and 459, USITC Pub. 2383 (May 1991) at 31-41.

[4] Respondents also argue that the $50 difference in price between high-end PATs and low-end PWPs is enough to make them "clearly
(continued...)

Petitioners, on the other hand, pointed out many of the areas where both products are used.[5]

The main difference between the machines is that PWPs have a bigger LCD (two lines for the high-end PATs versus six lines for the lowest PWP) or a CRT, greater internal memory, and the ability to store documents on external diskettes. High-end PATs have many word processing features such as spell-check, and there is not a substantial price difference between low-end PWPs and high-end PATs.[6] Clearly there are some consumers who need a PWP, specifically those who write long documents and store their files on diskettes rather than on paper. Since many PWPs can also be used as typewriters, however, I do not believe that there are consumers who would require a PET or PAT rather that a PWP.

Information gathered from warrantee cards of both Brother and Smith Corona dispel the notion that PATs and PETs are viewed as very different products by consumers.[7] A sizeable percentage of both typewriter and word processor users who responded to the survey were students. A similar percentage of customers claimed

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[4](...continued)
distinguishable." It has never been Commission policy that prices of like products must overlap. See Prehearing Brief of Brother at 7-12.

[5] See Posthearing Brief of Smith Corona at 10-13.

[6] I find it particularly disturbing that certain parties incorrectly compare the price of a low-end PET to a high-end PWP to make the point that the products do not compete on the basis of price, and then correctly compare the price of the lowest PC to the highest PWP to make the point that PCs are very close substitutes.

[7] See Supplemental information to the Report (August 7) at 3-4.

to use word processors and typewriter for personal use, in-home businesses, and out-of-home businesses. The results show a striking similarity of uses and there are no broad categories for which only one product is used.

In addition to overlaps on the demand side, the evidence shows that PETs, PATs and PWPs are like each other when viewed from the supply side. These products are not only made in the same factories using the same workers, but they use many of the same components.[8] As Mr. G. Lee Thompson, Chairman and CEO of Smith Corona Corporation testified, it would take less than an hour to switch an assembly line from producing word processors to producing typewriters. In addition he said that the front part of the assembly line is identical for both products. Only the LCD or the CRT displays and the disk drives are different. The same printing mechanism, same keyboard, and same chassis are used in both products.[9] Finally, whereas the Commission has often viewed products as being like each other because they share the same channel of distribution, meaning only that sales are to end users rather than to distributors, PETs, PATs, and PWPs are actually sold in the same stores and catalogues.

The Commission noted the similarities between PETs, PATs, and portable electric word processors (PEWPs) in its preliminary

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[8] In its Pre-hearing Brief, Brother conspicuously avoids discussion of production facilities and employees when discussing each of the Commission's traditional like-product factors.

[9] See Hearing Transcript at 69-70. Also see testimony of Mr. Shiffman, Director of Business Administration, Canon Business Machines, at 177.

determination Portable Electric Typewriters from Singapore:[10]

> The use of substantially similar components means that PETs, PATs, and PEWPs, have an essentially similar physical appearance. In addition, all three types of machines are sold through the same channels of distribution and they can be and in fact are being produced in the same facilities by the same employees. Nor is there any clear dividing line based on the price of these machines.[11]

Given this supply side substitutability, domestic producers easily could have switched from producing PWPs to producing PATs when the dumping of PWPs from Japan began to exert a downward pressure on the prices of PWPs in the United States. By changing their production product mix, domestic producers could have prevented prices of PWPs from falling by as much as they otherwise would have fallen. Of course, the price of PATs and PETs would have fallen as well when domestic output of those products began to increase. By looking only at the like product PWPs, we would miss considering the negative effect that dumped imports had on PATs and PETs.

Because I believe it is likely that dumping of PWPs would have had a significant effect on both the supply of and the demand for PETs and PATs, I determine that they should be included in the like product.

I do not consider PCs to be part of the domestic like product. Clearly, no one whose needs are broader than word

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[10] These are the word processors not included in CPWPs from Japan, but included in the majority's definition of the like product, all word processors.

[11] See, Portable Electric Typewriters From Singapore, Inv. No. 731-TA-515 (Preliminary), USITC Pub. 2388 (June 1991) at 6.

processing would buy a PWP. In addition, there are no PCs that are totally portable (including the printing function). There is virtually no supply side substitutability between PWPs and PCs. The testimony of Mr. Thompson indicates that even at Smith Corona, one of the few producers of both PWPs and PCs, there is very little in common between the two machines.[12]

Finally, I believe that office typewriters should be included in the like product OTSs. The most convincing demonstration of this is one OTS model that has a removable panel. When that panel is taken off and another panel is snapped on, this model becomes an office typewriter. These products were identical from a production point of view (with the exception of the panel), and a consumer could buy either panel. The fact that some office typewriters have disk drives that allow the storage of documents on diskette means that there is even less distinction between office typewriters and word processors than between personal typewriters and word processors, and certainly there is no clear dividing line between these products.

Cumulation

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

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[12] See Hearing Transcript at 82-83.

This means that possible cumulation of CPWPs from Japan and PETs from Singapore must be evaluated in this investigation. Cumulation is a close question in this case. While CPWPs and PETs obviously compete with the domestic like product, it is not at all clear that they compete with each other. CPWPs from Japan tend to be the high-end products while PETs from Singapore tend to be low-end products. A further complicating factor is that PETs, PATs, PWPs, etc. are defined slightly differently in these cases. For example, what is called a PET in the Singapore case may include what is called a PAT in this case.

There has been no final investigation on PETs from Singapore. If the Commerce department concludes that PETs from Singapore are dumped, the Commission will collect additional information that could be crucial to my decision of whether cumulation is appropriate. If the Commerce Department concludes that PETs from Singapore are not dumped, then obviously cumulation would be inappropriate. When I asked the parties in this case to discuss cumulation issues, they did not respond, noting only that finding PETs, PATs, and PWPs as one like product was not correct. I can only hope that in the case involving Singapore these same parties will acknowledge that it is indeed possible to include PETs and PATs as part of the like product and offer their views on the appropriateness of cumulation.

Cumulation is not a decisive issue in this case. I would find in the affirmative whether or not imports are cumulated. Because this is a very close question and additional information

is still outstanding, I will not reach a conclusion on the cumulation issue at this time. Instead, I will discuss my analysis assuming imports are not cumulated, and note that my affirmative determination would be stronger if I had decided that cumulation was appropriate.

Material Injury by Reason of Dumped Imports

In assessing whether material injury is by reason of dumped imports the statute instructs the Commission to consider, among other factors: (1) the volume of imports of the merchandise subject to investigation, (2) the effect of those imports on prices in the United States for like products, and (3) the impact of those imports on domestic producers of like products.[13]

In considering the volume of imports, I take into account the volume both in absolute terms and in terms of their share of the relevant market. Imports of Japanese CPWPs made up roughly roughly 15 percent of the value of all PETs, PATs and PWPs purchased in the United States in 1990.[14] Those imports increased over the period of investigation, particularly in terms of market share. The market share of U.S. producers fell during this period, while the market share of "fairly traded" imports was relatively stable.

The dumping margin is very important in determining the likely effect that dumping has on the price of the like product

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[13] See 19 U.S.C. 1677(7)(B).

[14] Supplemental Information to the Report (August 7) at 15.

and the effect of the subject imports on domestic producers. The higher the dumping margin the greater the difference between the dumped price of the imports and their price at fair value. The dumping margin found by Commerce in this case is 58.7 percent.[15] This indicates that the maximum increase in the domestic price of Japanese CPWPs if they were being sold at fair value would be 58.7 percent.[16]

In order to determine the magnitude of the injury resulting from the dumping, I use economic analysis to estimate what prices and output of the domestic like product would have been absent the dumping. Then I evaluate whether the decline in prices and output caused by the dumping constitutes material injury. I do this taking into account the existing condition of the domestic industry.

One of the most important factors I examine is the relationship between the change in the price of a product and the resulting change in the quantity demanded of that product. If a small decline in the price of a product would lead to a large increase in purchases, subject imports would attract additional sales rather than taking sales away from domestic producers. Thus, the effect of dumped imports on the domestic industry would be mitigated.

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[15] Report at A-4.

[16] It is possible that Japanese producers would have lowered the price of CPWPs in the relevant third-country markets, rather than raising the price in the U.S. market, if they had charged one price in all the relevant markets.

The quantity of PETs, PATs, and PWPs demanded is likely to be somewhat responsive to changes in price. This is due, in part, to the fact that PCs may be somewhat substitutable for high-end PWPs. Assuming that dumping resulted in the availability of relatively cheaper word processors, there are likely to be some consumers who would purchase a word processor rather than a personal computer.[17]

In addition, those who already own PETs, PATs, PWPs, or conventional typewriters without "state of the art" technology might decide to buy new machines, if their price fell. Finally, some group of customers may not find owning a PET, PAT, or PWP to be a necessity, but would find it to be a convenience if the price was right.[18] Thus, I would expect demand for PETs, PATs, and PWPs to be somewhat responsive to changes in price.[19]

Substitutability of the like product and the subject imports in also important in evaluating injury. If the domestic like product and the subject imports are quite different, it is less likely that consumers of the domestic like product would switch

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[17] Certainly, as the price of personal computers has fallen, we have seen people switch away from word processors.

[18] Petitioner believes that sales of CPWPs are not responsive to changes in price, positing an elasticity of demand of .5. Respondents, on the other hand, suggest that the availability of personal computers would result in an elasticity of demand for all word processors of not less than 1.75. Staff estimates the elasticity of demand for all word processors to be between 1 and 2. Obviously, staff's estimate would be lower if PETs and PATs were included in the like product.

[19] For the above stated reasons, I would estimate the elasticity of demand to be around 1. I believe this estimate is fairly conservative.

to the import given a small reduction in the import's price. If they are identical, one would expect consumers to switch quite readily.

The domestic like product contains a broader group of products than imported CPWPs. Therefore, there may be consumers who would not find the subject imports to be a good substitute for the domestic like product. The domestic like product, however, includes all those types of products that are relatively close substitutes for imported CPWPs from Japan. Therefore, dumping is likely to have caused some consumers to switch from buying the domestic like product to buying the import.[20]

There may be some difference in features or brand loyalty that would cause consumers to be reluctant to switch among different brands. However, I find that the imported and domestic products are generally substitutable.[21]

Finally, I consider the likelihood that domestic firms and foreign firms would alter their sales in the United States in response to price changes. This allows me to predict whether

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[20] Petitioner argues that the elasticity of substitution is between 6 and 9 because the products are virtually identical. Respondent argues that brand loyalty and fragmented distribution cause the elasticity of substitution to be in the 1-to-3 range. Staff argues that the elasticity of substitution is in the 3-to-5 range. I note that Petitioner's analysis is for the domestic like product CPWPs.

[21] I would conservatively estimate an elasticity of substitution of about 3. I note that respondent's estimate of the elasticity of substitution, 1 to 3, does not make sense given its elasticity of demand recommendation, not less than 1.75. In cases where the elasticity of demand is greater than the elasticity of substitution, products are considered gross complements rather than gross substitutes.

dumping would bring about a greater change in the price of the domestic like product or in the volume of output.

Given the excess capacity and the large share of "fairly traded" imports in this market, I believe it is likely that firms would be able to alter their supply in response to price changes. Therefore, it is likely that the dumping had a greater effect on domestic output than on the price.

I conclude that the domestic industry producing PETs, PATs, and PWPs is materially injured by dumped imports of CPWPs from Japan.[22] The subject imports have a significant market share and the dumping margin is quite high. Subject imports and the domestic like product are close substitutes. In addition, because demand is only somewhat responsive to changes in price, it is likely that dumped imports gained market share at the expense of domestic producers.

Office Typing Systems

Imported OTSs made up a very small share of the domestic market in 1990. The dumping margin on these products is also 58.7 percent. Even making the most extreme assumptions that would favor petitioner, I find that the domestic industry producing OTSs is not injured by reason of dumped imports from Japan.

Assuming that Japanese producers would not have made any

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[22] I make this determination having taken into account the condition of the industry as detailed in the report.

sales in the U.S. at all absent the dumping and that domestic producers would have claimed their entire share of the market, I would still not find the resulting injury to be material.[23]

[23] I make this determination having taken into account the condition of the industry during the period of investigation as detailed in the report.

Additional Views of Commissioner Newquist

I provide these additional views in order to discuss the basis for my determination that, for purposes of this investigation, Brother Industries (USA), Inc. (BIUSA) is not a member of the domestic industry producing word processors.

As noted in the majority opinion, in determining whether a firm qualifies as a member of the "domestic industry" under U.S. antidumping and countervailing duty laws, the Commission has traditionally considered such factors as (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in its U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantity and types of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to the production of the like product.[1] The Commission also has considered variations on these factors, such as where production decisions are made, whether the domestic production-related activities involve mere assembly versus actual fabrication and manufacturing, the sophistication of the technology employed in those activities, and whether R&D or product design is conducted in the United States.[2] [3]

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[1] See, e.g., Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (1989).

[2] See, e.g., Portable Electric Typewriters from Singapore, Inv. No. 731-TA-515 (Preliminary), USITC Pub. 2388 (1991) at 10; Color Television Receivers from the Republic of Korea and Taiwan, Inv.

(continued...)

In considering these factors, I am mindful that industries, and firms within a particular industry, may differ in terms of "production" processes, capital intensity, domestic value added, and so forth. Also, the Commission has considered whether certain prevailing characteristics of the particular industry should be deemed essential in qualifying a firm as a member of that domestic industry, or at least make it logical to give emphasis to certain of our traditional domestic industry criteria.[4] [5]

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[2](...continued)
Nos. 731-TA-134 and 135 (Final), USITC Pub. 1927 (1986); Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (1991). The Commission analyzes these factors on a case-by-case basis, and has stated that no single factor is dispositive.

[3] In many cases, the Commission has not paid particular attention to the domestic industry issue, either because it was not raised by the parties, or because firms whose status as domestic producers may have been questionable were in any event disregarded in the Commission's injury analysis because they were excluded as "related parties." See EPROMs from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (1986).

[4] See, e.g., Internal Combustion Engine Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988), at 16. This approach, I believe, is only sensible if our determinations are to be based on "the conditions of trade and competition, and the general condition and structure of the relevant industry." S. Rep. 96-249, 96th Cong., 1st Sess. (1979) at 74.

[5] I note that the Commission has both considered firms independently, to determine whether their activities reach some qualifying "industry threshold," and compared a particular company's domestic activities to those of other firms that were undoubtedly full-fledged domestic producers. See, e.g., Certain ATVs from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (Aug. 1983) at 13-14 (comparing the level of foreign components used by Kawasaki Motors Manufacturing and the petitioner); Color Television Receivers from the Republic of Korea and Taiwan, Inv. No. 731-TA-134 (Final), USITC Pub. 1514 (1984) at 8 ("[I]mported articles were only a slightly higher percentage of total input
(continued...)

Thus, taking into account the general characteristics of the industry at issue, certain kinds or levels of domestic activity deemed by the Commission to be sufficient to constitute "production" in one investigation may be insufficient in another.[6]

I turn now to the facts which, under our traditional domestic industry criteria, form the basis for my determination that BIUSA is not a full-fledged domestic producer of word

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[5](...continued)
for Taiwan-owned firms than they were for U.S. or Dutch-owned firms.")

See also, EPROMs from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (1986) at 12. (In excluding Fujitsu as a related party, the Commission noted that its position was "significantly different from that of U.S.-based producers," in that it was "the only company" to assemble EPROMs from imported Japanese wafers/dice, it also imported assembled EPROMs from Japan, and it did not conduct research and development or wafer fabrication in the United States).

[6] For instance, in some industrial sectors, assembly is generally acknowledged to constitute production, while in other industries, "mere assembly" (versus fabrication) has weighed against considering a firm a domestic producer. Compare Certain Minivans ("There is no dispute in this investigation that minivan assembly is 'production.'"), and Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (1991). Cf., Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (1989). Similarly, the technical expertise involved in a firm's domestic operations, or whether a domestic firm conducts its research and development in the United States, should receive greater weight in investigations involving relatively sophisticated, R&D-intensive products, as opposed to low-tech, commodity products. See, e.g., Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (1989); Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 (1985); Certain Radio Pagers and Alerting Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (1983).

processors.[7] BIUSA, a wholly-owned subsidiary of Brother Industries, Ltd. (Brother Japan), whose LTFV exports are the subject of this investigation, can claim to be a U.S. producer of word processors for only a brief portion of the period of investigation. BIUSA first dedicated one of its assembly lines in its Bartlett, TN, facility to the making of personal word processors in the fall of 1990, less than one year ago. This occurred shortly after two developments: First, the Department of Commerce expanded the scope of its 1980 antidumping duty order on portable electric typewriters (PETs) from Japan to include portable word processors;[8] second, Smith Corona filed the instant antidumping petition covering precisely those word processors still excluded from that 1980 PETs order.[9]

BIUSA has invested * * * million in the production of word processors and employs * * * production and related workers. As significant as this investment may be to the local economy of Bartlett, other relevant factors weigh against considering BIUSA

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[7] I have taken into consideration in this case not only the discrete nature and scope of BIUSA's domestic operations, but also BIUSA's activities relative to those of the Petitioner and to the full range of activities customarily involved in producing word processors. A comparison between BIUSA and Smith Corona Corporation is particularly appropriate here because both firms have accused one another of being mere "screwdriver" or "snap together" assembly operations.

[8] Final Scope Ruling: Portable Electric Typewriters from Japan (55 F.R. 47358, Nov. 13, 1990).

[9] From the record in this investigation, Staff have been unable to "verify or refute" allegations that this move to the United States was unrelated to these proceedings. Commission Meeting of August 8, 1991, Tr. at 18.

to be a member of the domestic industry.

First, I note that only a small fraction of the production-related activities involved in the manufacture of BIUSA's word processors are based in the United States. As described by the Commission staff:

> [BIUSA's] operations in Bartlett consist of assembly and welding of the word processor chassis, main logic boards, and LCD boards from * * * imported parts, and final assembly and testing. BIUSA produces * * *.[10]

As for the parts that BIUSA chooses to procure externally,

> Plastic housings and covers are produced domestically through a subcontractor arrangement. Other products are sourced from related and unrelated * * * suppliers.[11]

Thus, unlike the Petitioner, BIUSA performs primarily assembly and testing operations, with little or no subassembly, or fabrication of parts and tooling.[12]

BIUSA's domestic operations are far less capital-intensive than those of Petitioner. In interim (Jan.-March) 1991, BIUSA/BIC's total assets dedicated to the production of word processors were * * *, relative to some * * * in sales. By contrast, Petitioner's total assets dedicated to word processor

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[10] Staff Report at A-13-A-14.

[11] Staff Report at A-14.

[12] See, e.g., Staff Verification Report of BIUSA at 14-16; Petitioner's Hearing Exhibit #3. Of the hundreds of parts in its word processor models, Smith Corona produces about * * * in-house, including most of the plastic and metal parts. Staff Report at A-13, fn. 39.

production were * * *, relative to * * * in sales.[13] Also, Petitioner employs far more workers than does BIUSA, again largely due to the fact that its operations include not only assembly operations, but also more labor-intensive subassembly manufacture.[14]

The value added to each of Brother's personal word processors by its U.S.-based operations ranges from * * * percent, compared to * * * percent for Smith Corona. However, were one to back out of these figures the value added by sales, general, and administrative expenses, which are not directly related to the production of a product, the contrast between Petitioner's and BIUSA's value added becomes more significant: Petitioner's value added averages roughly * * * percent, compared to only * * * percent for BIUSA.[15] [16]

While neither BIUSA nor Smith Corona is an entirely vertically integrated manufacturer of word processors, as noted,

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[13] See Staff Report, Tables 12 and G-9. The evidence shows similar disparities between BIUSA and petitioner in terms of their capital expenditures.

[14] Staff Report at A-22. Smith Corona employs * * * workers producing portable and certain word processors, excluding office typing systems. Staff Report at Table E-1.

[15] I note that a significant portion of the R&D and product development expenses reported by BIUSA and by BIC, its sister corporation, were * * *. Staff Report, Appendix F; Staff Verification Report on BIUSA at 12.

[16] One reason why neither BIUSA nor SCC shows higher levels of value added or domestic content is that apparently certain key components of word processors (e.g., video displays and disk drives) are essentially unavailable from domestic sources. BISUA Prehearing Brief at 26-27.

BIUSA chooses to source more of its components externally rather than fabricate them in-house. Therefore, in measuring the quantity and types of parts sourced in the United States, I have considered the domestic content in each firm's word processors, that is, the value added by each firm's in-house operations plus the domestic content of components sourced externally. Again, the difference is striking; the total domestic content of BIUSA word processors ranges from * * * percent, while that of Petitioner's ranges from * * * percent.[17]

In regard to the technical expertise involved in BIUSA's domestic operations, the Report states that word processors are produced much as "other simple consumer electronics products."[18] Although a word processor -- compared with other electronics products -- may or may not be a relatively "simple" product, I note that both Petitioner and BIUSA/BIC introduce new product models annually, containing significant new features.[19] Competing in this industry, therefore, requires a sizeable commitment of resources to R&D, and to product design and development -- relatively high value-added activities involving considerable technical expertise. Under these circumstances, I believe it is particularly significant whether foreign firms that have moved

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[17] Staff Report, App. F. Again, backing out SG&A expenses from domestic content accentuates the relative disparity in the domestic content of BIUSA's versus Petitioner's word processors.

[18] Staff Report at A-10.

[19] Petitioner has recently introduced a word processor that is compatible with DOS software.

their word processor assembly operations offshore to the United States perform any of these activities in the United States.[20] Petitioner conducts these important activities domestically, both at its Cortland, NY, and New Canaan, CT, facilities.[21] In the case of BIUSA, however, such activities are based almost exclusively in Japan.[22] As a consequence, while BIUSA may enjoy considerable autonomy in the management of its daily internal operations, it appears that critical corporate decisions regarding what, when, and how BIUSA will produce, are made by Brother Japan.

I find that the arguments raised by Smith Corona in support of its contention that BIUSA should not be included in the domestic industry are valid. The criteria employed by the ITC for determining whether a company qualifies as being in the "domestic industry" under U.S. antidumping and countervailing duty laws call for more than a consideration of whether that firm's absolute levels of investment and employment are, in an abstract sense, "significant." The evidence in this investigation demonstrates that, as substantial as BIUSA's domestic activities

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[20] See, e.g., Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Preliminary), USITC Pub. 1778 (1985) at 10, fn. 29.

[21] See Hearing Tr. at 42.

[22] See, e.g., Conference Tr. at 20; Hrg. Tr. at 42, 143; Petitioner's Hearing Exhibit #3; Staff Verification Report on BIUSA, at 8, 12. Brother contends that it is in the process of moving more of these functions to the United States. I note, however, that in interim 1991, Petitioner spent * * * on domestic R&D as did BIUSA. Staff Report at Table 18.

may be, they consist largely of mere assembly operations that reflect a limited research and product development component and relatively low levels of domestic content. Accordingly, I determine that, for purposes of this antidumping investigation, BIUSA is not in the domestic industry producing word processors.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On April 22, 1991, the U.S. Department of Commerce (Commerce) published in the Federal Register (56 F.R. 16296) its preliminary antidumping determination regarding imports from Japan of certain personal word processors (certain word processors),[1] provided for in subheadings 8469.10.00 and 8473.10.00 of the Harmonized Tariff Schedule of the United States (HTS). Commerce preliminarily found that the subject products were being, or were likely to be, sold in the United States at less than fair value (LTFV).

Accordingly, effective April 22, 1991, the U.S. International Trade Commission (Commission) instituted investigation No. 731-TA-483 (Final), under the relevant provisions of the Tariff Act of 1930, to determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of imports of the subject products from Japan. Notice of the Commission's final investigation was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register of May 8, 1991. Appendix A presents a copy of the Commission's notice. The Federal Register published Commerce's final affirmative antidumping determination on July 9, 1991. This notice is presented in appendix B. A public hearing on this investigation was held on July 10, 1991. Appendix C presents a list of witnesses appearing at the hearing. The briefing and vote on this investigation was held on August 8, 1991, and the Commission reported its determination to Commerce on August 19, 1991.

Background

Instant investigation

On November 6, 1990, a petition was filed with the Commission and Commerce by counsel for Smith Corona Corp., New Canaan, CT, alleging that an industry in the United States is being materially injured and is threatened with further material injury by reason of imports from Japan and Singapore of certain word processors that were alleged to be sold in the United States at LTFV. Accordingly, effective November 6, 1990, the Commission instituted antidumping investigations Nos. 731-TA-483 and 484 (Preliminary) under the relevant provisions of the Tariff Act of 1930. On December 21, 1990, the Commission determined that there was a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of such merchandise into the United States from Japan. The Commission determined that there was no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of the subject product from Singapore. These

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[1] Personal word processors (word processors), and the certain word processors that are the subject product of this investigation, are defined in the section of this report entitled "Scope of Investigation."

determinations were published in the Federal Register on January 3, 1991 (56 F.R. 285).

Previous and related investigations

Word processors have not previously been investigated by the Commission. However, a related product, portable electric typewriters, has been the subject of considerable inquiry at the Commission, at Commerce, and before the Court of International Trade (CIT). Many of the issues addressed in these previous cases are relevant in the instant investigation.

In February 1974, Smith Corona filed a petition regarding imports of portable manual and electric typewriters from Japan. In June 1975, the Commission determined, under section 201(a) of the Antidumping Act of 1921 (19 U.S.C. §160) that an industry in the United States was not being injured, was not likely to be injured, and was not prevented from being established, by reason of imports of the subject merchandise that were being sold at LTFV.[2] Smith Corona appealed this determination to the CIT, which remanded the action to the Commission for further statement of reasons, and subsequently affirmed the Commission's determination.[3]

Having ceased production of manual typewriters, Smith Corona reasserted its dumping and injury allegations against portable electric typewriter imports from Japan in a second petition filed in April 1979. In May 1980, the Commission determined, under section 735(b) of the Tariff Act of 1930, that an industry in the United States was materially injured by reason of imports of portable electric typewriters from Japan that Commerce had found to be sold in the United States at LTFV.[4] This determination resulted in the publication by Commerce of an antidumping duty order (the PETs order).[5]

The scope of the PETs order has been expanded on several occasions. First, in 1983, in its initial administrative review, Commerce ruled that later developed portable electronic typewriters were within the scope.[6] Then, in 1987, Commerce declined to expand the scope further to include either portable electric typewriters with text memory (portable automatic typewriters) or those with calculators;[7] however, Smith Corona appealed this ruling to the CIT, which remanded the case to Commerce. Upon remand, Commerce expanded the scope to include portable electric typewriters with calculators

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[2] U.S. International Trade Commission, Portable Electric Typewriters From Japan (Investigation No. AA1921-145), USITC publication 732, June 1975.

[3] 4 CIT 7, 544 F. Supp. 194 (1982).

[4] U.S. International Trade Commission, Portable Electric Typewriters From Japan (Investigation No. 731-TA-12 (Final), USITC Publication 1062, May 1980.

[5] 45 F.R. 30618 (May 9, 1980).

[6] "Portable Electric Typewriters From Japan: Final Results of Administrative Review of Antidumping Duty Order," 48 F.R. 7769 (Feb. 24, 1983). Electronic typewriters are defined as typewriters with electronic components as opposed to simply electrically-powered typewriters.

[7] "Portable Electric Typewriters From Japan: Final Results of Administrative Review of Antidumping Duty Order," 52 F.R. 1505 (Jan. 14, 1987).

but not those with text memory. The CIT subsequently reversed Commerce's ruling with regard to portable automatic typewriters.[8] Most recently, Smith Corona filed a request, on May 15, 1990, for inclusion of word processors within the PETs order. Commerce expanded the PETs order to include word processors that met the portability criteria specified under the PETs order scope (portable word processors)[9] but declined to include word processors that did not meet such criteria.[10] Commerce issued this ruling coincident with Smith Corona's filing of the petition in the instant investigation, which covers precisely those word processors that Commerce excluded from the most recent PETs order scope ruling.

In March 1991, Smith Corona filed an anticircumvention petition with Commerce alleging that Brother Industries, Ltd., (Brother Japan, collectively with subsidiaries "Brother") is circumventing the PETs order by exporting parts and modular components to the United States for assembly by a wholly-owned U.S. subsidiary, Brother Industries (U.S.A), Inc. (BIUSA), which Smith Corona characterizes as a screwdriver operation.[11] Commerce is conducting an anticircumvention inquiry to determine whether the Japanese content of BIUSA product is sufficiently significant that the product should be considered of Japanese origin (in which case it would be subject to antidumping duties under the PETs order). Commerce is scheduled to make its preliminary determination by August 23, 1991.

In the most recent investigation regarding portable electric typewriters, investigation No. 731-TA-515 (Preliminary), Portable Electric Typewriters From Singapore (the typewriters investigation), the petitioner is BIUSA and most of the imports are produced in a Smith Corona subsidiary in Singapore.[12] The BIUSA petition excluded typewriters with certain advanced functions and

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[8] See Smith Corona v. United States, 11 CIT 954, 698 F. Supp. 240 (CIT 1988). Defendant-intervenors appealed this reversal to the Court of Appeals for the Federal Circuit, which upheld the CIT decision on Sept. 26, 1990.

[9] These portability criteria include (1) having a handle, carrying case, or similar mechanism to facilitate portability; (2) being comprised of a single, integrated unit; (3) having a keyboard embedded in the chassis, and (4) having a built-in printer.

[10] "Final Scope Ruling: Portable Electric Typewriters From Japan," (55 F.R. 47358 (Nov. 13, 1990). Laptop word processors, although specifically designed for portability, are excluded from coverage under the PETs order because they do not have a built-in printer.

[11] Smith Corona has made the same argument in the instant investigation, maintaining that BIUSA is an assembler rather than a producer of word processors and should therefore be excluded from the Commission's analysis of the industry producing the like product. See the section of this report entitled "U.S. producers." At the same time, Brother is challenging Smith Corona's standing (at Commerce) to represent the industry in the instant investigation by arguing that it is Smith Corona's word processor operations that constitute assembly rather than production. See the section of this report entitled "Nature and Extent of Sales at LTFV."

[12] U.S. International Trade Commission, Portable Electric Typewriters From Singapore (Investigation No. 731-TA-515 (Preliminary)), USITC Publication 2388, June 1991 (referred to hereinafter as Typewriters From Singapore), p. A-38.

capabilities; thus, the scope in the typewriters investigation is somewhat more limited than the PETs order scope.[13] Smith Corona has argued that BIUSA does not have standing to represent the U.S. industry producing portable electric typewriters, reasserting its allegation that BIUSA is an assembler rather than a producer of these products; however, Commerce rejected Smith Corona's request not to initiate.[14] In June 1991, the Commission determined, under section 735(b) of the Tariff Act of 1930, that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of portable electric typewriters from Singapore that are allegedly sold at LTFV in the United States.[15]

Nature and Extent of Sales at LTFV[16]

On the basis of comparisons of U.S. prices and foreign market values, Commerce has determined that certain word processors are being, or are likely to be, sold in the United States at LTFV. The estimated weighted-average dumping margin for all Japanese product is 58.71 percent ad valorem. This margin is based on "best information available" (BIA), as determined by Commerce.

Commerce presented questionnaires to two Japanese firms: Brother Japan and Kyushu Matsushita Electric Co., Ltd. (Kyushu Matsushita), a subsidiary of Matsushita Electric Industrial Co. (collectively with other subsidiaries, "Matsushita"). Brother and Matsushita accounted for more than 60 percent of exports of certain word processors from Japan to the United States during Commerce's period of investigation, which was June 1, 1990, through November 30, 1990. Matsushita never responded to Commerce's questionnaire, and Brother withdrew its response following Commerce's preliminary determination. Therefore, Commerce's final determination for both firms was based on BIA, which was determined to be the preliminary margin calculated for Brother Japan.

The U.S. prices used for purposes of comparison in the preliminary investigation were exporters' sales prices because all sales were made to unrelated purchasers after importation. Foreign market value was based on third-country sales.

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[13] The scope of BIUSA's petition is consistent with Brother's arguments that such more advanced typewriters should be excluded from the PETs order.

[14] "Initiation of Antidumping Duty Investigation: Certain Portable Electric Typewriters From Singapore," 56 F.R. 22150 (May 14, 1991).

[15] U.S. International Trade Commission, Typewriters From Singapore, USITC publication 2388. Certain terms used in the Commission's report Typewriters From Singapore differ slightly from those used in this report. That is, in this report, portable electric typewriters are not referred to as "PETs" since that acronym has a variety of meanings. (In comparison, see Typewriters From Singapore, p. A-4, fn. 17.) The acronym is used only in reference to the above-mentioned Commerce antidumping order. To be consistent, this report also does not use the acronyms PAT, PWP, or PEWP.

[16] This discussion is based on Commerce's final LTFV determination notice, which is presented in app. B.

In a letter to Commerce, Brother challenged the petitioner's standing as a U.S. producer, asserting that Smith Corona is merely an assembler of foreign-produced parts.[17] However, Commerce concluded that "Smith Corona engages in sufficient operations to be considered a domestic producer of PWPs in the United States."

The Product

Scope of investigation

Commerce defined the scope of investigation as follows:

> The merchandise covered by this investigation consists of integrated personal word processing systems and major finished units thereof ("word processors"), which are defined as devices designed principally for the composition and correction of text. All word processors within the scope of this investigation have the following essential features: (1) A customized operating system designed exclusively for a manufacturer's word processor product line which is unable to run commercially available software and which is permanently installed by the manufacturer before or after importation; (2) a word processing software/firmware program which is designed exclusively for the word processor product line and which is permanently installed by the manufacturer before or after importation; and (3) internal memory (both read-only memory (ROM) and read-write random access memory (RAM)) for word processing.
>
> In addition, word processors may include one or more of the following features: (1) An auxiliary memory storage device, whether internal (*e.g.*, RAM storage) and/or external (*e.g.*, which accepts floppy diskettes, RAM cards, or other nonvolatile media); (2) software/firmware designed or modified for use exclusively on a line of word processors (*e.g.*, a spreadsheet or word processing-assist program); (3) an interface permitting the transfer of information to other word processors, telecommunications links, computers, and the like; and (4) a type mode, which permits the word processor to function as a typewriter by typing characters directly onto paper. ....
>
> All word processors included within the scope of this investigation contain the following three units: (1) A keyboard for the entry of characters, numerals and symbols; (2) a video display; and (3) a chassis or frame containing the essential word processing features listed above. These units may either be integrated into

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[17] "Initiation of Antidumping Duty Investigation: Certain Portable Electric Typewriters From Singapore," 56 F.R. 22150 (May 14, 1991). This is essentially the same allegation made by Smith Corona against BIUSA in both the instant investigation and in the typewriters investigation. See the sections of this report entitled "U.S. Producers" and "Previous and Related Investigations," respectively, for discussions of the Smith Corona allegations.

> one word processing system or be combined by the user into one working system. Word processors may include, as a fourth unit, a printer with a platen (or equivalent text-to-paper transfer system) and printing mechanism to permit the printing of text on paper. ....
>
> Word processors may be imported as integrated systems, or the major finished units may be imported separately. With respect to major finished units, only the major finished units listed above are covered by this investigation. Keyboards and chassis/frames are included in this investigation if they are designed for use in word processors. Printers and video displays are included in this investigation only if they are dedicated exclusively for use in word processors.
>
> Major finished units are distinguished from parts or subassemblies in that they do not require any additional manufacturing before functioning as a complete unit of a word processor. Neither parts nor subassemblies are included in the scope of this investigation.[18]

The scope of the instant investigation specifically excludes word processors that are subject to the PETs order:[19]

> Word processing devices which meet all of the following criteria are excluded from the scope of this investigation: (1) Easily portable, with a handle and/or carrying case, or similar mechanism to facilitate its portability; (2) electric, regardless of source of power; (3) comprised of a single, integrated unit; (4) having a keyboard embedded in the chassis or frame of the machine; (5) having a built-in printer; (6) having a platen to accommodate paper; and (7) only accommodating their own dedicated or captive software. (See also *Final Scope Ruling: Portable Electronic [sic] Typewriters from Japan* (55 FR 47358, November 13, 1990).[20]

The word processors subject to the instant investigation are generally distinguished from those included in the PETs order scope by having either a separate video display or a keyboard that is not embedded in the chassis, or both.

Word processors are also distinguishable from personal computers, as Commerce noted in its notice:

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[18] "Final Determination of Sales at Less Than Fair Value: Personal Word Processors From Japan," 56 F.R. 31101 (July 9, 1991). During the course of the final investigation, the petitioner requested an expansion of the scope to include parts and subassemblies; however, Commerce denied this request. Ibid.

[19] The petition states, on p. 8, that "the scope of this petition and the investigation is intended to include all dedicated word processors that are not included within the scope of the antidumping duty order covering portable electric typewriters."

[20] "Final Determination of Sales at Less Than Fair Value: Personal Word Processors From Japan," 56 F.R. 31101 (July 9, 1991).

> Also excluded from the scope of this investigation are personal computers ("PCs"), including those PCs which are capable of word processing. PCs are a class of automatic data processing machines. Unlike automatic data processing machines, ... the user of a word processor cannot use the word processor to create new software or to modify the program code of existing computer programs. PCs are also distinguished from word processors subject to this investigation by reason of their operating systems, which are capable of running a variety of "off-the-shelf" software programs installed by the purchaser. In addition, PCs generally have significantly higher memory storage capacities and often contain major finished units which are interchangeable with units manufactured by several producers.[21]

Finally, Commerce also specifically excluded "automatic typewriters with one- or two-line displays" from the scope of the instant investigation.[22] This language was added to the scope definition in the preliminary LTFV determination, at the request of nonportable ("office") automatic typewriter importers (all portable automatic typewriters having been excluded from the scope in the notice of initiation).[23] Presumably, automatic office typewriters with a display of three or more lines are by definition certain word processors.

Further comparison of typewriters with word processors

The petitioner has described its various models of typewriters and word processors as a "continuum" of products beginning with the most basic typewriter and ending with the most advanced word processor.[24] Commerce has included portable word processors under the PETs order, and Smith Corona had argued for inclusion of all word processors under that order.

Selected features (other than text editing) offered by typewriters and word processors are presented in appendix D and summarized in table 1. Also, word processors offer more text-edit features than do typewriters, although functionality tends to expand through the product spectrum. Nonautomatic portable typewriters offer no text-edit features. Smith Corona's low-end and midrange portable automatic typewriters offer "Insert" and "WordFind" functions, and its high-end portable automatic typewriter also has dedicated cursor keys, and "Block Copy, Move, Delete" and "Forms Layout" functions. Smith Corona's portable word processors offer the following text-edit features (although not in all models): Search & Replace, Auto Save, Undo, Multiple Formats, Address Merge, and Headers/Footers. Most of the petitioner's certain

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[21] Ibid.

[22] Ibid.

[23] The terms "portable typewriter" and "office typewriter," as used in this report and previously by the Commission, are mutually exclusive. See, e.g., Portable Electric Typewriters From Japan (Investigation No. 731-TA-12 (Final)), USITC publication 1062, May 1980.

[24] See, e.g., transcript of the preliminary conference (conference transcript), pp. 11-16.

Table 1
Typewriters and word processors:[1] Selected features, by product, 1990-91 product lines

Item	Typewriters				Word processors			
	Portable		Office			Certain word processors		
	Non-automatic	Automatic	Non-automatic	Automatic	Portable	Office typing systems[2]	Laptop models	Other
Display:								
Size (rows by columns)	([3])	1x16-2x40	([3])	1x20-8x80	7x80-16x80	8x80-25x80	8x80-16x80	15x91-25x80
Type[4]	([3])	LCD	([3])	LCD/VFD	LCD	CRT/LCD	LCD	CRT
Internal text storage: (1,000 bytes)	([3])	6-22	([3])	22-64	0-114[5]	0-177[5]	32-54	0-60[5]
External text storage:								
Availability[6]	N	N	N	N/O	O/S	O/S	O/S	N/S
Bytes per unit of storage (1,000)	([3])	([3])	([3])	0-720	16-353	160-1,000	100-353	0-713
Spelling dictionary (1,000 words)	0-56	50-75	0-55	55-90	50-90	70-120	63-100	63-90
Availability of[6]--								
Thesaurus	N	N	N	N	N/O/S	N/O	S	N/O/S
Spreadsheet	N	N	N	N	N/O/S	N/O	N/O/S	N/O/S
Proportional printing	N	N	N/S	N/S	N	S	([3])	N
Print line width (inches)	9	9-10	12-13	12-13	9-11	12-13	([3])	9-12
Print speed (characters per second)	10-12	10-15	16-25	16-25	12-15	20-30	([3])	12-16
Weight (pounds)	12	12-14	19-35	20-37	13-19	35-42	3-7	22-34

[1] Portable typewriters and portable word processors (columns 1, 2, and 5), if imported from Japan, are subject to duties under the PETs order. Certain word processors (columns 6-8), if imported from Japan, are the subject product in the instant investigation. Portable typewriters (columns 1-2), if imported from Singapore, are the subject product of the typewriters investigation. Nonautomatic office typewriters (column 3) and automatic office typewriters (column 4) with a display of less than 3 lines are excluded from the subject product in both dumping cases and under the PETs order.

[2] For the purposes of this report, an office typing system is defined as a word processor with weight at least equivalent to that of the models described in appendix D, that has a print speed of 20 characters per second (cps) or more and a print line width of 11.5 inches or more, and that offers proportionally spaced printing. This definition excludes the Canon Starwriter models, which differ significantly from other products described as office typing systems.

[3] Not applicable; feature is not available.

[4] LCD=liquid crystal display; VFD=vacuum fluorescent display; and CRT=cathode ray tube.

[5] Where no internal storage is available, the model has standard external storage.

[6] N=not available, O=optional, and S=standard.

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

word processors have all the same text-edit features that are in its portable word processors, and several also have "Envelope Format."[25]

Office typing systems

Included in the definition of the subject product is a type of machine identified in the industry by such terms as "office typing system," "office video typewriter," or "professional word processor." The primary physical differences between office typing machines and other word processors are found in the printer mechanism. As shown in appendix D and summarized in table 1, an office typing system, like an office typewriter, has a faster, more rugged printer that offers a broader variety of print features and can accommodate wider paper. The chassis of an office typing system is correspondingly larger, heavier, and more durable than that of a word processor designed primarily for student and home use. Commerce declined to consider office typing systems as a separate class or kind of merchandise from other word processors, citing, among other factors, the Commission's preliminary determination of a single like product.[26]

Like product, domestic industry, and presentation of data in this report

The body of data to be considered by the Commission in making its injury determination depends on the interpretations of like product and domestic industry. In this investigation, the positions of the parties on these issues vary considerably. The petitioner proposes the narrowest of like product and domestic industry definitions--certain word processors and its own operations, respectively.[27] Respondent Brother argues that the like product should be all word processors.[28] Counsel for Matsushita maintains that certain word processors other than office typing systems are one like product and office typing systems are another.[29] Canon, Inc. (Canon Japan), Canon U.S.A., Inc., and Canon Business Machines, Inc., (collectively, "Canon") concurs with Matsushita but defines office typing systems differently.[30] All three respondent parties argue that BIUSA should be considered a domestic producer.[31]

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[25] Based on a comparison of Smith Corona's XL 1700, XL 2700, XD 4700, XD 5700, and XD 7700 typewriters and its PWP 1000, PWP 2100, PWP 3100, PWP 5100, PWP 7000LT, PWP 100C, and PWP 220 word processors.

[26] "Final Determination of Sales at Less Than Fair Value: Personal Word Processors From Japan," 56 F.R. 31101 (July 9, 1991).

[27] Petitioner's posthearing brief, pp. 1 and 5-23, respectively. In the alternative, petitioner would include portable automatic typewriters and portable word processors in the like product with certain personal word processors. Ibid., p. 39.

[28] Brother's prehearing brief, pp. 4-6.

[29] Matsushita prehearing brief, pp. 65-73.

[30] Canon defines its Starwriter models as office typing systems. Canon's alternative like product is typewriters, word processors, and personal computers. Canon posthearing brief, pp. 4-5, fn. 5.

[31] Brother prehearing brief, pp. 13-32; Matsushita prehearing brief, pp. 21-25; and Canon prehearing brief, pp. 12-15.

In its preliminary determination in the instant investigation, the Commission found all word processors to be a single like product and defined the domestic industry to consist of Smith Corona, BIUSA, International Business Machines Corp. (IBM), and Xerox Corp. The discussion presented in the text of this report follows from that determination. However, when available, data are presented separately in each tabulation and table for each of the following products: (1) portable electric typewriters, (2) portable automatic typewriters, (3) portable word processors, (4) certain word processors other than office typing systems, (5) office typewriters, and (6) office typing systems. For the consideration of the Commission, each table includes subtotals for products 1-4 (consumer-market products produced by Smith Corona, BIUSA, and Nakajima All Manufacturing Co., Ltd. (Nakajima Manufacturing)) and products 5 and 6 (office products produced by IBM, Xerox, and Canon Business Machines), and a total of all products. Separate data are also presented for certain word processors (a subset including products 4 and 6) and all word processors (products 3, 4, and 6). Data on all word processors other than office typing systems (products 3 and 4) are presented in Memorandum INV-O-156. Trade and employment data are presented, by company, in appendix E. Competition between word processors and personal computers is discussed in the section of the report entitled "Market characteristics."

Except as specified, the data presented were reported in response to Commission questionnaires in the instant investigation and in the typewriters investigation. All known U.S. producers and the majority of U.S. importers provided questionnaire responses in these investigations; thus, except as noted, the data presented are believed to be substantially complete.

The manufacturing process[32]

Word processors are produced much like other simple consumer electronics products. Preproduction steps include product development and design of the electronic circuitry and other parts. The manufacturing process consists of parts fabrication and assembly. The product is tested during and after manufacture. The machinery and equipment involved can be used to produce a variety of other electronics products. Specifically, in the United States, electric typewriters are produced using the same production equipment used in the fabrication of word processors. The manufacturing processes for these two types of products are very similar. In their questionnaire responses, producers described the downtime and extent of equipment modifications necessary to shift production between word processors and typewriters as * * *.[33]

Design of the printed-circuit board.--The proper functioning of any electronic product depends on the design of the circuitry. In the first step of the design phase, the locations of the components and interconnections of the circuits on the printed-circuit board are determined. The printed-circuit pattern is then laid out on a grid by a computer and an enlarged artwork master is produced. Next, the enlarged masters are photographed and

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[32] The scale of operations varies by firm, as discussed in the section of this report entitled "U.S. Producers."

[33] See also transcript of the hearing (transcript), pp. 69-70 and 177.

reduced to the appropriate dimensions of the finished board. The final phase covers the actual fabrication of the board.

Manufacture of parts and modular components.--A word processor has hundreds of individual parts, most of which are designed and produced specifically for use in word processors. Parts are fabricated from a variety of materials using numerous different manufacturing processes. For this reason, producers purchase many parts of the word processor from other firms.

Most parts are first assembled into discrete modular components or subassemblies. Such components include keyboards, head assemblies, video displays, disk drives, platens, motors, power supplies, and printed-circuit boards. Most are produced at dedicated workstations. The nature of these operations, and the expertise required for certain components, also allow subassembly operations to be carried on by firms other than the producer of the word processor.

Assembly of the printed-circuit board requires a combination of mechanical and manual insertion and soldering of components. Smaller components, such as resistors and capacitors, are mechanically inserted onto the printed-circuit board. An automatic insertion machine places each component into its proper position and then clinches the leads of the component against the conductors on the opposite side of the board at that position. The leads are then mechanically soldered to the conductors. Larger or more delicate components may need to be manually inserted and soldered.

Final assembly and testing.--The various modular components and other parts are combined into a finished word processor on an assembly line operation. A welded chassis enters the line, subassemblies are attached, the completed workings are encased in an exterior housing, and a functioning word processor exits the line. Testing and quality assurance are carried out at various stages in this process, and each completed word processor must successfully complete a test run. Labels such as a company logo are affixed to the product, and it is packaged for shipment.

U.S. tariff treatment

Complete assembled and unassembled certain word processors are classified in HTS subheading 8469.10.00, which provides for "automatic typewriters and word processing machines," and are assessed a column 1-general rate of duty of 2.2 percent ad valorem. Parts of and accessories for certain word processors are classified in HTS subheading 8473.10.00 (a provision for parts and accessories of the goods provided for in subheading 8469.10.00), and are dutiable at a column 1-general rate of 4 percent ad valorem. These goods are eligible for duty-free entry if imported from Canada, Israel, or countries designated under the Caribbean Basin Economic Recovery Act or the Generalized System of Preferences. The column 2 rates of duty, applicable to imports from enumerated non-market economy countries, are 35 percent ad valorem for the goods of HTS subheading 8469.10.00 and 45 percent ad valorem for those of HTS subheading 8473.10.00.[34]

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[34] Countries are named in general note 3(b) to the HTS.

The U.S. Market

U.S. producers[35]

In the preliminary investigations, the Commission sent producers' questionnaires to eight firms that it had identified as possible producers of word processors or typewriters during the period of investigation. Six firms identified themselves as producers of the products for which data were sought.[36] In the final investigations, producers' questionnaires were sent to these six firms, and all provided usable data on their operations producing all word processors, certain word processors, and automatic typewriters during the period January 1988 through March 1991. Three of these same firms provided data in the typewriters investigation regarding their production of all typewriters, portable electric typewriters, portable automatic typewriters, and portable word processors.

Smith Corona Corp.[37]--Smith Corona contends that it alone constitutes the domestic industry producing word processors. The petitioner has been a manufacturer of typewriters since the turn of the century and entered the word processor market in 1985. Hanson PLC, a British firm, holds a 47.9-percent stake in the company, which went public in 1989. Smith Corona has a manufacturing subsidiary in Singapore.

Overall, the petitioner was the largest U.S. producer of word processors and certain word processors during the period of investigation, accounting for * * * and * * * percent, respectively, of reported 1990 U.S. shipments. Smith Corona was also the * * * producer of typewriters in the United States during the period of investigation, and accounted for * * * percent of 1990 U.S. shipments of all typewriters.[38] The petitioner has increased word processor production at the expense of its typewriter operations, the bulk of which were shifted from Cortland, NY, to its Singapore subsidiary during 1987-89. Smith Corona continues to produce two models of portable automatic typewriters domestically. Portable typewriters and word processors other than office typing systems were produced simultaneously in the same facility throughout the period of investigation, using the same machinery, and by the same employees. The petitioner did not produce either office typewriters or office typing systems during this period.

Smith Corona's plant in Cortland, NY, houses the following production-related activities: product development, research and development, design,

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[35] For the purposes of this report, all firms that responded to the producers' questionnaires are referred to as "producers."

[36] Two other firms indicated that they had produced neither product during the period of investigation.

[37] Information regarding the operations of Smith Corona was discussed by a company official and by counsel at both the preliminary conference and hearing in the instant investigation, at the conference in investigation No. 731-TA-515 (Preliminary), and in nonconfidential party briefs.

[38] Smith Corona accounted for a substantially smaller share of the value of shipments in each market.

manufacture of selected parts,[39] assembly of selected modular components,[40] final assembly, testing, and packaging. The estimated U.S. value added (domestic portion of labor; factory overhead; and selling, general, and administrative expenses), as a percent of total cost of production, of Smith Corona's 1990-91 word processor line ranges from * * * percent to * * * percent of the total cost of the product, depending on the model. The domestic share of the cost of components ranged from * * * to * * * percent, depending on the model, of the total cost of components. See appendix F for the specific data.

Brother Industries (U.S.A.), Inc.[41]--BIUSA is a wholly-owned subsidiary of Brother Japan. Brother opposes the petition. The BIUSA production facility, located in Bartlett, TN, was established in 1987 to produce portable electric typewriters. Production expanded to include first portable automatic typewriters, then word processors of the type subject to the PETs order, and then certain word processors, all of which are still currently produced by BIUSA. The products are produced in the same facility, using the same equipment, and by the same employees. According to company representatives, production of Brother word processors other than office machines will continue to shift from Japan to the United States. BIUSA does not produce either office typewriters or office typing systems.

All of BIUSA's products are distributed through its sister company, Brother International Corp. (BIC).[42] In 1990, BIC accounted for * * * percent of the reported quantity of U.S. shipments of word processors and * * * percent of such shipments of certain word processors. These shares increased significantly in the first quarter of 1991 as BIUSA's production * * *. In 1990, BIUSA * * *, and BIC accounted for * * * percent, by quantity, of U.S. shipments of all typewriters.[43]

Smith Corona has characterized BIUSA as an assembler of word processors and typewriters. The petitioner alleges that BIUSA's Bartlett, TN, plant is limited to so-called screwdriver operations and that BIUSA should therefore be excluded from the U.S. industry producing the like product. Product development for Brother word processors is coordinated at its U.S. marketing arm, BIC; product design is done in Japan; and additional production engineering is handled by BIUSA. Operations in Bartlett consist of assembly and welding of the word processor chassis, main logic boards, and LCD boards from * * * imported parts, and final assembly and testing. BIUSA produces

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[39] Of the hundreds of parts in its word processor models, Smith Corona produces about * * * in-house, including most of the plastic and metal parts.

[40] Keyboard units are produced at the Singapore affiliate. Among the word processor subassemblies not produced by Smith Corona are * * *.

[41] Information regarding the operations of BIUSA was discussed by Brother officials and by counsel at the preliminary conference and hearing in the instant investigation, at the conference in investigation No. 731-TA-515 (Preliminary), and in nonconfidential party briefs.

[42] The shipments, inventories, and prices presented in this report represent the data not of BIUSA but of BIC. BIC's operations are also included, where relevant, in the financial data.

[43] Like Smith Corona, BIUSA held a significantly smaller share of the value of each market.

* * *. Plastic housings and covers are produced domestically through a subcontractor arrangement. Other products are sourced from related and unrelated * * * suppliers. As presented in appendix F, the estimated U.S. value added as a percent of total cost of production of BIUSA's 1990-91 word processor line varies, by model, between * * * and * * * percent. The domestic share of the cost of components ranged from * * * to * * * percent of the total cost of components, depending on the model.

International Business Machines Corp.[44]--IBM reported its Wheelwriter model numbers 50 and 70 as word processors, based primarily on the applicability of Commerce's scope language to these products. Although the two models fall within the definition of certain word processors, they are more specifically identified as office typing systems.[45] IBM produces office typing systems and automatic office typewriters in the same facility, using the same equipment and the same employees. The firm produces neither other types of word processors nor portable typewriters and * * * the petition.

IBM's production facility is located in Lexington, KY. The Wheelwriter model numbers 50 and 70 were introduced in 1988. IBM is the * * * U.S. producer of office typewriters and the only current U.S. producer of office typing systems.[46] The firm accounted for * * * percent of the reported quantity of 1990 U.S. shipments of typewriters, as compared with only * * * percent and * * * percent, respectively, of such shipments of all word processors and certain word processors. Because of the higher unit value of its products, IBM commanded significantly larger market shares in value terms (* * * percent, * * * percent, and * * * percent, respectively).

* * *. Contributing to U.S. value-added is the in-house assembly of * * *. Various parts and some other subassemblies are fabricated by outside vendors. Imported subassemblies include * * *.[47]

Xerox Corp.--Like IBM, Xerox reported its office typing system models[48] as word processors based on the scope definition.[49] Xerox was primarily a

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[44] On Mar. 27, 1991, IBM sold its information products subsidiary, which included IBM's typewriter operations, to a corporation formed by Clayton & Dubilier, Inc. The new corporation, known as Lexmark International, Inc., is licensed to use IBM trademarks.

[45] IBM did not specifically identify its products as certain personal word processors; however, since the subject product includes all word processors except those subject to the PETs order, and because IBM's products would not fall under that order, the staff has classified the Wheelwriter 50 and 70 as certain personal word processors. A Smith Corona official characterized IBM products as high-end office typewriters. Conference transcript, p. 59.

[46] See, however, the discussion regarding Canon Business Machines below.

[47] Telephone conversation with company official, May 22, 1991.

[48] Xerox also did not identify its products as certain personal word processors; however, because the reported models 6030, 6040, 6045, and 6240 are word processors of the type not subject to the PETs order, the staff has classified these models as subject products. * * *. The data for office typing systems are, therefore, believed to be slightly understated.

[49] A Smith Corona official characterized Xerox products as high-end office typewriters. Conference transcript, p. 59.

producer of office typewriters and did not produce word processors other than its office typing systems. The company ceased U.S. production of all these products in * * * 1990 and accounted for only * * * percent, * * * percent, and * * * percent, respectively, of the reported quantity of 1990 shipments of all word processors, certain word processors, and automatic typewriters. During 1988-89, Xerox's shares of all these markets were higher and, in each period and for each product, market share by value exceeded market share by quantity. Xerox produced office typing systems, automatic office typewriters, and * * * in the same facility, using the same equipment and the same employees. The firm did not produce either other types of word processors or portable typewriters. Xerox * * * the petition.

Xerox introduced the Silentwriter Series in 1983, predating any word processor production by the petitioner. * * *. In * * *, Xerox transferred its U.S. typewriter operations to Hayward, CA, and, in 1990, it shut down that facility and shifted production to a subsidiary in France. * * *.[50]

Xerox did not provide data on domestic value-added. A company official characterized that production plant as * * *. * * *.[51]

Other typewriter producers.--Canon Business Machines commenced production of automatic office typewriters at a plant in Costa Mesa, CA, in 1989.[52] No other types of typewriters and no word processors were produced in this facility during the period of investigation.[53] The firm's parent company is Canon Japan, which has reportedly shifted * * * of its production of automatic typewriters to Costa Mesa and will transfer its word processor operations there by August 1991. Canon Business Machines sells many of its products through a sister firm and importer (Canon U.S.A., Inc.).[54] Canon opposes the petition.

Nakajima Manufacturing began producing portable electric and automatic typewriters in March 1989 at its plant in Ottawa, IL.[55] * * *. Nakajima Manufacturing is owned by Nakajima Japan, which is also the parent company of Nakajima U.S.A., Inc., a U.S. importer (collectively "Nakajima"). Nakajima stated its opposition to the petition in the preliminary investigations.

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[50] Telephone conversations with company officials, May 23, 1991, and June 28, 1991.

[51] Ibid.

[52] Information regarding the operations of Canon Business Machines was discussed by a company official and by counsel at the preliminary conference and hearing in the instant investigation, and in nonconfidential party briefs.

[53] One of the automatic office typewriter models produced by Canon Business Machines can be configured (by the distributor) as an office typing system. Because the chassis unit is not specifically designed as a word processor, it was reported simply as an automatic typewriter.

[54] The shipments and inventories presented in this report include the data of both Canon Business Machines and Canon U.S.A.

[55] Information regarding the operations of Nakajima Manufacturing was discussed by counsel at the preliminary conference in the instant investigation and in nonconfidential party briefs.

U.S. importers

In the final investigation, the Commission sent importers' questionnaires to 27 firms believed to account for all imports-for-resale of word processors and automatic typewriters.[56] Information was requested on all word processors, certain word processors, and automatic typewriters. The Commission received responses from 20 companies, including 7 that reported that they did not import merchandise corresponding to the product definitions in the Commission's questionnaire.[57,58] Ten firms reported imports of word processors, of which five reported imports of certain word processors from Japan. Also, eight firms reported imports of automatic typewriters. Data received comprise 80.5 percent, by value, of 1990 official import statistics for word processors and automatic typewriters, based on official import statistics for HTS item 8469.10.00. Specifically regarding Japan, reported import data also represent 80.5 percent of official value statistics for 1990. In the typewriters investigation, the Commission received data on imports of all typewriters, portable electric typewriters, portable automatic typewriters, and portable word processors. U.S. importers of word processors and typewriters, the primary source country of imports, and the products imported are presented in table 2.

Table 2
Typewriters and word processors: Importers, primary source country, and products imported, January 1988-March 1991

*	*	*	*	*	*	*

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

Brother International Corp.[59]--BIC is the sole U.S. importer of Brother word processors and typewriters produced by its parent company, Brother Japan, as well as the sole distributor of such products manufactured by its sister company, BIUSA. Aggregated U.S. imports of Brother typewriters and word processors have declined as production of these products has shifted from Japan to the United States. Company officials reported that BIC ceased

[56] The primary source of the names of importers was U.S. Customs documents. Importers' questionnaires were also sent to all producers' questionnaire recipients.

[57] * * *.

[58] Seven companies did not respond to the questionnaire in the final investigations. None of these firms is believed to be a significant importer of the subject products from Japan. This report includes estimates, based on available information, of imports by * * * from countries other than Japan.

[59] Information regarding the operations of BIC was discussed by Brother officials and by counsel at the preliminary conference and hearing in the instant investigation, at the conference in investigation No. 731-TA-515 (Preliminary), and in nonconfidential party briefs.

importing the subject product in April 1991. Nevertheless, BIC was the * * * U.S. importer of certain word processors during the period of investigation, accounting for * * * percent, by quantity, of reported 1990 imports. * * * of these products were office typing systems. BIC reported * * * quantities of imports of nonsubject, portable word processors * * *, as well as * * * imports of portable typewriters during * * *.[60] BIC recently centralized its distribution system in a warehouse facility adjacent to BIUSA in Bartlett, TN. The company headquarters are in Somerset, NJ.

Matsushita Electric Corp. of America (MECA).--Matsushita's U.S. subsidiary MECA was * * * importer of the subject merchandise from Japan during the period of investigation. Its imports constituted * * * percent, by quantity, of reported imports of such products in 1990. MECA imported * * * typewriters and word processors produced by its sister company Kyushu Matsushita. MECA's operations are centered in Secaucus, NJ, although it * * *. MECA has two divisions that imported the subject product. Panasonic Co. handles consumer electronics products; it imported word processors targeted at the student and home office markets, as well as laptop models. Panasonic Communications and Systems Co., which specializes in office equipment, imported office typing systems. In a letter to Commerce announcing its intention not to participate in the LTFV investigation, Matsushita referred to "a decision to cease the exportation from Japan of PWPs ...." MECA was also a * * * importer of office typewriters during the period of investigation, although such imports * * *.

Canon U.S.A., Inc.--Canon U.S.A. is the exclusive U.S. importer of certain word processors and office typewriters produced by Canon Japan * * *. Canon describes its Starwriter word processor models as office typing systems,[61] although they differ significantly from other products so designated (see appendix D).[62] Canon U.S.A. also imports * * * video displays that are designed to be used with a typewriter chassis produced by Canon Business Machines in California. The typewriter chassis was not reported by Canon Business Machines as a major finished unit of a certain word processor because it is not designed to be used with a video display having more than 2 lines. However, the displays were reported as such major finished units because they are designed to be used with the chassis as part of an office typing system.

Other importers.--Two other firms reported imports of certain word processors from Japan in significantly smaller quantitys. * * *.[63] Three firms (* * *) reported imports from Japan of portable word processors.

Two firms, * * *, reported imports of certain word processors produced by a Singapore subsidiary of Ing. C. Olivetti & C., S.p.A. (Olivetti). This subsidiary has reportedly ceased production of the product. * * *.

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[60] * * *.

[61] Postconference brief of Canon, pp. 7-13, and posthearing brief of Canon at pp. A-1-A-3.

[62] In this report, data for office typing systems do not include the Starwriter.

[63] * * *.

Japan was the primary supplier of portable typewriters to the U.S. market in 1988, and Singapore and Mexico are the primary suppliers at present. There are two reasons for this shift: the PETs order and the establishment of production operations in Singapore by Smith Corona and Olivetti and in Mexico by Canon. Smith Corona, which imports portable typewriters exclusively from its Singapore subsidiary, was the * * * importer of typewriters from all sources during the period of investigation, accounting for * * * percent of the quantity of imports of such products in 1990. Imports of typewriters from Japan consisted largely of office machines. The largest importer of typewriters from Japan in 1990, in both quantity and value, was * * *, followed by, respectively, * * *. Office typewriters were imported from other countries by * * *.

Apparent U.S. consumption

Consumption data as presented in table 3 are compiled from U.S. shipments as reported by both producers and importers. Neither the petitioner, the respondents, nor the staff could identify any published data source indicating the size of the word processor market in general or that of the market for the particular models subject to this investigation.[64]

Table 3
Typewriters and word processors: Apparent U.S. consumption, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Apparent U.S. consumption of all word processors jumped by * * * percent from 1988 to 1989, then declined by * * * percent in 1990. From January-March 1990 to January-March 1991, consumption grew by another * * * percent in quantity. In terms of value, the market grew more slowly overall, by * * * percent from 1988 to 1989, and by only * * * percent based on the interim periods, with a decrease of * * * percent from 1989 to 1990. As noted elsewhere in this report, unit values and prices declined throughout the period of investigation.

According to the 1990 Electronic Market Data Book, the market for portable typewriters is expected to show steady growth because producers "are now bringing advanced office machine features to mass market machines at affordable prices." The market for "dedicated word processors and automatic

[64] Prior to 1988, consumption data on "text-processing workstations" were collected and published by the Computer and Business Equipment Manufacturers Association (CBEMA); however, in 1988 CBEMA discontinued separate reporting for this category and combined such data with those for microcomputers.

typewriters" is also expected to expand, by between 5 and 10 percent per year over the next 10 years. Office typing system suppliers took the most pessimistic view: * * * all noted that demand for their word processors has been negatively affected by a growing consumer preference for personal computers.

The world market for typewriters and word processors is dominated by many of the same firms that compete in the U.S. market. Brother, Canon, Matsushita, Olivetti, and Smith Corona account for most production of word processors for use at home or school. Canon, IBM, and Matsushita supply much of the office product market. The United States is the largest national market for typewriters and word processors, with Canada and various European countries being other major markets. Smith Corona characterized the European market as far less competitive in terms of price than the U.S. market.[65] Japan has not traditionally been a major market for these products.

Channels of distribution

Office typing systems are sold primarily through authorized dealers, as are office typewriters. Other typewriters and word processors are sold in a variety of other channels of distribution, in which both U.S. producers and importers compete. Questionnaire respondents were requested to report the number of units shipped to each channel of distribution in 1990. For product sold through a related distributor, the distributor was requested to provide its sales by channel of distribution. The data reported, which represent primarily sales to unrelated purchasers, are presented in table 4.

Table 4
Typewriters and word processors: Channels of distribution, by product, 1990

*	*	*	*	*	*	*

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

Parties did not indicate that sales are concentrated in any particular geographic region. In any event, most suppliers service a national market from their distribution centers. There is a slight seasonality in the demand for typewriters and word processors, with sales increasing in the Christmas and graduation seasons; however, Smith Corona officials noted that fewer than * * * percent of the units sold in recent years have been offered as gifts.[66]

[65] Conference transcript, p. 63.
[66] Meeting with Smith Corona officials, Nov. 15, 1990.

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

The trade and employment data presented in the body of this report represent industry aggregates. Because of the small number of firms producing the specified products, the entry, expansion, contraction, and exit of individual companies often had a significant effect on the aggregate data. The discussion highlights the importance of the various companies with regard to data for all word processors. Company-specific trade and employment data for all products are presented in appendix E.

U.S. production, capacity, and capacity utilization

* * *, U.S. capacity to produce all word processors increased steadily during the period of investigation, in increments of * * *, * * *, and * * * percent in the respective periods of comparison (table 5). Production also rose overall, * * * from 1988 to 1989, as Smith Corona * * *. Then, despite BIUSA's entry into the industry, * * * brought 1990 aggregate production down * * * percent from the previous year's level. * * *. Capacity utilization peaked in 1989 and also increased in the first quarter of 1991 relative to the previous January-March. * * *.

Table 5
Typewriters and word processors: U.S. producers' average-of-period capacity, production, and capacity utilization, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

U.S. producers' shipments

The data reported for U.S. shipments represent * * * sales to unrelated purchasers.[67] Trends in the quantity of word processor shipments were similar to the trends in production, * * *. Also, the same firms dominated the respective quantity trends. U.S. shipments of word processors jumped by * * * percent from 1988 to 1989, then decreased by * * * percent in 1990, and increased again in the first quarter of 1991, by * * * percent compared with the same period of 1990 (table 6).

[67] BIC's reported shipments are products produced by BIUSA, and Canon Business Machines' reported shipments include shipments by Canon U.S.A. of products produced by Canon Business Machines.

Table 6
Typewriters and word processors: U.S. producers' U.S. shipments and export shipments, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

The value of shipments of all word processors increased more modestly, by * * * percent from 1988 to 1989 and by * * * percent from January-March 1990 to January-March 1991, and fell more strongly, by * * * percent from 1989 to 1990, than did the quantity of such shipments in the respective periods of comparison. The * * * in shipments of office typing systems contributed to the relatively poorer performance of the industry when measured in value rather than in quantity terms.

The mix of firms and products included in the data had an even greater effect on unit values. In 1988, higher value office typing systems accounted for * * * percent of the value of U.S. shipments of word processors. By the first quarter of 1991, office typing systems accounted for only * * * percent of the value of such shipments. The proper unit value trends to consider are those for similar types of word processors--* * *.

Exports were significant for * * * producers. Export shipments increased * * * in quantity from 1988 to 1990; however, because these shipments were increasingly made up of lower value consumer word processors,[68] they decreased in value. Both the quantity and value of exports showed a significant increase from January-March 1990 to January-March 1991. Canada and Europe are the major export markets for U.S.-produced word processors. A significant quantity of exports consists of shipments to foreign affiliates.

U.S. producers' inventories

As shown in table 7, end-of-period inventories of all word processors climbed strongly from 1988 to 1989 as Smith Corona expanded production, and then decreased in 1990. Inventories also decreased from March 31, 1990 to March 31, 1991. As a ratio to preceding-period U.S. shipments, such inventories * * * from 1988 to 1989, then (* * *) declined in 1990, and also decreased from March 31, 1990 to March 31, 1991.

[68] U.S. exports of office typing systems * * *. This may be due in part to the relocation of Xerox's production facilities to France.

Table 7
Typewriters and word processors: End-of-period inventories of U.S. producers, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Parties to the proceeding generally agree that, in the market for consumer products such as word processors and typewriters, reliable, quick delivery is essential. Thus, maintenance of relatively high levels of inventories, at least in relation to shipments, may be advisable under normal conditions.

Smith Corona estimated that it keeps at least a * * * inventory of finished goods based upon * * *.[69] Both Smith Corona and BIUSA indicated that they change model designations and features annually and generally do not carry models over from season to season.

U.S. employment[70]

The reported number of production and related workers engaged in the production of word processors, the total hours worked by such employees, and total compensation paid to them all * * * from 1988 to 1989 as Smith Corona expanded production, and decreased in 1990 despite BIUSA's entry into the industry (table 8). Aggregate employment levels continued to decline in the first quarter of 1991 compared with January-March 1990; * * *. Calculated hourly compensation rose irregularly during the period of investigation.

Productivity and unit labor costs for the different types of word processors are shown in table 8. Changes in these ratios for word processors other than office typing systems * * * are largely explained by * * *. * * *. Thus, within the industry producing word processors, productivity varied inversely, and unit labor costs varied directly, with the degree of reported value added.

Both Smith Corona and BIUSA indicated at the conference that their workforces are readily transferable between production of word processors and portable electric typewriters.[71] None of the producers reporting employment data indicated that their workers are represented by unions.

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[69] Smith Corona noted that * * *. Meeting with Smith Corona officials, Nov. 15, 1990.

[70] Xerox did not provide employment data. Coverage of employment data is estimated to be in excess of * * * percent.

[71] Conference transcript, pp. 17 and 100.

Table 8
Typewriters and word processors:[1] Average number of production and related workers; hours worked[2] by and total compensation paid to such employees; and productivity, hourly compensation, and unit production costs, by product; 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Excludes Xerox Corp.
[2] Includes hours worked plus hours of paid leave time.

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

* * * reported * * * reductions in the number of production and related workers producing word processors and typewriters that involved at least 5 percent of the workforce or 50 workers during the period of investigation. The stated reason for the layoffs was "* * *." * * * reported * * * reductions due to "* * *." Such reductions, the date thereof, and the number of workers involved, are shown in the following tabulation, by firm and product:

*	*	*	*	*	*	*

Financial experience of U.S. producers[72]

Income-and-loss data were requested in this investigation for all word processors, certain word processors, and automatic typewriters, and in the typewriters investigation on portable electric typewriters, portable automatic typewriters, and portable word processors. Five producers (BIUSA,[73] Canon Business Machines, IBM, Nakajima Manufacturing, and Smith Corona) provided income-and-loss data in these investigations.[74] Income-and-loss data were able to be separately identified for the following products: (1) portable electric typewriters; (2) portable automatic typewriters; (3) portable word processors; (4) certain word processors, excluding office typing systems; and (5) automatic office typing systems and office typewriters. * * *.

[72] Xerox did not provide financial data. Coverage of financial data is estimated to be in excess of * * * percent.
[73] * * *. BIC buys virtually all of BIUSA's finished products and sells them on the open market, * * *. To properly match expenses with the end sale, the Commission staff requested Brother to provide consolidated sales and expenses of the two affiliated companies for the production of BIUSA. This revision has been received and is included in this final report.
[74] The fiscal yearends of the producers are: BIUSA - * * *; Canon Business Machines - * * *; IBM - Dec. 31; Nakajima Manufacturing - * * *; and Smith Corona - June 30. Because of the varying yearends, the Commission requested and received income-and-loss data on a calendar-year basis.

The body of this report presents financial data for certain word processors, excluding office typing systems, and all word processors, excluding office typing systems, by company. It also presents aggregate financial data for all word processors and typewriters. Financial data for portable electric typewriters, portable automatic typewriters, portable word processors, and office typewriters and office typing systems are presented, by company, in appendix G, as are the company-specific data for all typewriters and word processors.

Data for Smith Corona, accounting for approximately * * * percent of total net sales of certain word processors, excluding office typing systems, and approximately * * * percent of total net sales of word processors, excluding office typing systems, for 1990, were verified by the Commission's staff. Smith Corona submitted revised income-and-loss data after the on-site verification, which * * * the operating income margin from * * * percent to * * * percent in 1989 and from * * * percent to * * * percent in 1990 for certain word processors and from * * * percent to * * * percent in 1988 and from * * * percent to * * * percent in 1990 for word processors. The principal adjustments were for * * *.

Smith Corona was a wholly-owned subsidiary of Hanson PLC from January 1, 1986 to August 3, 1989. Smith Corona's 10-K Report states, "Although Hanson owned the business of the Company through various subsidiaries, the typewriter and word processor operations were managed as an integrated business." Smith Corona was sold on August 3, 1989, through a public offering.[75] Smith Corona's range of market prices per share for the following quarters was:

Quarter ending--	High	Low
September 30, 1989	$22-7/8	$16-5/8
December 31, 1989	20-1/2	13-1/8
March 31, 1990	14-3/4	9
June 30, 1990	9-5/8	5-3/4

The market price was $4-1/2 on September 30, 1990 and $9-1/8 on April 1, 1991. On August 21, 1990, Smith Corona declared a quarterly dividend of 5 cents per share, compared with 15 cents per share for the prior 3 quarters. The company explained in its financial statements that the amount of dividends was restricted by certain limitations of the Delaware General Corporation Law and covenants under the company's bank indebtedness.

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[75] Smith Corona's report to stockholders for the year ended June 30, 1989 states, "Had the company been operated as a stand-alone entity, aggregate cash of $57.7 million made available to Hanson in the three years ended June 30, 1989 generally would have been available to the company to pay dividends and service debt." The report further states, "Immediately following the offerings, the company had long-term indebtedness to a group of banks of approximately $70 million...indebtedness to a Hanson affiliate of $25 million and total stockholders equity of $50 million...the terms of these borrowings provide for interest...equating to an annual interest charge of approximately $9.5 million."

Data for BIUSA and BIC, accounting for approximately * * * percent of total net sales of certain word processors, excluding office typing systems, and approximately * * * percent of total net sales of word processors, excluding office typing systems, for 1990, were also verified by the Commission's staff. Selected data for portable automatic typewriters were also verified. Several adjustments were made in * * *. * * *. Operating income margins for word processors were not significantly modified.

Operations on certain word processors, excluding office typing systems.--Net sales for the two companies (BIUSA/BIC and Smith Corona) producing certain word processors, excluding office typing systems, * * * (table 9). * * *.

Table 9
Income-and-loss experience of U.S. producers[1] on their operations producing certain word processors, excluding office typing systems, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are BIUSA/BIC and Smith Corona.

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

Net sales, operating * * *, net * * *, and operating/net * * * margins for operations on certain word processors, excluding office typing systems, by firm, are presented in table 10.

Table 10
Income-and-loss experience of U.S. producers on their operations producing certain word processors, excluding office typing systems, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Operations on word processors, excluding office typing systems.--As shown in table 11, net sales for the two companies (BIUSA/BIC and Smith Corona) producing word processors, excluding office typing systems, * * *. * * *.

Table 11
Income-and-loss experience of U.S. producers[1] on their operations producing word processors, excluding office typing systems, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are BIUSA/BIC and Smith Corona.

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

Net sales, operating * * *, net * * *, and the operating/net * * * margins for operations on word processors, excluding office typing systems, by firm, are presented in table 12.

Table 12
Income-and-loss experience of U.S. producers on their operations producing word processors, excluding office typing systems, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Operations on word processors and typewriters.--Net sales for the five companies reporting data on word processors and typewriters decreased * * * percent from * * * in 1988 to * * * in 1989 (table 13). Net sales decreased an additional * * * percent to * * * in 1990. Operating income was * * * in 1988 and * * * in 1989. The combined companies incurred an operating loss of * * * in 1990. Operating income/(loss) margins as a share of sales were * * * percent in 1988, * * * percent in 1989, and * * * percent in 1990. Net sales of * * * for the 3-month period ended March 31, 1991, were * * * percent less than net sales of * * * for the 3-month period ended March 31, 1990. An operating loss of * * * was incurred in the 1991 interim period, compared with an operating loss of * * * in interim 1990. The operating (loss) margins as a percent of sales were * * * percent in interim 1990 and * * * percent in interim 1991.

Table 13
Income-and-loss experience of U.S. producers[1] on their operations producing word processors and typewriters, 1988-90, January-March 1990, and January-March 1991

* * * * * * *

[1] The producers are BIUSA/BIC, Canon Business Machines, IBM, Nakajima Manufacturing, and Smith Corona.

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

Net sales, operating income/(loss), net income/(loss), and operating/net income/(loss) margins for operations on word processors and typewriters, by firm, are presented in table 14.

Table 14
Income-and-loss experience of U.S. producers[1] on their operations producing word processors and typewriters, by firm, 1988-90, January-March 1990, and January-March 1991

* * * * * * *

[1] BIUSA/BIC's data include certain word processors, excluding office typing systems; portable word processors; portable electric typewriters; and portable automatic typewriters. Canon Business Machines' data include office typewriters. IBM's data include office typewriters and office typing systems. Nakajima Manufacturing's data include portable electric typewriters and portable automatic typewriters. Smith Corona's data include certain word processors, excluding office typing systems, portable word processors, portable electric typewriters, and portable automatic typewriters.

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

Net sales, operating income/(loss), net income/(loss), and operating/net income/(loss) margins for operations on word processors and typewriters, by product, are presented in table 15.

Table 15
Income-and-loss experience of U.S. producers on their operations producing word processors and typewriters, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Investment in productive facilities.--The five producers reported data on investment in productive facilities. These data are presented in table 16. * * *.

Table 16
Value of assets and return on assets of U.S. producers'[1] operations on certain word processors, word processors, and all typewriters and word processors, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are BIUSA/BIC, Canon Business Machines, IBM, Nakajima Manufacturing, and Smith Corona.

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

Capital expenditures.--The five producers provided data on capital expenditures. These data are presented in table 17.

Table 17
Capital expenditures by U.S. producers[1] of certain word processors, word processors, and all typewriters and word processors, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are BIUSA/BIC, Canon Business Machines, IBM, Nakajima Manufacturing, and Smith Corona.

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

Research and development expenses.--Four companies (* * *) furnished data on research and development expenses. * * *. These data are presented in table 18.

Table 18
Research and development expenses of U.S. producers[1] on certain word processors, word processors, and all typewriters and word processors, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are * * *. * * *.

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

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects of imports of certain word processors from Japan on their firms' growth, investment, ability to raise capital, and development and production efforts. Their responses are shown in appendix H.

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 factors[76]--
>
> (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

[76] Sec. 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."

in a significant increase in imports of the merchandise to the United States,

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

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

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

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

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

(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.[77]

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[77] Sec. 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."

Item (I), regarding subsidies, and item (IX), regarding agricultural products, are not relevant in this investigation. The available data on foreign producers' operations (items (II) and (VI)) and the potential for "product-shifting" (item (VIII)) are presented in the section entitled "The Japanese Industry." 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 appendix H. Parties are unaware of any dumping findings or remedies in third countries concerning certain word processors from Japan. Available data on U.S. inventories of certain word processors from Japan (item (V)) follow.

U.S. importers' inventories

* * * of the five firms reporting imports from Japan of the word processors subject to this investigation reported holding end-of-period inventories of those imports. Inventory levels increased, but the ratio of inventories to shipments fluctuated, as shown in table 19.

Table 19
Certain word processors: End-of-period inventories of imports from Japan, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Importers responding to the Commission's questionnaire generally reported longer leadtimes than those reported by U.S. producers. Relative to shipments, importers' inventories, as seen by comparing table 19 with table 7, varied within a range comparable to that of U.S. producers.

The Japanese industry

The petition identified five firms (Brother, Canon, Nakajima, Matsushita, and Sharp) as producers of certain word processors in Japan.[78] The Commission requested counsel to provide data on their clients' capacity, production, shipments, and inventories of certain word processors. In the final investigation, complete responses were received from Brother, Canon,

[78] According to responses to the Commission's importers' questionnaire, * * *. * * *.

Matsushita, and Nakajima. The data presented in table 20 are believed to represent the vast majority of the Japanese industry.

Table 20
Certain word processors: Japan's capacity, production, capacity utilization, home-market shipments, exports to the United States and to all other countries, and end-of-period inventories, actual 1988-90, January-March 1990, and January-March 1991, and projected 1991-92

*	*	*	*	*	*	*

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

Capacity generally expanded throughout the period of investigation.[79] Production peaked in 1989 but also jumped in the first quarter of 1991 compared with the corresponding period of 1990. Capacity utilization remained at modest levels throughout this period.[80] Exports to the United States increased slowly during 1988-90 and then nearly * * * from January-March 1990 to January-March 1991. Home-market shipments (at least of English-language word processors) were * * *.[81] Exports to the United States accounted for somewhat more than half of total exports during the period of investigation.

Despite sharp increases in capacity, production, capacity utilization, and exports to the United States in the first quarter of 1991, Japanese producers project decreases in all these indicators from 1990 to 1991. Indeed, it appears that producers intensified production and exports to the United States early in 1991 in anticipation of a midyear * * *. Brother, * * *, has stated that it will have completed the transfer of its word processor production from Japan to the United States by that time.[82] Canon

[79] Japanese producers reported that their plants operated between 40 and 42 hours per week (i.e., one shift), and from 35 to 52 weeks per year.

[80] Capacity utilization is substantially understated because * * *. Because other products can be produced on the same equipment as certain word processors, and were produced during the period, measurement of capacity in this fashion substantially understates utilization levels for certain word processors. Trends in this ratio, however, are still reliable.

[81] There is apparently a very small market for Japanese-language personal word processors, both in Japan and in the United States. Conference transcript, p. 155.

[82] Brother reported that the shift in its operations was not the result of Smith Corona's actions in filing the petition in the instant investigation. Brother stated that it will continue to produce office-use word processors in Japan; however, these products account for * * * of Brother's total production of word processors. The staff invited Brother to submit documentation regarding its decision to transfer word processor operations from Japan to the United States. * * *.

reported that it ceased word processor production in Japan in June 1991 and is shifting equipment and operations to its plant in Costa Mesa, CA, with production to begin in August 1991.[83] Matsushita indicated in a letter to Commerce that it also intends to cease word processor production in Japan.[84]

According to the data reported, Japan will retain sufficient capacity to supply the U.S. market in 1992. * * * reported that word processors are produced on the same equipment used for typewriters; however, most of the latter products are subject to the PETs order. Smith Corona has alleged that Japanese producers have the capability to switch easily from production of products that are subject to the outstanding antidumping order on portable electric typewriters to production of certain word processors.[85]

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

Cumulation

Information regarding aggregate imports of certain word processors from Japan and portable electric typewriters from Singapore and their market share is presented in appendix I.

U.S. imports[86]

Complete assembled and unassembled "automatic typewriters and word processing machines" are provided for in HTS item 8469.10.00 (TSUS item 676.07 in 1988). Because the subject product of the instant investigation is provided for in a basket category, import data presented in this report are based on responses to Commission questionnaires. The Commission received complete responses from all known importers of the subject products; however, data on imports of other products are less complete.

Imports of certain word processors from Japan increased by * * * percent from 1988 to 1989, then decreased by * * * percent in 1990. From January-March 1990 to January-March 1991, the quantity of subject imports more than

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[83] Transcript, pp. 134-137. * * *. The staff invited Canon to submit documentation regarding its decision to transfer word processor operations from Japan to the United States. * * *.

[84] Parties to the investigation reported that Matsushita is relocating production facilities to the United Kingdom. See transcript, pp. 132-133. In response to the staff's invitation to submit documentation regarding his client's decision to transfer word processor operations out of Japan, counsel for Matsushita referred to the foreign producers' questionnaire response, in which Matsushita noted that * * *.

[85] Conference transcript, p. 42.

[86] The petitioner argues that the production of BIUSA should be considered as imported subject product. Petitioner's prehearing brief, pp. 23 and 35. In this report, the production of BIUSA is presented as domestic rather than imported product; however, the company-specific data presentation in table E-2 allows the adjustment argued by the petitioner to be made if desired.

* * * (table 21). These imports grew more slowly in terms of value, increasing by * * * percent from 1988 to 1989, decreasing by * * * percent in 1990, and, again, more than * * * in the first quarter of 1991 compared with those in the corresponding period of 1990. The trends for total imports were similar to those for Japan as imports from other countries accounted for one-third or less of the total in each period.

Table 21
Certain word processors: U.S. imports, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

In addition to the imports reported in table 21, Canon U.S.A. reported * * * imports from Japan of video displays, which are classifiable as major units of office typing systems and therefore subject to investigation. (The typewriter chassis is manufactured in the United States by Canon Business Machines.) The quantity and value of these units is presented in the following tabulation:

*	*	*	*	*	*	*

U.S. market penetration by the subject imports

Table 22 presents U.S. market shares for the domestic product, the subject imports, and nonsubject imports. Data including typewriters are presented in appendix I.

Table 22
Word processors: Apparent U.S. consumption and market shares of U.S. producers' shipments, U.S. shipments of the subject imports, and U.S. shipments of nonsubject imports, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Considering a single, distinct market for all word processors, neither the U.S. producers' share nor the subject import share of that market fluctuated greatly over the period of investigation, whether measured in terms

of quantity or value. The former varied near the 50-55 percent range, and the latter around a slightly narrower range near 30 percent. By quantity, both domestic and Japanese products increased their market penetration overall, within their respective ranges, at the expense of nonsubject imports. U.S. producers' market penetration by quantity peaked in the first quarter of 1991, and the subject import penetration peaked in 1989. In terms of value, the subject imports again increased their market penetration overall; however, at their peak, in 1990, they appeared to displace domestic sales. Subject import market share increases in 1989 and in interim 1991 coincided with domestic market share increases. U.S. producers' market share by value decreased from 1988 to 1990, and rose from January-March 1990 to January-March 1991, peaking in 1989.

Market-penetration levels and trends differed substantially for the various subsets of all word processors. In the declining office typing systems market, imports from Japan increased their market share steadily--at the expense of nonsubject imports from 1988 to 1989, and at the expense of U.S. producers thereafter. In contrast, in the market for certain word processors other than office typing systems, U.S. producers steadily increased their penetration, largely at the expense of nonsubject imports. Averaging these divergent trends, the data for certain word processors show U.S. producers gaining market share by quantity, with no clear trend in terms of value. The subject import market share fluctuated and rose overall in terms of quantity, and rose steadily in terms of value.

Prices

Market characteristics.--The demand for word processors is affected by competition from substitute products, particularly personal computers and automatic typewriters. Word processors are less versatile than personal computers, but more versatile than automatic typewriters. According to Consumer Reports, word processors offer the convenience of computerized word processing without the expense or the difficulty entailed by computers.[87]

In terms of uses and prices, the dividing lines between word processors, personal computers, and automatic typewriters are not precise. The primary 2urpose of word processors is word processing. Although personal computers may be used primarily as word processors, they are able to perform many additional functions that are not possible with a word processor.[88] One feature that distinguishes word processors from personal computers is dedicated software that is produced solely for a particular machine; that machine cannot accommodate other software. Personal computers, on the other hand, can be used with many different types of software, including many different word-processing programs. Typewriters provide a more rudimentary

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[87] Consumer Reports, Oct. 1990.

[88] Conference statement of Bruce Malashevich, president of Economic Consulting Services, Inc., p. 13. Mr. Malashevich, who represents the respondents, offered reports that indicated that personal computers are mainly used for word processing. See, for example: HFD: The Weekly Home Furnishings Newspaper, Mar. 5, 1990, p. 85; and Venture Development Corporation, ET Planning Service, Apr. 1989.

form of word processing. An automatic typewriter's memory is more limited than a word processor's, and it typically lacks disk storage and multiple-line video displays.

Word processors are sold through the same channels as automatic typewriters. Word processors other than office typing systems and portable typewriters are sold primarily through mass merchandisers, catalog houses, department stores, office superstores, and electronic specialty stores. Personal computers are also sold through these stores, although most personal computers are sold through computer stores and mail order houses. Office typing machines and office typewriters are sold through authorized dealers.

U.S. producers and importers of Japanese word processors offer price lists to all major channels of distribution. Smith Corona's prices * * *. * * *.

All Brother word processors, whether imported from Japan or produced in the United States, are sold through BIC. * * *. MECA * * *. * * *.

Word processors are sold both on an f.o.b. warehouse and on a delivered basis. Smith Corona prices its word processors * * *.[89] BIC quotes its prices * * *.[90] MECA sells * * *.

Smith Corona reported that transportation costs account for * * * percent of the delivered price of a word processor. MECA's transportation costs account for * * * percent of the delivered price, and BIC's transportation costs are approximately * * * per unit, or roughly * * * percent of the delivered price. Smith Corona's average lead time is * * * days, whereas BIC's average lead time is approximately * * * working days. MECA reported that its lead time * * *. * * *. Sales terms for all suppliers vary * * *.

The Commission received questionnaire responses from 10 purchasers of certain word processors. The responding purchasers included * * *. Virtually all of the responding purchasers also bought portable word processors, portable automatic typewriters, and personal computers. In general, purchasers reported that none of these other products competes directly with certain word processors. Purchasers cited differences in the features,[91] prices, flexibility, and marketing of the four products as reasons for the lack of competition. However, several purchasers reported that portable word processors are taking market share from portable automatic typewriters and that lower priced personal computers may begin to take market share from word processors.

Most purchasers reported that there are no significant differences in their marketing of certain word processors, portable word processors, and portable automatic typewriters. Purchasers typically advertise the products in the same sections of catalogs, circulars, direct mailings, and other advertising media. Moreover, these word processors and typewriters are

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[89] * * *.

[90] * * *.

[91] See app. D for a discussion of the differences in features of competing word processor models.

usually displayed in the same section of the store and are sold by the same staff. Personal computers, on the other hand, are often advertised differently, displayed in different sections of the store, and sold by different staff.

Since most word processor purchasers are retailers, the demand for a particular brand of word processor depends on the purchaser's ability to resell that brand to an end user. Since retailers usually offer the customer a choice of word processor brands (e.g., Smith Corona, Brother, Panasonic[92]), U.S.-produced word processors are often displayed with imported Japanese word processors in the same section of the same store. Nearly all responding purchasers reported that the quality of the imported Japanese word processors was comparable to that of the domestic product. Opinions regarding prices were more mixed; some purchasers reported instances when U.S.-produced word processors were priced below the imported Japanese product and vice versa. In most cases, purchasers reported that the prices for the U.S.- and Japanese-produced word processors were comparable.

Questionnaire price data.--The Commission requested U.S. producers and importers to provide quarterly price data during January 1988-March 1991 for each firm's largest sale to a mass merchandiser, a catalog house, a department store, an office superstore, an electronic specialty store, and a private-label customer for three categories of certain word processors.[93] Importers were requested to provide data on word processors that most closely compete with selected models of word processors in the Smith Corona line. The specified word processors for which price data were requested are listed below:

> Product 1: Certain word processor that is the most similar to the Smith Corona PWP 5100, PWP 350, PWP 75D, or their predecessors. It consists of a CRT, a detachable keyboard, and a disk drive. It typically has a CRT display of 80 to 91 columns and up to 25 rows. The CRT is mounted in the same cabinet that houses the printer.
>
> Product 2: Certain word processor that is the most similar to the Smith Corona PWP 7000LT, PWP 270L, PWP 270LT, PWP 85DLT, or their predecessors. It consists of an LCD, a keyboard, and a disk drive in one unit, and a printer in another unit.
>
> Product 3: Certain word processor that is the most similar to the Smith Corona PWP 100C or its predecessors. It consists of a separate CRT, a disk drive either separate or combined with the CRT, and a combined unit containing the keyboard and printer. In these models the display is separated from the keyboard/printer unit such that the unit is similar in appearance to a traditional typewriter, with a video display mounted on the corner of the typewriting unit or beside it.

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[92] Panasonic is the brand name of Matsushita products.

[93] * * *. Pricing data for portable electric typewriters and portable electric typewriters are presented in app. J.

Smith Corona and BIC[94] reported pricing for U.S.-produced certain word processors, and BIC, MECA, and Canon U.S.A. reported price data for the subject imports.[95] Smith Corona reported price data for all three products, and BIC reported price data for its U.S.-produced product 3 sold during * * *. Smith Corona and BIC represented * * * percent of 1990 domestic production of certain word processors. Price data reported by Smith Corona and BIC were for shipments of U.S.-produced certain word processors accounting for * * * percent of total reported U.S. producers' shipments in 1990.

BIC also reported price data for its sales of Japanese products 1 and 3, and MECA reported price data for products 1 and 2. Canon U.S.A. * * *. Canon maintains that the Starwriter 80 is a higher line office typing system and is not comparable with other word processors. BIC and MECA accounted for * * * percent of total imports of the word processors under investigation from Japan. Price data reported by the importers were for shipments of Japanese-produced certain word processors accounting for * * * percent of total reported shipments from Japan in 1990.

Price trends.--The continuing evolution of certain word processors during the period of investigation makes it difficult to determine price trends. Earlier model word processors still being sold often compete with the current-model word processors that evolved from them. Both Smith Corona's and Brother Japan's certain word processors have evolved extensively, whereas MECA has remained for the most part with models initially offered in 1988 (see figures 1-3). In an illustration of product evolution, Smith Corona introduced two similar models, designated PWP 3 and PWP 40, in 1988 to supply different channels of distribution; by 1990, seven models had evolved from the original two.

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[94] BIC is the sole sales agent of BIUSA-produced products to unrelated purchasers; therefore, BIC, rather than BIUSA, was requested to provide pricing data.

[95] The staff conducted on-site verification at BIC's headquarters in Somerset, NJ. Staff determined that BIC * * *. Based on * * *, staff estimated that * * *, and adjusted BIC's prices accordingly.

Staff also contacted MECA and Smith Corona. MECA reported that it offered * * *. In its posthearing brief, MECA resubmitted its prices, adjusted for * * *. However, * * *. * * *. Accordingly, staff adjusted MECA's resubmitted prices * * *. Smith Corona * * *.

Figure 1
Flow chart of Smith Corona's word processors, 1988-90

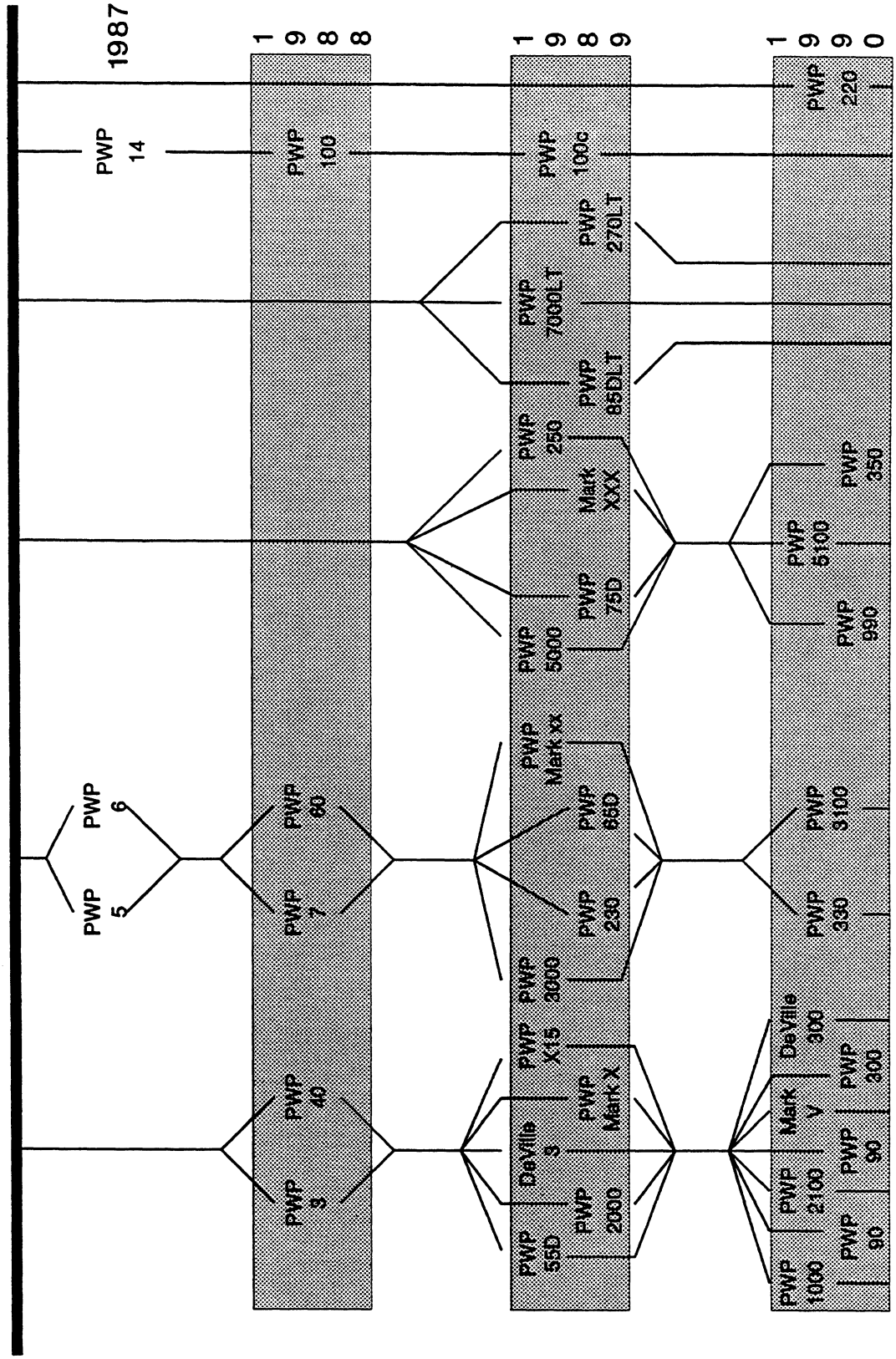


Figure 2

Flow chart of Brother's word processors, 1987-90

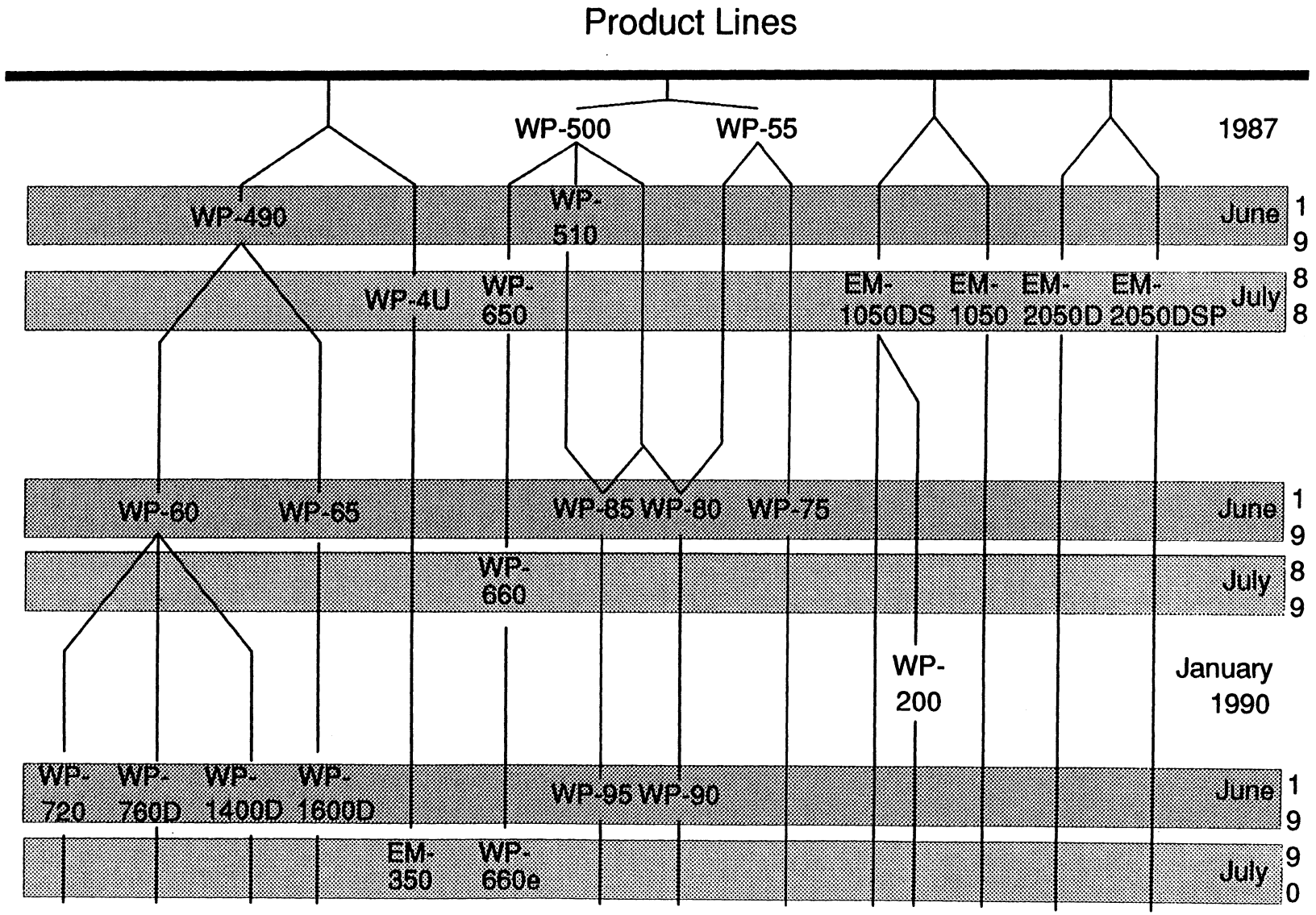
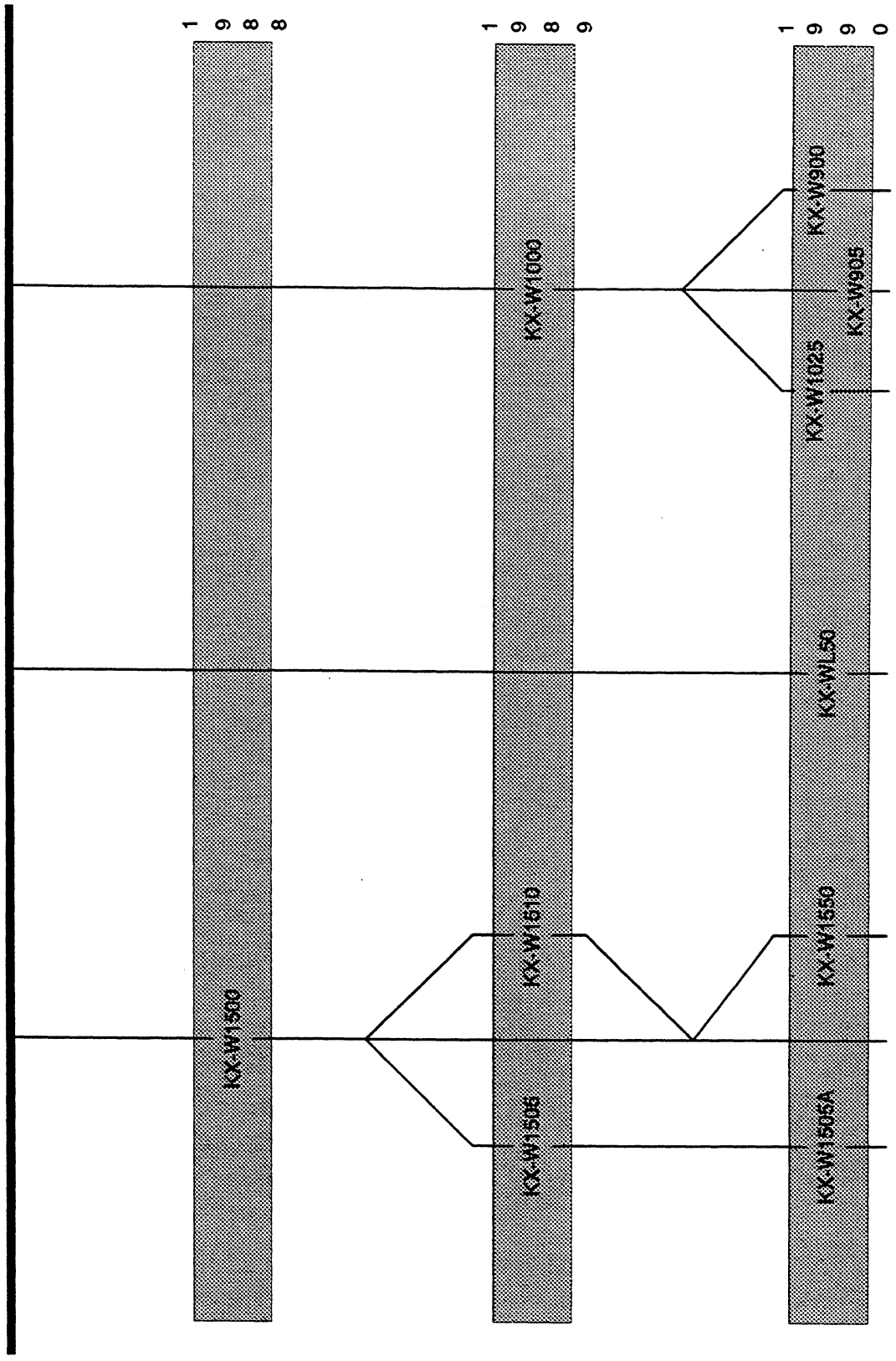


Figure 3
Flow chart of Matsushita's word processors, 1988-90



Prices for Smith Corona, MECA, and BIC are reported in tables 23-25. No price series were complete. Smith Corona reported * * *. BIC reported price data for its sales of U.S.-produced product 3 during * * *. Many of the reported price series did not have enough data points to determine trends.

Table 23
Certain word processors: Company-specific f.o.b. prices of product 1, by channel of distribution and by quarter, January 1988-March 1991

*	*	*	*	*	*	*

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

Table 24
Certain word processors: Company-specific f.o.b. prices of product 2, by channel of distribution and by quarter, January 1988-March 1991

*	*	*	*	*	*	*

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

Table 25
Certain word processors: Company-specific f.o.b. prices of product 3, by channel of distribution and by quarter, January 1988-March 1991

*	*	*	*	*	*	*

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

The available data indicate that prices * * * have fallen * * *. * * *.

*	*	*	*	*	*	*

Price comparisons.--Company-specific comparisons of U.S. f.o.b. prices for U.S.-produced and imported certain word processors sold to different channels of distribution are presented in tables 26 and 27. The U.S. and Japanese products are not perfectly comparable, because of the many

differences in the features of the competing products.[96] See appendix D for a detailed description of these product differences. Because of the product differences and * * *, weighted-average prices were not computed. Thus, the price comparisons are between Smith Corona and the individual companies BIC and MECA, and not between weighted-average prices of U.S. producers and importers of the Japanese products.

Table 26
Certain word processors: Margins of underselling and (overselling) for imports by Brother International Corp., by product, by channel of distribution, and by quarter, January 1988-March 1991

*	*	*	*	*	*	*

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

Table 27
Certain word processors: Margins of underselling and (overselling) for imports of product 1 by Matsushita Electric Co. of America, by channel of distribution and by quarter, January 1988-March 1991

*	*	*	*	*	*	*

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

The reported price data for U.S. producers' and importers' quarterly shipments to unrelated customers during January 1988-March 1991 resulted in 34 direct price comparisons: * * * between Smith Corona and BIC and * * * between Smith Corona and MECA. * * *.

Overall, prices for the BIC and MECA word processors were below prices for Smith Corona word processors in 26 instances and above in 8 instances. * * *.

BIC reported price data for its sales of U.S.-produced product 3 during * * *. * * *.

Office typing systems.--List prices for competing office typing system models produced by the U.S. producers IBM and Xerox, and the Japanese

[96] According to Consumer Reports, some obvious differences are screen clarity, the speed of the word-processing program, printing quality and speed, and the quality of the spell checker. Other differences are in the product specifications and available options.

producers Matsushita and Canon are presented below. IBM is the dominant supplier in the U.S. market, whereas Xerox has recently stopped producing office typing systems and is currently * * *. The data show that prices for the specified office typing systems are significantly higher than prices for other word processors.

* * * * * * *

The prices for the IBM products are from * * *.[97] The prices for the Xerox products are from * * *.[98] The price for the Panasonic product is from * * *. The price for the Canon product is from * * *.

Personal computers.--Staff contacted three local computer stores and requested prices for their lowest cost PC word processing system which includes a central processing unit (CPU), a monitor, a printer, and word processing software.

* * *. The total retail price for this system is $1,914.

* * *. The total retail price for this system is $1,980.

* * *. The total retail price for this system is $1,387.

Petitioner and respondents both conducted price surveys of PC systems that can be used for word processing. In chapter III of its posthearing "Answers to Commissioners' Questions," petitioner presented prices for PC word-processing systems which include a CPU, a monitor, a keyboard, a hard disk, a printer, and word-processor and spreadsheet software. Petitioner cited the Computer Buyers Guide and Handbook (July 1991), Computer Shopper (July 1991), and Egghead discount software as sources. The lowest total system price was $950 for an Epson Equity LE XT computer with an Okidata ML380 printer and Microsoft Works software. The highest total system price was $3,019 for a Compaq LTE 286/12 laptop computer, a Canon BJ 10E printer, and MS-DOS, WordPerfect, and Lotus 1-2-3 software.

Matsushita reports prices for two low-priced PC word processing systems on page 5 of the section of its posthearing brief entitled "Responses to Questions of the Commission and Staff." Matsushita cites the July 1991 issue of the Computer Shopper as its source. Matsushita reports that a Cordata Complete XT Color System including color monitor; 20 megabyte hard drive; and word-processing, spread-sheet, data-base, and communication software sells for $499. With a Citizen 120-D dot-matrix printer price at $119, the total price of the system is $618. Matsushita also reports that the Televideo 40-megabyte VGA Tele-286, including a 40-megabyte hard disk, 1.2-megabyte diskette drive, and MS DOS 3.3 and GW-Basic, is priced at $599. Adding a White VGA monitor for $79 and the Citizen 120D dot-matrix printer for $119 results in a total system price of $797.

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[97] Telephone conversation with a company official, June 26, 1991.
[98] * * *.

Lost sales and lost revenues

During the final investigation, * * * submitted nine allegations of lost sales and four allegations of lost revenues. In these allegations, * * * often did not specify the dates on which the alleged sales occurred, or the specific quantities and values of word processors involved. Staff was able to investigate six allegations of lost sales and three allegations of lost revenue.

* * *. * * * could neither confirm nor deny the specific allegations. * * *. * * * reported that * * * offers a selection of word processor brands, including * * *. * * *'s purchases of a particular brand of word processor depend on how quickly that brand is being sold at the retail level. * * * reported that the warranties and service of * * * word processors are the same, and the advertising of word processors is independent of the particular model or brand. * * *.

* * *. * * * denied the allegation. * * * reported that * * * because * * * preferred the styling of * * *. * * *.

* * *. * * * could neither confirm nor deny the specific allegation. * * * reported that, in general, * * * word processors are comparable. * * * offers a selection of several word processor models, including * * * brands, and its purchases of a particular model depend on the sales of that model at the retail level. * * *.

* * *. * * * reported that * * * do not compete because they are different machines. The two models are differentiated by the type of disk drives that they offer. * * *. * * * reported that the price cut in question was an announced price cut * * * and was not the result of negotiations * * *. * * *.[99]

* * *. * * * denied the allegation. * * *. However, * * * stated that the * * * are not comparable because * * *. * * * maintained that * * * did not buy more * * * because customers did not want the product, which he characterized as "antiquated." * * *.

* * *. * * * did not address the allegation directly. * * * acknowledged that * * *. However, * * * maintains that * * * did not lose sales because of competition from * * *. * * * cited slow sales of an earlier stock of * * *, and the belief that * * *. * * * also maintained that the earlier * * * word processors were not competitive with * * * word processors because * * *. * * *.

During the preliminary investigation, the Commission investigated several other lost-sales and lost-revenue allegations.

* * *. * * * stated that both allegations were incorrect. * * * said that * * * offers the lowest prices with more features than either * * *; however, the quality of * * * products is suspect, especially in light of the

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[99] * * *.

recent Consumer Reports article on word processors. * * * said that quality is very important to * * * because of its product-guarantee policy.

* * *. * * * stated that the allegation was incorrect. * * * said that * * * always purchases from * * *, but not the entire product line. * * * said that although * * * carries word processors from several vendors, they will not carry competing models. * * * also stated that the criteria * * * uses when selecting a vendor are quality of product, pricing, and reliability of vendor.

* * *. * * * stated that the allegation was incorrect. * * * said that * * * is * * *'s primary supplier, but that * * * purchases other vendors' word processors in order to offer more selection to their clients.

* * *. * * * stated that the allegation was incorrect. * * *. * * * stated that * * * carries only * * * models of word processors from the major vendors because of the expense of carrying inventory. * * *.

Both * * * declined to respond to questions from the Commission staff. * * *.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1988-March 1991 the nominal value of the Japanese yen fluctuated, depreciating by 4.4 percent overall relative to the U.S. dollar (table 28).[100] Adjusted for movements in producer price indexes in the United States and Japan, the real value of the Japanese currency showed an overall depreciation of 10.4 percent relative to the dollar for the period January 1988 through March 1991.

[100] International Monetary Fund, International Financial Statistics, May 1991.

Table 28
Exchange rates:[1] Indexes of nominal and real exchange rates of the Japanese yen and indexes of producer prices in the United States and Japan,[2] by quarter, January 1988-March 1991

(January-March 1988 = 100)

Period	U.S. producer price index	Japanese producer price index	Nominal exchange-rate index	Real exchange-rate index[3]
1988:				
January-March	100.0	100.0	100.0	100.0
April-June	101.6	99.7	101.9	100.0
July-September	103.1	100.6	95.7	93.4
October-December	103.5	99.8	102.2	98.4
1989:				
January-March	105.8	100.2	99.6	94.4
April-June	107.7	102.9	92.7	88.6
July-September	107.3	103.7	90.0	86.9
October-December	107.7	103.5	89.5	86.0
1990:				
January-March	109.3	103.9	86.5	82.3
April-June	109.1	104.7	82.4	79.2
July-September	111.0	104.7	88.1	83.1
October-December	114.4	105.4	97.9	90.2
1991:				
January-March	112.7[4]	105.5	95.6	89.6

[1] Exchange rates expressed in U.S. dollars per Japanese yen.

[2] Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of 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 Japan.

[4] Derived from U.S. price data reported for January-February only.

Source: International Monetary Fund, International Financial Statistics, May 1991.

APPENDIX A

THE COMMISSION'S FEDERAL REGISTER NOTICE

[Investigation No. 731-TA-483 (Final)]

Certain Personal Word Processors From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations No. 731-TA-483 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain personal word processors,[1] provided for in subheadings 8469.10.00 and 8473.10.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and C (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: April 22, 1991.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202-252-1192).

[1] For a comprehensive description of the merchandise subject to this investigation, see *e.g.*, International Trade Administration, *Preliminmary Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan*, (56 FR 16238, Apr. 22, 1991).

Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain personal word processors from Japan 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 investigation was requested in a petition filed on November 6, 1990, by Smith Corona Corp., New Canaan, CT.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, 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 BPI under the APO.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on June 21, 1991, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 10, 1991 at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 26, 1991. 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 1, 1991, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the International Trade Commission's rules.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is July 3, 1991. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. Witness testimony must be filed no later than three (3) days before the hearing; the deadline for filing posthearing briefs is July 18, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 18, 1991. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: May 2, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-10915 Filed 5-7-91; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B

COMMERCE'S FEDERAL REGISTER NOTICE

[A-588-818]

Final Determination of Sales at Less Than Fair Value: Personal Word Processors From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: July 9, 1991.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Ross L. Cotjanle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5055 or 377-3534, respectively.

Final Determination

We have determined that imports of personal word processors ("PWPs") from Japan are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the "Act"). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

The following events have occurred since the Department made its preliminary determination in this investigation. On April 15, 1991, the date our preliminary determination was signed, Brother Industries, Ltd. and Brother International Corporation (collectively, "Brother") informed the Department that it was withdrawing

from active participation in the investigation and, therefore, would no longer provide responses to the Department's requests for information. The Department's preliminary affirmative determination was published on April 22, 1991 (55 FR 16296).

Interested parties submitted case briefs on May 15, 1991. In a May 20, 1991 letter, Brother informed the Department that it was withdrawing its business proprietary information from the record. Pursuant to Brother's letter, on May 22, 1991, the Department informed all parties that it was returning all submissions containing Brother's business proprietary information and that, due to the late date at which the Department was informed by Brother of its decision to withdraw its information, the Department would permit parties to submit new factual information for potential use in calculating a best information available ("BIA") rate for the final determination. At that time, we also granted interested parties the opportunity to submit supplemental case briefs and extended the due date for rebuttal briefs in order to give parties a full opportunity to address all issues. We received a submission of new factual information from Smith Corona Corporation ("Smith Corona") on May 31, 1991. We received supplemental case briefs and rebuttal briefs on June 5 and June 10, 1991, respectively. A public hearing was held on June 12, 1991.

Scope of Investigation

The merchandise covered by this investigation consists of integrated personal word processing systems and major finished units thereof ("word processors"), which are defined as devices designed principally for the composition and correction of text. All word processors within the scope of this investigation have the following essential features: (1) A customized operating system designed exclusively for a manufacturer's word processor product line which is unable to run commercially available software and which is permanently installed by the manufacturer before or after importation; (2) a word processing software/firmware program which is designed exclusively for the word processor product line and which is permanently installed by the manufacturer before or after importation; and (3) internal memory (both read-only memory (ROM) and read-write random access memory (RAM)) for word processing.

In addition, word processors may include one or more of the following features: (1) An auxiliary memory storage device, whether internal (*e.g.*, RAM storage) and/or external (*e.g.*, which accepts floppy diskettes, RAM cards, or other nonvolatile media); (2) software/firmware designed or modified for use exclusively on a line of word processors (*e.g.*, a spreadsheet or word processing-assist program); (3) an interface permitting the transfer of information to other word processors, telecommunication links, computers, and the like; and (4) a type mode, which permits the word processor to function as a typewriter by typing characters directly onto paper. However, the inclusion or exclusion of one or more of these features from a word processor is not dispositive as to whether merchandise is within the scope of this investigation.

All word processors included within the scope of this investigation contain the following three units: (1) A keyboard for the entry of characters, numerals and symbols; (2) a video display; and (3) a chassis or frame containing the essential word processing features listed above. These units may either be integrated into one word processing system or be combined by the user into one working system. Word processors may include, as a fourth unit, a printer with a platen (or equivalent text-to-paper transfer system) and printing mechanism to permit the printing of text on paper. However, word processors which do not include a printer as one of the major units are also included within the scope of the investigation.

Word processors may be imported as integrated systems, or the major finished units may be imported separately. With respect to major finished units, only the major finished units listed above are covered by this investigation. Keyboards and chassis/frames are included in this investigation if they are designed for use in word processors. Printers and video displays are included in this investigation only if they are dedicated exclusively for use in word processors.

Major finished units are distinguished from parts or subassemblies in that they do not require any additional manufacturing before functioning as a complete unit of a word processor. Neither parts nor subassemblies are included in the scope of this investigation.

Word processing devices which meet all of the following criteria are excluded from the scope of this investigation: (1) Easily portable, with a handle and/or carrying case, or similar mechanism to facilitate its portability; (2) electric, regardless of source of power; (3) comprised of a single, integrated unit; (4) having a keyboard embedded in the chassis or frame of the machine; (5) having a built-in printer; (6) having a platen to accommodate paper; and (7) only accommodating their own dedicated or captive software. (See also *Final Scope Ruling: Portable Electronic Typewriters from Japan* (55 FR 47358, November 13, 1990).)

Also excluded from the scope of this investigation are personal computers ("PCs"), including those PCs which are capable of word processing. PCs are a class of automatic data processing machines. Unlike automatic data processing machines, word processing machines cannot make the logical decision during processing to modify the execution of a program, *i.e.*, the user of a word processor cannot use the word processor to create new software or to modify the program code of existing computer programs. PCs are also distinguished from the word processors subject to this investigation by reason of their operating systems, which are capable of running a variety of "off-the-shelf" software programs installed by the purchaser. In addition, PCs generally have significantly higher memory storage capacities and often contain major finished units which are interchangeable with units manufactured by several producers. Specifically excluded from the scope of this investigation are automatic typewriters with one- or two-line displays.

Word processors are currently classified under subheading 8469.10.00 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation is June 1, 1990, through November 30, 1990.

Standing

On March 27, 1991, Brother alleged that Smith Corona is an assembler, not a manufacturer, of the like product in this investigation and, therefore, not an interested party. Brother, therefore, requested that the Department rescind the initiation of this investigation.

After examining the information on the record concerning the nature and extent of Smith Corona's manufacturing operations in the United States, including value added, labor, and other costs, we concluded that Smith Corona engages in sufficient operations to be considered a domestic manufacturer of PWPs in the United States. See the Memorandum from Stephanie L. Hager

to Francis J. Sailer dated May 10, 1991, on file in the Central Records Unit.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of BIA is appropriate for both Brother and Kyushu Matsushita Electric Co., Ltd., Matsushita Electronic Components Co., Ltd., Matsushita Electric Industrial Co., Ltd., and Matsushita Electric Corporation of America (collectively, "Matsushita"). Both Brother and Matsushita refused to comply with the Department's requests for information.

The Department is expected to determine what constitutes BIA on a case-specific basis, taking into consideration the information on the record together with the facts and circumstances of each case. In deciding what to use as BIA, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information.

In this case, Brother participated in the investigation up to the point of the preliminary determination and then withdrew all proprietary information from the record. Matsushita declined to submit any responses to the Department's questionnaires. While the Department might otherwise rely on the petition for purposes of BIA in the case of nonparticipating respondents, we do not find the rates contained in the petition to provide an adequate basis for BIA in this case since the preliminary margin, calculated on the basis of actual company data was substantially higher than the rate found in the petition for purposes of initiation.

Therefore, the Department has concluded that the 58.71 percent rate calculated for Brother for purposes of the preliminary determination is the most appropriate BIA rate for purposes of this final determination. Furthermore, this rate is based on Brother's own information, submitted in anticipation of verification, and, thus, can be considered a realistic estimate of Brother's selling practices. Use of this rate is, furthermore, consistent with the Court of International Trade's ("CIT") holdings that BIA should represent a reasonable, not arbitrarily punitive, measure of dumping. See *National Ass'n of Mirror Mfrs.* v. *United States*, 696 F. Supp. 642, 645 (CIT 1988).

Consistent with the Department's practice, Matsushita, the other respondent investigated by the Department, has also been assigned the 58.71 percent rate calculated for Brother as BIA. Matsushita refused to respond to the Department's request for information and has been assigned Brother's rate because it was the estimated margin for the only participating company at the preliminary determination. See DOC Position to Comment 8.

Interested Party Comments

Scope

Comment 1

Smith Corona argues that the Department should expand the scope of the investigation to include parts and components. Citing public statements made by Brother concerning future production of PWPs at its Bartlett, Tennessee facilities, in addition to data which, according to Smith Corona, indicate that Brother has dramatically increased its importation of PWP parts into the United States, Smith Corona asserts that Brother intends to circumvent any antidumping duty order resulting from this investigation. As support for its request, Smith Corona cites *Cellular Mobile Telephones and Subassemblies Thereof from Japan; Final Determination of Sales at Less Than Fair Value*, 50 FR 45447, 45448–49 (1985) (*CMTs from Japan*), a case in which the Department expanded the scope of the investigation to include subassemblies because of information that the existing scope would be avoided. Smith Corona asserts that the existing PWP scope language, which would limit the order to PWPs and major finished units, will enable Brother to import parts and components of such units for assembly at Bartlett, thereby circumventing any order.

Smith Corona cites the legislative history to the so-called circumvention provision, 19 U.S.C. 1677j (added to U.S. law in the Omnibus Trade and Competitiveness Act of 1988), to support its position that the Administration and Congress did not intend the Department to delay addressing imports of parts and components until after an antidumping investigation is completed. See, *e.g.*, *Message From the President of the United States Transmitting a Draft of Proposed Legislation, "The Trade, Employment, and Productivity Act of 1987"*, H. Doc. 33, 100th Cong., 1st Sess. 460 (1987).

Brother argues that the scope of the investigation should not be expanded to include parts and components of PWPs. First, Brother asserts that Smith Corona's request for expansion of the scope is untimely. Citing 19 CFR 353.31 and *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review*, 53 FR 4050, 4054 (February 11, 1988), Brother states that in order to meet statutory deadlines and ensure fundamental fairness to all interested parties, the Department has established a firm policy of requiring timely submission of information and arguments. According to Brother, an analogous request to expand the scope of the investigation ten days before the Department's public hearing was rejected by the Department in *Final Determination of Sales at Less Than Fair Value: Certain Internal-Combustion, Forklift Trucks from Japan*, 53 FR 12552, 12566–67 (April 15, 1988) ("*Forklift Trucks from Japan*") on the grounds that the request was untimely. Brother states that, although Smith Corona purports to rest its untimely request on the sudden discovery of Brother's plans to begin importation of PWP parts for assembly in Bartlett, Smith Corona has known about Brother's plans to begin production of PWPs in the United States since Brother discussed those plans at the ITC conference on November 28, 1990.

Brother also argues that, if accepted, Smith Corona's request for expansion of the scope in this investigation imposes an unfair burden on Brother and other parties, including those who import PWP parts and subassemblies into the United States. Furthermore, Brother asserts that Smith Corona's request is vague and unworkable because it is not clear which parts Smith Corona wishes the scope to include. Brother notes that, because many of the parts and components assembled into PWPs are also used in a wide range of electronic products (*e.g.*, portable electric typewriters ("PETS") and PCs), Smith Corona's request, if granted, would create serious administrative difficulties if an antidumping duty order is issued. Brother further argues that major components, such as multiple purpose floppy disk drives, clearly constitute separate classes or kinds of merchandise from PWPs because they are not dedicated for use in PWPs, they have different physical characteristics, end uses, and customer expectations, and they are neither sold in the same channels of trade as PWPs nor do they compete with PWPs in the market place. In support of this argument, Brother again cites *Forklift Trucks from Japan*, in which the Department stated that there was insufficient evidence on the record to properly instruct U.S. Customs in the identification of components to which an antidumping duty order would apply. According to Brother, this language from *Forklift Trucks from Japan* follows the Department's practice of excluding multiple-use components from an antidumping duty order, even if the petition and scope language of the initial investigation includes parts,

components, and subassemblies (*see Final Determination of Sales At Less Than Fair Value; Small Business Telephone Systems and Subassemblies Thereof from Taiwan*), 54 FR 42543, 42544 (October 17, 1989) ("*SBTs from Taiwan*").

Brother also argues that Smith Corona appears to base its request for expansion of scope on mere speculation of circumvention. Again citing *Forklift Trucks from Japan*, Brother maintains that Smith Corona has presented no evidence that any PWP parts will be imported from Japan or that such importation will rise to the level of circumvention.

Matsushita argues that there is no legal basis for Smith Corona's request that the Department expand the scope of this investigation. Like Brother, Matsushita argues that the Department should deny Smith Corona's request for the reasons it denied a similar request in *Forklift Trucks from Japan*: (1) The petitioner initially had clearly excluded such parts from the scope of the petition; (2) petitioner could only speculate as to the apparent intention of the Japanese producers and exporters to circumvent antidumping duties; (3) petitioner's request included components used in end products other than the product under investigation; and (4) petitioner's request to expand the scope was made too late in the investigatory process to permit the Department to obtain evidence, to receive comments from parties which may be affected by a revision of the scope of the investigation, and to allow the Department sufficient time to consider the issue.

Matsushita maintains that there is no factual basis for Smith Corona's allegation that any circumvention is occurring. According to Matsushita, there is no indication where Brother is sourcing the bulk of its parts for its operations; they may have been produced in the United States or from a combination of countries other than Japan. Matsushita argues that the record indicates that, if anything, Brother is seeking to comply with the antidumping law by becoming a full-fledged U.S. producer. Matsushita points out that the ITC preliminarily determined that Brother engaged in sufficient production-related activity in the United States to be considered a domestic producer. See *Certain Personal Word Processors from Japan and Singapore*, Inv. Nos. 731-TA-483 and 484, USITC Pub. No. 2344 (December 1990) (preliminary determination) at 11-13. According to Matsushita, the ITC's decision confirms that there is no factual basis for Smith Corona's assertions that expansion of the investigation to include parts is warranted.

Matsushita further argues that even if Smith Corona's circumvention concerns had any merit, Congress, through its enactment of 19 U.S.C. 1677j, has now made it clear that allegations that foreign producers are circumventing antidumping orders should be addressed under the anticircumvention provision. Citing *Steel Wheels from Brazil*, 54 FR 21456 (May 18, 1989), Matsushita maintains that the Department has abandoned its prior practice of expanding investigations in midstream to cover major parts and components in response to allegations of circumvention. Matsushita further contends that the anticircumvention provision is also a more appropriate mechanism for addressing Smith Corona's concerns because it allows the Department to respond to company-specific allegations without unfairly and unnecessarily expanding the entire proceeding to include all Japanese producers who have not been accused of circumvention.

Matsushita argues that the expansion of the scope requested by Smith Corona should be rejected because it would substantially disrupt trade in parts and components that are used in non-covered merchandise and, hence, create significant administrative problems for the Department. See *Preliminary Determination of Sales at Less Than Fair Value; High Information Content Flat Panel Displays and Subassemblies Thereof from Japan*, 56 FR 7008 (February 21, 1991). According to Matsushita, the requested expansion of the scope to subassemblies, parts, and components would affect not only the allegedly circumventing party, but would adversely and improperly affect: (1) Japanese manufacturers of generic parts; (2) domestic manufacturers of PWPs; and (3) domestic manufacturers of non-PWP merchandise. Matsushita argues that the anticircumvention clause clearly is the most appropriate means of dealing with circumvention of subassemblies, parts, and components because it would not unduly burden those involved in the fair trade of these products.

Finally, Matsushita asserts that Smith Corona's request is untimely. According to Matsushita, it is too late in the investigatory process to properly obtain evidence concerning such parts. Furthermore, Matsushita argues that expanding the scope to include parts and components would require the Department to broaden its own investigation to ensure that the requisite 60 percent of the covered merchandise is investigated. See 19 CFR 353.42(b).

Canon argues that Smith Corona does not identify with any precision the revision in the scope definition that it is requesting. Furthermore, according to Canon, a shift to U.S. production of the product under investigation is not circumvention. Canon asserts that Smith Corona's reliance upon *CMTs from Japan* is not on point because, unlike the present investigation, the products under investigation in *CMTs from Japan* were composed of discrete "subassemblies," each of which was dedicated to use in the product under investigation and had no use or function other than as components of the finished product under investigation.

According to Canon, there are several reasons that the Department rarely, if ever, includes within the scope of the investigation subassemblies or components that are not either "fully dedicated to" the complete product (as in *CMTs from Japan*) or "designed for use" in that product in the sense that the subassembly or component functions to its full capability only when used in the finished product. Perhaps the most important reason, according to Canon, is the need to avoid unintended impacts on importers and producers of different, unrelated products. Canon asserts that Smith Corona has presented no evidence that Brother, or any other PWP manufacturer, produces PWPs composed of dedicated subassemblies, other than the "major finished units" that are already subject to investigation, that might be imported separately in order to circumvent the order in this case. Nor is there any evidence on the record, according to Canon, that Brother is importing, or planning to import, any dedicated PWP subassemblies for use in its Tennessee plant. Accordingly, Canon urges the Department to reject Smith Corona's proposal that the scope of this investigation be expanded.

DOC Position

The Department has determined not to grant Smith Corona's request to expand the scope of this investigation to include parts and components. Like the petitioner in *Forklift Trucks from Japan*, Smith Corona specifically excluded parts and components from the scope of investigation in its petition. This fact distinguishes the present investigation from *CMTs from Japan*, cited by Smith Corona in support of its request, where parts and components were not specifically excluded from the original scope language in the petition. *CMTs from Japan*, 50 FR 45448, 45449 (October 31, 1985). In contrast, Smith Corona's

request represents a significant departure from its original scope request, and is not simply a clarification of the scope as in *CMTs from Japan*.

The Department also finds that Smith Corona's request for inclusion of parts and components was not sufficiently timely to enable us to consider the issue fully. For example, given the complexity of the product and the vagueness of the request, the Department did not have adequate time to fairly examine all issues related to the inclusion of parts and components (*e.g.*, which parts and components were to be included within the scope if Smith Corona's request was granted).

We also note that the data cited by Smith Corona in support of its allegation that imports of PWP parts have increased are not persuasive because they include both PWP and typewriter parts (see, *e.g.*, Exhibit 6, p. 19 of Smith Corona's May 21, 1991 submission).

The Department does not construe general descriptions of policy objectives reflected in the legislative history to mandate the expansion of scope in any circumstance and at any time that the petitioner may present the issue. However, if Smith Corona believes that sufficient grounds exist for inclusion of parts and components under the provisions of 19 U.S.C. 1677j, the Department stands ready to act on such a request.

Comment 2

Matsushita argues that the Department should reconsider and reverse its ruling that office typing systems (OTSs) and PWPs do not constitute two different classes or kinds of merchandise. Matsushita argues that the Department made a fundamental legal error in its principal reliance on the vague notion of the similar "primary function," rather than the traditional *Diversified Products* criteria utilized by the Department under the antidumping law, in determining whether one or more classes or kinds of merchandise exists. See *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883 (CIT 1983) (*"Diversified Products"*). According to Matsushita, the analysis used by the Department is improper and overly simplistic. Matsushita cites, for example, *Torrington* v. *United States*, 745 F. Supp. at 623 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 18998 (May 3, 1989) (*"Antifriction Bearings"*) in support of this argument. Matsushita argues that the reductionist view taken by the Department causes many types of products to be lumped together in a single class or kind of merchandise and cannot properly substitute for a detailed analysis of and reliance upon the traditional factors used by the Department.

Matsushita claims that if these factors are properly applied, the overlapping or similar functions of products is by no means dispositive.

Matsushita states that PWPs and OTSs have substantially distinct physical characteristics, including differences in size and durability, amount of processing power, and internal and external memory capacity. Matsushita alleges that these distinct physical differences reflect the fact that the ultimate use of, and customer expectations for, OTSs and PWPs differ greatly. Matsushita asserts that, in this regard, businesses choose OTSs rather than PWPs because the OTS has superior printing capabilities and performance, faster operating speed, on-site servicing capability, and exceptional durability and flexibility. Matsushita argues that because these physical differences can result in significant differences in consumer perceptions and uses, the Department should treat these differences as very significant and, on this basis, find PWPs and OTSs to constitute different classes or kinds of merchandise.

Matsushita also contends that the Department, in its analysis, failed to properly consider important differences in the channels of trade for PWPs and OTSs. Matsushita asserts that despite the Department's discovery of some overlap in the channels of trade, the fact remains that OTSs are sold almost exclusively through National Office Machinery Dealers Association (NOMDA) dealers while PWPs are sold primarily through various consumer channels. Matsushita also claims that, even though the Department has found that PWPs and OTSs are often advertised and displayed together, the fact is that a variety of consumer electronic products commonly appear together in advertisements and on display. Matsushita urges the Department to determine that this factor is not dispositive in deciding whether the two products constitute separate classes or kinds of merchandise.

Lastly, Matsushita argues that the Department has disregarded significant price differentials between OTSs and PWPs and that these differentials are a result of the distinctive design features of the OTS. Matsushita contends that there is no price competition between OTSs and PWPs.

Smith Corona argues that Matsushita ignores the Department's reliance on generally similar physical characteristics and identical channels of trade. According to Smith Corona, the Department carefully balanced all of the relevant criteria and rendered a determination in accordance with judicial and agency precedent. For instance, Smith Corona notes that in *Smith Corona Corp.* v. *United States*, 915 F.2d 683 (Fed. Cir. 1990), the Court held that the Department should not exclude later-developed typewriters from the scope of an existing antidumping duty order unless the additional functions performed by such typewriters constitute their primary use. Here, according to Smith Corona, Matsushita does not allege any distinctive difference in primary use between the PWPs admitted to be within the scope of the petition and the OTSs allegedly constituting a different class or kind of merchandise. Citing, for example, *Erasable Programmable Read Only Memories (EPROMS) from Japan; Final Determination of Sales at Less Than Fair Value*, 51 FR 9087 (October 30, 1986), Smith Corona points out that the Department has not attempted to make the distinctions sought by Matsushita in other cases involving merchandise that has the same primary function, but which is available along a wide continuum of sizes or capabilities. Therefore, Smith Corona states that the Department correctly focused upon the essential and primary use of the machines, the general physical characteristics, the channels of trade and advertising, and the customer expectations.

According to Smith Corona, although Matsushita asserts that OTSs have substantially different physical characteristics, including differences in size and durability, as well as different amounts of processing power and internal and external memory capacity, Matsushita offers no new evidence or argument to support its assertions, but instead continues to compare the most inexpensive, light-weight word processors with the most expensive, heavy machines. In addition, according to Smith Corona, several of the PWP models admitted to be within the class or kind of merchandise, including the Panasonic KX-W1500, Smith Corona PWP 100C, and PWP 220, do not include carrying cases or handles to permit portability. Hence, Smith Corona argues Matsushita's comparison of OTSs to lighter, portable models is misleading since such machines are not indicative of the entire class or kind, or useful in delimiting the merchandise covered by the investigation. Smith Corona also states that Matsushita erroneously asserts that the OTSs have faster

processing speeds. In fact, according to Smith Corona, the Smith Corona PWP 220, equipped with a High-Resolution-Transfer printer, has a faster print speed than OTSs.

With respect to the use of OTSs, Smith Corona asserts that Matsushita's analysis fails to account for the essential similarity in the "primary function" of the machines. Smith Corona contends that, although the OTSs have features and functions essential to the work of a professional secretary, there is no support on the record for the assertion that there are any features found on an OTS that are not found on other PWPs. According to Smith Corona, there is also no support on the record for Matsushita's assertion that the PWPs within the scope of the investigation are purchased by consumers mainly for home or dormitory use where the smaller size and transportability are necessary features. Smith Corona contends, in fact, that PWPs are not generally portable and, therefore, the Department defined these products to be different than and not included in the antidumping duty order covering PETs. Moreover, Smith Corona states that Matsushita fails to account for the growing use of PWPs in the home office market, identified as an increasingly important target for NOMDA dealers and other distributors. According to Smith Corona, this overlap, in which both the more durable, higher priced OTSs and the lower-priced word processing machines compete for sales, further blurs any user distinction that Matsushita attempts to draw.

Regarding channels of distribution, Smith Corona asserts that the record shows that its full line of typewriters and PWPs is offered through NOMDA dealers. Smith Corona also points out that Brother's price lists show its full line of office equipment as including not only portable and non-portable typewriters, but also some of its PWPs.

Finally, Smith Corona maintains that there is no distinction in the type of advertising for OTSs and PWPs. Smith Corona cites, for example, advertisements submitted in its January 11, 1991, submission which show both OTSs and PWPs advertised by discount dealers on the same page.

Smith Corona concludes that an analysis of the record evidence with regard to each of the *Diversified Products* factors establishes that OTSs, consisting of a keyboard, memory device, display, and printer, with captive word-processing software, sold together as a system, are within the definition of PWPs used in the petition.

DOC Position

In addressing each of the criteria under *Diversified Products*, the parties have presented no new evidence from that previously submitted and considered by the Department. Therefore, the Department has no new facts on which to reconsider its decision that PWPs and OTSs are within the same class or kind of merchandise.

With respect to Matsushita's criticism of the Department's approach to the *Diversified Products* analysis itself, we do not agree that our analysis erroneously relied on consideration of primary function. Contrary to Matsushita's assertions, the Department did rely upon each of the *Diversified Products* criteria in its class or kind analysis and consideration of primary function was only one part of that analysis.

In its analysis of physical characteristics, the Department examined the features, physical appearance, and size and weight of the PWPs and OTSs. While physical differences were found to exist, none were of such a magnitude as to establish a clear, consistent dividing line between OTSs and other PWPs. Moreover, we determined that none of the differences in physical characteristics between the OTSs and PWPs distinguished them in their primary function, *i.e.*, to compose and correct text. Likewise, in examining the ultimate use of the merchandise, the Department reviewed student, home, and office use in addition to casual and professional use. We noted that an overlap in ultimate uses and the channels of trade supported a finding that, while real distinctions in such criteria were difficult to discern, the primary function of both the OTS and PWP clearly remained word processing. We, therefore, agree with the position expressed by counsel for Smith Corona at the June 12, 1991 hearing that divorcing the elements of the *Diversified Products* analysis from the very function of a product would yield absurd results. See Transcript of Hearing at p. 117.

Comment 3

Matsushita argues that where, as here, Smith Corona does not produce any products that fall within the OTS "class or kind" category, it should not be found to have standing to bring an antidumping investigation with respect to these separate products. Furthermore, Matsushita argues that, contrary to Smith Corona's assertions, while the petition serves as a basis for determining the merchandise subject to investigation, petitioner's mere reference to OTSs begs the question of whether or not such systems are of the same class or kind of merchandise as PWPs and, therefore, whether Smith Corona has standing to petition with regard to each separate class or kind of merchandise. Citing, for example, *Torrington Co.* v. *United States*, 645 F. Supp. 718, 721 (CIT 1990), Matsushita asserts that it is clear that the Department has the authority to clarify the scope of the investigation.

Smith Corona argues that Matsushita, in its class or kind analysis, overlooks the petition and the fact that several of the so-called OTSs were identified in the petition. Furthermore, the Department's investigation also included these machines. According to Smith Corona, given evidence of dumped sales, as set forth in the petition, the Department's final determination should encompass all types of PWPs, without distinction between more or less durable machines.

Smith Corona maintains that even if the Department were to identify a separate class or kind of merchandise limited to OTSs, Smith Corona has standing as a U.S. producer of a like product. First, Smith Corona argues that Matsushita offers no support for its claim that Smith Corona does not produce any products that fall within the OTS class or kind category. Smith Corona asserts that the record establishes that Smith Corona does produce and market word processors that qualify as OTSs as defined by Matsushita. In fact, Smith Corona states that it advertises its PWP 220 as an "office system." According to Smith Corona, to qualify as a petitioner by virtue of its status as a U.S. manufacturer, Smith Corona need only produce a "like product," and its machines sold as office systems qualify as such.

DOC Position

We agree with Smith Corona. Smith Corona's standing to file an antidumping petition in this case is properly assessed by reference to whether it is a manufacturer, producer, or wholesaler in the United States of a like product, irrespective of whether the Department has found one or several classes or kinds of merchandise to be covered by the scope of the investigation. In this case, the ITC has preliminarily determined that there is a single like product, PWPs, which includes both PWPs and OTSs.

Matsushita has presented no evidence or argumentation which would cause us to question the ITC's preliminary like product determination for standing purposes. Because Smith Corona has

clearly established that it is a producer of the like product, we find that Smith Corona has standing to file as a producer of PWPs which encompasses OTSs.

Comment 4

Matsushita requests that the Department confirm that keyboards "designed for use" in PWPs do not include finished keyboards which operate to full capability in non-covered machines, such as PCs, workstations, and other automatic data processing systems. Matsushita contends that the keyboards it produces and exports to the United States (*i.e.*, ESU-46TC001AA, and ESU-45TC009ZZ) are being used in PCs by its U.S. customers. Matsushita further contends that it does not sell any finished keyboards to other computer companies, to PWP producers in the United States, or to PWP producers in Japan. Matsushita claims that the physical/mechanical aspects of the keyboard it sells and its electrical system are customized for use in the PCs and workstations of their U.S. customers. Specifically, Matsushita argues that the operating systems used by each U.S. customer run commercially available software and do not employ customized operating systems designed exclusively for word processing.

Matsushita states that the keyboards they produce and sell are "unfinished" and, therefore, cannot function as a complete unit of a PWP without modification. In addition, Matsushita argues that these keyboards, even in finished form, could not function absent significant modification with any existing PWPs because of the interface codes designated by their U.S. customers. Therefore, Matsushita maintains that its keyboards are outside the scope of the investigation.

Matsushita, citing *Final Determination of Sales at Less Than Fair Value; Certain Small Business Telephone Systems and Subassemblies Thereof from Japan ("SBTs from Japan")*, 54 FR 50789 (Dec. 11, 1989), argues that the Department has, in the past, included certain subassemblies within the scope of an order on finished systems only if such subassemblies were "designed for use" in such systems. It notes that the Department defined "designed for use" in that case to mean a subassembly which "functions to its full capability only when operated as part of small business telephone system." It also argues that the Department clearly determined in that case that "dual use" subassemblies that operated to full capability in non-covered merchandise were outside the scope. On this basis, Matsushita alleges that all finished keyboards which can operate to full capability in merchandise other than covered PWPs should be outside the scope of this investigation. Specifically, Matsushita requests that the Department confirm that: (1) The finished keyboards it produces and exports to the United States are not within the scope of the investigation, (2) all keyboards classifiable under HTS 8471.92.20 (which, by definition, are for use in PCs, workstations, and other automatic data processing machines) are excluded from the scope of the investigation, (3) keyboards classified under HTS 8473.10.00 are the only keyboards subject to the investigation, and (4) keyboards and other major finished units that operate to full capability with merchandise other than PWPs are outside the scope of the investigation.

Smith Corona agrees with Matsushita that keyboards sold to U.S. purchasers for use only in computers, and not compatible with PWPs, would not be subject to any antidumping duty order on word processors and major finished units thereof.

DOC Position

The Department agrees with Matsushita and Smith Corona that the specific keyboards described by Matsushita (*i.e.*, ESU-46TC001AA and ESU-45TC009ZZ), are outside the scope of this investigation given the stated current capabilities of the keyboards produced by and imported into the United States by Matsushita.

As the scope section of this notice makes clear, this proceeding does not cover finished keyboards which are "designed for use" in PCs. In *SBTs from Japan*, the Department employed a "dual use" standard to determine whether a particular subassembly was "designed for use" in a particular telephone system. The Department would undoubtedly turn to this standard as useful guidance in considering whether particular finished units are within the scope of this proceeding. However, we are only addressing the issue of whether the two models listed above are within the scope at this time and we are not willing to rule on scope issues that are not before us.

Finally, it would be inappropriate for the Department to confirm categorically that all keyboards classifiable under HTS subheading 8471.92.20 are, or will always be, excluded from the scope of the investigation, or that the only keyboards that are or will ever be subject to the investigation are classified under HTS subheading 8473.10.00. As stated in the "Scope of Investigation" section of this notice, HTS item numbers are provided merely for convenience and customs purposes.

Brother's Withdrawal of its Proprietary Information

Comment 5

Smith Corona argues that the data submitted by Brother and relied upon by the Department as a basis for its preliminary determination cannot be withdrawn from the administrative record. First, Smith Corona alleges that Brother failed to withdraw its information during the time permitted. According to Smith Corona, only one regulation, 19 CFR 353.34(c), specifically provides a party the right to withdraw information from the record. Smith Corona asserts that this provision only applies to submitters of information who do not consent to the issuance of an administrative protective order, and that withdrawal is limited to two days from the issuance of the protective order. Thus, according to Smith Corona, Brother's untimely attempt to withdraw its data does not fall within any of the regulatory provisions which call for the Department to reject submitted information, or which allow the return of data on request.

Smith Corona, citing *Roquette Freres and Roquette Corporation v. United States*, 4 CIT 128, 129 (1982), also argues that the law does not permit information to be withdrawn from the administrative record following a preliminary determination which must be sustainable upon substantial evidence. According to Smith Corona, 19 U.S.C. 1516a(b)(1)(B) and 19 CFR 353.3, call for the establishment of a complete administrative record. Therefore, the record upon which a determination is based should not be disturbed *post hoc* and prior to judicial review.

Smith Corona also argues that although the Department has discretionary authority to return Brother's responses, citing *NTN Bearing Corp. of America, et al. v. United States*, 14 CIT _____, 757 F. Supp. 1425, 1432 (1991), the agency may not be arbitrary or capricious and should not prejudice the rights of any party in the exercise of that authority.

Finally, according to Smith Corona, Matsushita's argument that the Department cannot rely upon information that is not contained in the administrative record for purposes of establishing an estimated duty deposit rate supports the proposition that the Department must maintain the integrity of the administrative record despite Brother's withdrawal of its information. Smith Corona states that, if Brother is

permitted to withdraw its data, challenges can be made that the preliminary determination lacks evidentiary support, with respect to both Brother and all other respondents.

Brother maintains that the statutory scheme supports Brother's right to withdraw its questionnaire responses. According to Brother, the issue here is not whether the Department should return Brother's questionnaire responses for failure to comply with the Department's regulations, but whether Brother may withdraw its proprietary information. Citing *Olympic Adhesives, Inc.* v. *United States*, 899 F.2d. 1565, 1572 (Fed. Cir. 1990) (*"Olympic Adhesives"*), Brother argues that it is undisputed that participation in an antidumping investigation by a respondent is voluntary since the Department lacks subpoena power. Furthermore, citing *Antifriction Bearings*, Brother contends that it is well established that a respondent who elects to participate in an investigation may terminate such participation at any time. Therefore, according to Brother, it follows that a respondent which voluntarily submits information may request its return and withdraw such information from the record. Finally, Brother argues that, in light of the fact that Smith Corona, although incorrectly, was given the opportunity to furnish new information to serve as BIA, Smith Corona is in no different position or less favorable position than it would have been had Brother declined to participate at the outset of the investigation.

Matsushita contends that the Department has properly permitted Brother to withdraw its data from the administrative record of this investigation. Matsushita argues that Smith Corona's efforts to find a legal prohibition against Brother withdrawing its information are without merit. First, citing for example, *SBTs from Japan*, Matsushita contends that Smith Corona's arguments concerning 19 CFR 353.34 apply to instances in which the Department must expunge data from the record when, in fact, such a decision is a matter left to the Department's discretion.

Matsushita also challenges Smith Corona's argument that the Department may not permit the withdrawal of data after a preliminary determination. According to Matsushita, the mere fact that, as in *SBTs from Japan*, a party happens to withdraw its data prior to the preliminary determination cannot, as suggested by Smith Corona, give rise to a principle of law that parties cannot withdraw data subsequent to a preliminary determination. Matsushita argues that Brother's withdrawal of its business proprietary information would not compromise the Department's ability to defend its preliminary determination in the courts, as asserted by Smith Corona. Citing 19 U.S.C. 1673a, however, Matsushita asserts that the estimated duty deposit rate in the preliminary determination is not as a matter of law subject to judicial review, and has never been reviewed by a higher court in practice. Therefore, according to Matsushita, under 19 U.S.C. 1516a(a)(2)(B), only final decisions by the Department in antidumping investigations are subject to appeal.

DOC Position

We agree, in part, with Brother and Matsushita that Brother may withdraw its business proprietary information from the record, as the Department has permitted in the past. See *SBTs from Japan*. Although 19 CFR 353.34 does prescribe situations under which the Department must return data, it is not inclusive with respect to when proprietary information may be withdrawn. Respondents are not required to participate in Department investigations. If a participant determines not to cooperate with the Department in an investigation, the Department cannot force it to leave its own proprietary information on the record. However, the withdrawal of respondent's information in this case cannot serve as a basis for expunging the results of the Department's preliminary determination, which was based on information on the record at the time it was made. To permit this would enable parties to manipulate the system when parties concluded that cooperation in an investigation did not serve their interests. This would reward a company's non-cooperation through the use of BIA rather than encourage their cooperation. See the "Best Information Available" section of this notice.

The Department's Request for New Information

Comment 6

Brother asserts that the Department's announcement of the opportunity to submit new information is arbitrary and capricious. Brother asserts that it is unprecedented to provide interested parties with an opportunity to submit additional comments and new unverified factual allegations adverse to Brother in order to increase the BIA dumping margin. According to Brother, this serves to penalize Brother merely because it exercised its right of withdrawal. Brother cites *Chevron Standard, Ltd.* v. *United States*, 5 CIT 174, 563 F. Supp. 1381, 1384 (1983) (*"Chevron"*) and *Olympic Adhesives* as examples where the CIT and the Court of Appeals for the Federal Circuit have overruled the Department's use of punitive BIA. According to Brother, the Department's request for new information is a clear attempt to use the Department's discretionary authority in a manner inconsistent with the intent of the statute.

Smith Corona argues that the Department properly allowed all parties to submit additional information. According to Smith Corona, the statutory scheme compels the Department to provide procedural fairness to the parties and, to the extent that Brother is permitted to withdraw its own data to obtain a lower dumping margin than its own data established, fairness demands that all parties have the opportunity to create an adequate administrative record, providing the "best information available" concerning the level of dumping during the relevant period. Smith Corona points out that 19 CFR 353.31(b)(1) establishes that the Department may solicit information at any time during an investigation. Smith Corona cites *Final Results of Antidumping Duty Administrative Review: Certain Fresh Cut Flowers from Colombia*, 55 FR 20491, 20495 (1990) as an example where the Department permitted parties to submit post-preliminary determination factual information. Furthermore, Smith Corona notes that the Department's request for factual information in the present investigation came after the Department announced its preliminary determination and Smith Corona filed its case brief. Therefore, any of the interested parties could have submitted pricing or other information to show that their LTFV margin should have been less than the rate which the preliminary determination established.

Smith Corona also argues that the precedent cited by Brother with respect to the use of BIA is not on point. Smith Corona asserts that Brother's citations to *Chevron* and *Olympic Adhesives* are not at all similar to the facts of the present case because, in both *Chevron* and *Olympic Adhesives*, the respondent cooperated with the Department, submitting questionnaire responses which the Department was able to verify. Moreover, Smith Corona alleges that Brother does not substantiate its claim that the Department's post-preliminary determination invitation to submit factual information is unprecedented.

Finally, Smith Corona argues that Brother obviously lacks "clean hands" to argue that the Department should not solicit factual information when it is Brother's attempt to remove data from the record that gives rise to the need for additional information.

DOC Position

Because we have used the rate calculated in the preliminary determination as BIA, we need not address this issue. See DOC Position to Comment 8.

"All Others" Rate

Comment 7

Nakajima argues that the "all others" rate should be based on the median of the margins in the notice of initiation. According to Nakajima, any presumption that the rate for Brother is representative of the margin of dumping that would be calculated for other producers does not hold where a BIA rate is used. Nakajima contends that any such presumption would be unsustainable, whether as a general proposition or on the facts of this case, because it ignores the existence of significant structural differences between companies' operations that distinguish their selling practices and, in addition, it is without specific factual basis. For example, in the related market for PETs, Nakajima has consistently been found to have weighted-average margins that are significantly below those of other PET producers in past administrative reviews as well as the original investigation.

According to Nakajima, because producers such as itself had no opportunity to receive a company-specific rate, a duty deposit rate which far exceeds the estimated margins alleged by the petitioner poses a significant burden upon commerce that cannot be justified by the need for a deposit rate that will ensure compliance with the antidumping law.

Canon argues that if the Department elects to use Brother's unverified partial response in determining Brother's final margin, it would be inappropriate to include that margin in calculating the "all others" margin. Citing *National Ass'n of Mirror Mfrs.* v. *United States*, 696 F. Supp. 642, 645 (CIT 1988) Canon argues that the antidumping law is intended to serve remedial, not punitive, purposes. Citing another case, *Asociacion Colombiana de Exportadores* v. *United States*, 717 F. Supp. 834, 838 n.5 (CIT 1989) ("*Asociacion Colombiana*"), Canon argues that the Department is charged with determining reasonably accurate margins for all firms exporting the subject products, not only those issued questionnaires. Furthermore, citing *Certain Fresh Cut Flowers from Ecuador; Final Determination of Sales at Less Than Fair Value*, 52 FR 2128, 2132 (1987), and *SBTs from Taiwan*, Canon argues that the Department may not include a BIA margin in calculating the "all others" rate where it is inappropriate to conclude that a firm's best information dumping margin is representative of the experience of other non-responding firms.

According to Canon, in determining when a BIA margin is representative of other unnamed manufacturers, it is necessary to consider the dual purpose for which BIA may be used. One purpose is that of an informal "club" used by the Department in making adverse assumptions against non-cooperating parties (see *Atlantic Sugar, Ltd* v. *United States*, 744 F. 2d 1556, 1560 (Fed. Cir. 1984)); another is where a punitive approach is inappropriate and BIA means exactly what it says, *i.e.*, the best information that is available. According to Canon, BIA must be used in this case to establish a margin for parties who bear no responsibility for the conduct of respondents who have decided for their own reasons to withdraw from the investigation. Canon argues that ample precedent exists for distinguishing between recalcitrant and innocent parties in determining the appropriate use of BIA. See, *e.g.*, *Antifriction Bearings*. Furthermore, according to Canon, where a company has been cooperative, the Department generally looks to other respondents that have supplied adequate and verified responses, or to the petition. Citing *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, 30734 (July 27, 1990) ("*Sweaters from Hong Kong*") and *Final Determinations of Sales at Less Than Fair Value; Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles from the People's Republic of China*, 56 FR 241, 245 (January 3, 1991), Canon alleges that the Department's selection of a BIA rate will reflect the level of cooperation of the company involved. Canon asserts that it has cooperated fully with requests from both the Department and the ITC. Again, citing *Asociacion Colombiana*, which stands for the principle that parties which have not volunteered information should not, nonetheless, be held accountable for behavior which requires punitive action, Canon argues that the fact that it did not voluntarily submit a separate questionnaire response in no way justifies the making of adverse inferences or use of unreliable information with respect to Canon.

Canon also argues that the unverified information submitted by Brother may not be treated as representative of the margin properly applicable to the "all others" producers. According to Canon, the clear intent and purpose of the statute is to require the Department to use verified information and to exclude unverified information submitted by a nonparticipating respondent. Canon states that, regardless of whether there may be some statutory and/or policy justification for using unverified data against the party who has decided not to permit verification, the statute clearly does not authorize an assumption that such unverified data are in fact, accurate or representative of the experience of other parties. According to Canon, there are also policy justifications for prohibiting use of partial unverified information provided by respondents who subsequently withdraw their participation because such information is inherently unreliable. See *Olympic Adhesives*.

Moreover, Canon argues that the "all others" rate should not" be based on Brother's preliminary margin because that margin, in addition to being substantially flawed, now lacks any basis in the record of this investigation. If the Department were to conclude that it could still use the preliminary margin calculated for Brother as BIA for Brother's final margin, Canon asserts that it would be inappropriate to apply that margin to the "all others" producers because it cannot support an inference that the margin is fairly representative of other companies.

For the above reasons, Canon asserts that the Department should use the average of the margins alleged in the petition and accepted by the Department to determine the margins and cash deposit rate for the "all others" category.

Smith Corona asserts that Canon and Nakajima are arguing that, because they did not respond at all, they should receive a more favorable estimated duty deposit rate than Brother, who attempted to respond and in fact did supply a large portion of the information requested. According to Smith Corona, with respect to Canon and Nakajima, it is not useful to discuss whether these respondents cooperated or whether BIA should be punitive. Smith Corona argues that, since the announced rates are only deposits, which are refundable if the respondent does not dump, it is appropriate to assign the same duty

deposit rate to all respondents. Smith Corona asserts that, in similar circumstances, the Department's practice is to assign "all others" the average of the duty deposit rates assigned to those respondents that filed a response, whether or not the Department used the response or resorted to BIA. See, *e.g., Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan*, 55 FR 34585, 34593 (August 23, 1990) (*"Sweaters from Taiwan"*). Here, adherence to precedent requires that the "all others" rate be established at the same level.

Smith Corona asserts, however, that should the Department not apply the highest rate in the petition to imports of PWPs manufactured by Canon and Nakajima, the Department should at least assign the preliminary margin determined for Brother to these imports. According to Smith Corona, this would be proper because Brother's preliminary margin was based on Brother's actual questionnaire response, with an array of adjustments for various expenses commonly incurred in the United States. By contrast, the data relied upon for purposes of initiation of this investigation were substantially understated as evidenced by the rate calculated in the preliminary determination.

DOC Position

The Department has determined that the appropriate "all others" rate in this investigation is the dumping margin assigned to Brother and Matsushita, *i.e.*, 58.71 percent. (See the "Best Information Available" section of this notice.) As discussed above, this was the rate calculated for Brother for purposes of the preliminary determination. Because this rate was calculated based on Brother's own information, the Department believes that, despite its use as BIA, it is not an unrealistic estimate of the selling practices of respondents and all other producers/ exporters in Japan of PWPs.

As stated in *Sweaters from Taiwan*, it is the Department's general practice in investigations to include all rates based on BIA in the calculation of the "all others" rate. The Department assumes that the investigated firms that fail to cooperate in an investigation are more probably dumping than not. Therefore, an "all others" rate which excluded BIA margins normally would be skewed to disproportionately reflect the pricing practices of firms with lower margins. In this instance, because none of the respondents cooperated, the "all others" rate is based exclusively on the BIA rate. We do not believe that any of the parties have submitted sufficient evidence to justify a deviation from our normal practice.

The factual situation in this investigation distinguishes it from *Sweaters from Hong Kong*. In that case, the Department excluded from its calculation of the "all others" rate a BIA rate assigned to a respondent who significantly impeded the investigation. The BIA rate was excluded from the "all others" rate because (1) there was an enormous disparity between the three verified rates and the rate in the petition which we were using as BIA, (2) we examined only the top 30 percent of total quota holdings, and (3) only a small number of firms were investigated.

The Department finds no merit in the argument of those parties who claim that they had no opportunity to receive a company-specific rate in this proceeding. The Department's regulations, specifically 19 CFR 353.14(a), provide that any producer or reseller which desires exclusion from an antidumping duty order may file a request with the Department within the stated time limit. Any company filing such a request would have been considered a voluntary respondent and would have been issued a questionnaire. The Department would have analyzed the company's questionnaire response, issued it a separate preliminary antidumping margin, and verified the response which had been submitted. No such requests were received by the Department during the course of this proceeding.

BIA

Comment 8

Citing *Atlantic Sugar, Ltd.* v. *United States*, 744 F.2d. 1556 (Fed. Cir. 1984), Smith Corona states that the Department is authorized by statute to use BIA if it is unable to verify the accuracy of the information submitted, or if a party refuses or is unable to produce information requested in a timely manner and in the form required. In addition, citing *Pistachio Group of the Association of Food Industries* v. *United States*, 11 CIT 537, 671 F Supp. 31, 40 (1987) (*"Pistachio Group"*), Smith Corona asserts that the use of BIA discourages respondents from providing partial information or otherwise hindering the investigation. Smith Corona, citing *Preliminary Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Israel*, 53 FR 48670 (December 2, 1988), contends that the Department has frequently found that a deliberate refusal to submit requested data justifies the use of data least favorable to a respondent.

Smith Corona also argues that if Brother is permitted to remove data from the administrative record, the Department should adopt the most adverse information as BIA. In particular, Smith Corona alleges that Brother's strategic withdrawal of information, coupled with its efforts to circumvent the antidumping duty order, require the Department to make adverse inferences in establishing the estimated duty deposit rate. Under these circumstances, Smith Corona contends that the highest margin alleged in the petition, *i.e.*, 335.3 percent, is an appropriate BIA rate. According to Smith Corona, the fact that the Department did not rely on the methodology which produced this margin for purposes of the initiation does not foreclose the use of this data as BIA under 19 U.S.C. 1677e(c).

Smith Corona states that there is a strong inference that Brother withdrew its information because that very information would establish a lower dumping margin than would be established by a complete response, particularly since Brother's withdrawal came late in the proceeding but before verification. Therefore, Smith Corona contends that the LTFV margins originally alleged in the petition are the best information otherwise available within the meaning of the statute and Departmental precedent.

Citing *Pistachio Group*, Smith Corona also refutes Brother's statement that the Department has consistently used the highest margin alleged in the initiation, or established on the basis of other record data, as BIA with respect to respondents that are in "substantial noncompliance." According to Smith Corona, where, as here, both the petition and the administrative record establish margins for Brother that are higher than either the 32.27 percent margin on which the Department initiated the investigation or the 58.71 percent rate preliminarily determined on the basis of Brother's own data, the Department's precedent requires the use of the highest rate alleged in the petition.

Brother argues that, consistent with the Department's past practice for a non-responding company, the BIA rate should be the highest dumping margin derived from the antidumping petition and announced in the Department's notice of initiation (32.27 percent). Citing *PPG Industries, Inc.* v. *United States*, ____ CIT ____, 708 F. Supp. 1327, 1329 (1989), Brother states that the Department's determinations are

required to be based on information in the administrative record. Brother contends that, as a result of the withdrawal of its questionnaire responses, the antidumping petition is the only document on the administrative record that may serve as a legitimate basis for determining Brother's BIA dumping margins.

Brother argues that because the figure the Department uses as BIA for determining Brother's dumping margin must be "reasonably accurate," and not punitive, all of the information in Smith Corona's May 31, 1991 submission should be rejected. Brother states that the "adverse inference" argument made by Smith Corona cannot be the basis of a BIA determination. Citing *Alberta Pork Producers' Marketing Board* v. *United States*, 11 CIT 563, 669 F. Supp. 445, 457 (1987), Brother contends that the Department must use a reasonably accurate figure for BIA. Brother claims that where BIA has taken on the appearance of a punitive rate, the courts have struck down BIA as arbitrary and capricious. Brother submits that the assignment of a punitive BIA rate to it, merely for exercising its right of terminating participation in the investigation, would be arbitrary and capricious.

Matsushita contends that the Department should not utilize the estimated deposit rate of Brother as the deposit rate for Matsushita on the basis of BIA. Rather, citing *SBTs from Japan*, Matsushita claims that the Department should use the estimated dumping margins in the petition which were accepted as a basis for its initiation of this investigation. In its case brief of May 15, 1991, Matsushita further contends that because Brother withdrew from active participation in the proceeding and did not allow the verification of its response, the use of Brother's incomplete data as BIA for purposes of determining Matsushita's rate in the final determination would be contrary to law and common sense. Citing *Antifriction Bearings*, Matsushita states that the Department's choice of a rate based on BIA is to assign the highest rate among: (1) The margins in the petition used as the basis for initiation; (2) the highest calculated margin of any respondent within that country that supplied adequate and verified responses; and (3) the estimated margin found for the affected company in the preliminary determination. On this basis, it argues that the rate in the petition, accepted by the Department in its initiation, should be assigned to Matsushita rather than a rate based on Brother's unverified data.

Furthermore, Matsushita requests that the Department reject Smith Corona's arguments to base BIA on those margins alleged in the petition which the Department repudiated in its initiation. Matsushita asserts that Smith Corona has failed to supply any precedent for its position that the Department should use as BIA the data which were rejected for purposes of initiation. Matsushita also states that the Department properly withdrew all data submitted by Brother in connection with the investigation and, therefore, such information cannot be used to calculate Matsushita's estimated deposit rate in the final investigation. Citing *Torrington Co.* v. *United States*, 745 F. Supp. 718, 723 (CIT 1990), Matsushita argues that the Department, in rendering its final determination, can only rely on the information on the administrative record. Therefore, Matsushita urges the Department to use the data set forth in the petition and accepted by the Department in its initiation as BIA.

DOC Position

As stated in the "Best Information Available" section of this notice, the Department has determined that the most appropriate rate to assign as BIA for Brother and Matsushita is the rate calculated by the Department in its preliminary determination for Brother. Our use of the rate established in the preliminary determination is fully consistent with both lines of Departmental precedent with respect to the use and selection of BIA, *i.e.*, it is both a reasonable estimate of the margin of dumping and an adverse inference.

The Department notes that, in discussing what information on the record would constitute what they believe would be the best information available, the parties have submitted extensive comments concerning the appropriateness and/or adequacy of the methodologies contained in the petition and Smith Corona's May 31, 1991 submission. As stated in the "Best Information Available" section of this notice, however, the rate based on Brother's own information is considered by the Department to be a realistic estimate of the selling practices of the respondents subject to this investigation. Because we have used as BIA the rate calculated for Brother in the preliminary determination, we need not address all comments regarding the different methodologies submitted by petitioner for use as BIA.

Continuation of Suspension of Liquidation

In accordance with section 735(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of PWPs, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after April 22, 1991, which is the date of the publication of our preliminary determination 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 PWPs exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Brother Industries Ltd. and all related companies	58.71
Kyushu Matsushita Electric Co., Ltd. and all related companies	58.71
All Others	58.71

ITC Notification

In accordance with section 735(d) 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.

The ITC will make its determination whether these imports are materially injuring, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the 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, we will issue an antidumping duty order directing Customs officers to assess antidumping duties on PWPs from Japan entered, or

withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: July 1, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-16279 Filed 7-8-91; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX C

CALENDAR OF THE PUBLIC HEARING

CALENDAR OF THE PUBLIC HEARING

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

Subject: CERTAIN PERSONAL WORD PROCESSORS FROM JAPAN

Inv. No.: 731-TA-483 (Final)

Date and Time: July 10, 1991 - 9:30 a.m.

Sessions were held in connection with the investigations in the Main Hearing Room (101) of the United States International Trade Commission, 500 E Street, SW., Washington, DC.

In Support of the Imposition of Antidumping Duties:

Stewart and Stewart
Washington, DC.
On behalf of

Smith Corona Corp.

Witnesses:

G. Lee Thompson, Chairman and Chief Executive Officer, Smith Corona Corp.
Mark L. Carlin, Director, Private Brands, Smith Corona Corp.
Edward Russell, Regional Sales Manager, Eastern Region, Smith Corona Corp.

Eugene L. Stewart)
Terence P. Stewart) --OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Tanaka Ritger & Middleton
Washington, DC.
On behalf of

Brother Industries, Ltd.
Brother Industries (USA), Inc.
Brother International Corp.

H. William Tanaka)
James Davenport) --OF COUNSEL

Covington & Burling
Washington, DC.
On behalf of

Canon, Inc.
Canon U.S.A., Inc.
Canon Business Machines, Inc.

Witness:

David S. Shiffman, Director of Administration,
Canon Business Machines, Inc.

Harvey M. Applebaum)
Sonya D. Winner)
David R. Grace) --OF COUNSEL)
Thomas Barnett)

Weil, Gotshal & Manges
Washington, DC.
On behalf of

Matsushita Electric Industrial Co. Ltd.
Kyushu Matsushita Electric Co., Ltd.
Matshushita Electronic Components Co., Ltd.
Panasonic Co. and Panasonic Communications Systems Co. Divisions of
Matsushita Electric Corp. of America

Witnesses:

Robert J. Zangrillo, New York Metropolitan Regional Manager,
Panasonic Co.
Bruce P. Malashevich, President, Economic Consulting Services, Inc.

Jeffrey P. Bialos)
Martin S. Applebaum) --OF COUNSEL

APPENDIX D

SELECTED FEATURES OF TYPEWRITERS AND WORD PROCESSORS

The following tabulations present, by company and product type, selected features of selected models of typewriters and word processors marketed during 1990-91:[1]

Firm: Smith Corona
Product: Portable electric typewriters

Item	Singapore production			U.S. production	
	SL 460, XL 1700	SL 560, XL 2700	SD 660, XD 4700	SD 760, XD 5700	SD 860, XD 7700
LCD size (rows by columns)	(1)	(1)	1x16	1x24	2x40
Internal storage (bytes)	(1)	(1)	7,000	7,000	20,000
External storage availability	None	None	None	None	None
Dictionary (words)	(1)	50,000	50,000	50,000	75,000
Thesaurus availability	None	None	None	None	None
Spreadsheet availability	None	None	None	None	None
Print line width	9"	9"	9"	10"	10"
Print speed (cps)	10	12	12	10	15
Pitch options	10/12	10/12	10/12	10/12	10/12/15
Weight (pounds)	12.0	12.0	12.0	13.7	13.7

[1] Not applicable; feature is not available.

Firm: BIUSA
Product: Portable electric typewriters

Item	AX-250	AX-350	AX-450	AX-550
LCD size (rows by columns)	(1)	(1)	1x16	2x40
Internal storage (bytes)	(1)	(1)	6,000	22,000
Dictionary (words)	(1)	56,000	56,000	70,000
External storage availability	None	None	None	None
Thesaurus availability	None	None	None	None
Spreadsheet availability	None	None	None	None
Print line width	9"	9"	9"	9"
Print speed (cps)	12	12	12	12
Pitch options	10/12	10/12	10/12/15	10/12/15

[1] Not applicable; feature is not available.

[1] If availability of a feature is not indicated, the feature is standard.

Firm: Smith Corona
Product: Portable word processors

Item	PWP 1000	PWP 2100	PWP 3100
LCD size (rows by columns)	8x80	8x80	16x80
Internal storage (bytes)	32,000	42,000	50,000
External storage (bytes per storage unit)	32,000	100,000	100,000
Dictionary (words)	75,000	50,000	90,000
Thesaurus availability	None	None	Standard
Spreadsheet availability	None	Option	Standard
Pitch options	10/12/15	10/12/15	10/12/15
Print line width	10"	9"	11"
Print speed (cps)	15	15	15
Weight (pounds)	14.7	16.5	18.8

Firm: BIUSA and Brother Japan
Product: Portable word processors

	BIUSA				Brother Japan
Item	WP-720	WP-760D	WP-1400D	EM-350, WP-1600D	WP-4U
LCD size (rows by columns)	7x80	7x80	14x80	14x80	14x80
Internal storage (bytes)	30,000	[1]	[1]	[1]	114,000
External storage--					
Availability	Option	Standard	Standard	Standard	Option
Bytes per storage unit	16,000	240,000	240,000	240,000	16,000
Dictionary (words)	70,000	70,000	70,000	70,000	70,000
Thesaurus availability	Option	Option	Option	Standard	Standard
Spreadsheet availability	None	Option	Option	Option	None
Print line width	9"	9"	9"	9"	[2]
Print speed (cps)	13	13	13	13	12
Pitch options	10/12/15	10/12/15	10/12/15	10/12/15	10/12/15
Weight (pounds)	13.2	14.3	14.5	14.5	[2]

[1] Not applicable; feature is not available.
[2] Information not available.

Firms: Panasonic Co. and Tandy
Product: Portable word processors

Item	Panasonic Co. KX-W900	Panasonic Co. KX-W905	Panasonic Co. KX-W1000, KX-W1025	Tandy WP-100
LCD size (rows by columns)	7x80	7x80	14x80	8x80
Internal storage (bytes)	36,000	44,000	50,000	24,000
External storage (bytes per storage unit)	353,000	353,000	353,000	100,000
Dictionary (words)	63,000	63,000	63,000	50,000
Thesaurus (words)	45,000	45,000	45,000	(1)
Spreadsheet availability	None	None	None	None
Print line width	10"	10"	10"	(2)
Print speed (cps)	12	12	12	13
Pitch options	10/12/15	10/12/15	10/12/15	10/12
Weight (pounds)	14.3	14.3	14.3	(2)

[1] Not applicable; feature is not available.
[2] Information not available.

Firms: Smith Corona, Panasonic Co., and Tandy
Product: Laptop certain word processors[1]

Item	Smith Corona PWP 7000LT	Smith Corona PWP 85DLT, PWP 270LT	Panasonic Co. KX-WL50	Tandy WP-2
LCD size (rows by columns)	16x80	16x80	14x80	8x80
Internal storage (bytes)	50,000	50,000	50,000	32,000[2]
External storage:				
Availability	Standard	Standard	Standard	Option
Bytes per storage unit)	353,000	100,000	353,000	200,000
Dictionary (words)	63,000	75,000	63,000	100,000
Thesaurus (words)	45,000	45,000	45,000	xx,xxx
Spreadsheet availability	None	Option	Standard	None
Weight (pounds)	6.5	6.5	6.0	3.1

[1] Each firm offers separate printers.
[2] Optional expansion to 54,000 bytes.

Firm: Smith Corona
Product: Certain word processors, excluding laptops and office typing systems

Item	PWP 350, PWP 75D	PWP 5100	PWP 100	PWP 220
CRT size (rows by columns)	24x80	24x80	24x80	24x80
Internal storage (bytes)	50,000	50,000	50,000	50,000
External storage (bytes per storage unit)	100,000	100,000	100,000	100,000
Dictionary (words)	75,000	90,000	75,000	90,000
Thesaurus (words)				
Spreadsheet availability	Option	Standard	Option	Option
Pitch options	10/12/15	10/12/15	10/12/15	10/12/15
Print line width	10"	10"	11"	(1)
Print speed (cps)	15	15	15	(1)
Weight (pounds)	28.0	28.0	34.3	32.7

[1] The PWP 220 has two printer options; one is comparable to the PWP 7000 printer and the other is a high-speed transfer printer.

Firm: BIUSA and Brother Japan
Product: Certain word processors, excluding laptops and office typing systems

	BIUSA		Brother Japan			
Item	WP-3400	WP-200	WP-75	WP-80, WP-85, WP-90, WP-95, WP-660, and WP-660e	EM-1050	EM-1050/D
CRT size (rows by columns)	20x80	20x80	15x91	15x91	20x80	20x80
Internal storage (bytes)	(1)	(1)	(1)	(1)	49,000	49,000
External storage:						
Availability	Standard	Standard	Standard	Standard	None	Standard
Bytes per storage unit	240,000	240,000	240,000	240,000	(1)	180,000
Dictionary (words)	70,000	70,000	70,000	70,000	70,000	70,000
Availability of--						
Thesaurus	Option	Option	Standard	Standard	Option	Option
Spreadsheet	Option	Option	Option	Standard	None	None
Print line width	9"	11"	9"	9"	11.7"	11.7"
Print speed (cps)	13	15	15	15	15	15
Pitch options	10/12/15	10/12/15	10/12/15	10/12/15	10/12/15	10/12/15
Weight (pounds)	26.0	30.5	26.4	26.4-27.2	30.6	30.6

[1] Not applicable; feature is not available.

Firm: Panasonic Co.
Product: Certain word processors, excluding laptops and office typing systems

Item	KX-W1500	KX-W1505A, KX-W1510	KX-W1550
CRT size (rows by columns)	25x80	25x80	25x80
Internal storage (bytes)	60,000	60,000	60,000
External storage (bytes per storage unit)	353,000	713,000	713,000
Dictionary (words)	63,000	63,000	63,000
Thesaurus (words)	[1]	45,000	45,000
Spreadsheet availability	None	None	Standard
Print line width	10"	10"	10"
Print speed (cps)	12	12	16
Pitch options	10/12/15	10/12/15	10/12/15
Weight (pounds)	21.5	21.5	21.5

[1] Not applicable; feature is not available.

Firm: Canon Japan
Product: Starwriter

Item	Starwriter 20	Starwriter 80, Starwriter 85
LCD size (rows by columns)	16x80	16x80
Internal storage (bytes)	60,000	60,000
External storage (bytes per storage unit)	720,000	720,000
Dictionary (words)	90,000	90,000
Thesaurus availability	Option	Option
Spreadsheet availability	None	None
Print line width	8"	9"
Print speed (cps)	20-40	80-160
Pitch options	10/12/24/36/ proportional	9/10/12/18/24/36 proportional
Weight (pounds)	14.5	15.8-16.3

Firms: IBM and Xerox
Product: Office typing systems

Item	IBM Wheelwriter Model 50	IBM Wheelwriter Model 70	Xerox 62 Series Xerox 6225	Xerox 62 Series Xerox 6240
CRT size (rows by columns)	25x80	25x80	19x80	19x80
Internal storage (bytes)	60,000	80,000	80,000	(1)
External storage--				
Availability	Option	Option	Option	Standard
Bytes per storage unit	1,000,000	1,000,000	720,000	720,000
Dictionary (words)	120,000	120,000	120,000	120,000
Availability of--				
Thesaurus	None	None	None	None
Spreadsheet	None	None	None	None
Print line width	13.2"	13.2"	13.2"	13.2"
Print speed (cps)	20	20	20	20
Pitch options	10/12/15/ proportional	10/12/15/ proportional	10/12/15/ proportional (2)	10/12/15/ proportional (2)
Weight (pounds)	40.0	40		

[1] Not applicable; feature is not available.
[2] Information not available.

Firm: Canon Business Machines/Canon U.S.A.
Product: Office typing systems

Item	AP830, AP830-II	AP830-III	AP850, AP850-II	AP850-III
Display--				
Size (rows by columns)	8x80	8x80	25x80	25x80
Type	LCD	LCD	CRT	CRT
Internal storage (bytes)	31,000[1]	31,000[1]	31,000[1]	31,000[1]
External storage--				
Availability	Option	Option	Option	Option
Bytes per storage unit	160,000[2]	720,000	160,000[2]	720,000
Availability of--				
Dictionary	Option	Standard	Option	Standard
Thesaurus	None	None	None	None
Spreadsheet	None	None	None	None
Print line width	13.2"	13.2"	13.2"	13.2"
Print speed (cps)	23	25	23	25
Pitch options	10/12/15/ proportional	10/12/15/ proportional	10/12/15/ proportional	10/12/15/ proportional
Weight (pounds)	35.3	37.2	35.3	37.2

[1] Optional expansion to 63,000 bytes.
[2] Optional expansion to 720,000 bytes in the AP830-II and AP850-II models.

Firms: Swintec and Brother Japan
Product: Office typing systems

Item	Swintec 2000 Typing System	Brother Japan 2050/D	Brother Japan 2050/DS
Display:			
Size (rows by columns)	[1]	25x80	25x80
Type	[1]	12" CRT	12" CRT
Internal storage (bytes)	30,000	81,000[2]	81,000[2]
External storage (bytes per storage unit)	[3]	720,000	720,000
Dictionary (words)	90,000	80,000	70,000
Thesaurus availability	None	None	Option
Spreadsheet availability	None	None	Option
Print line width	11.5"	13.2"	13.2"
Print speed (cps)	20	30	30
Pitch options	10/12/15/ proportional	10/12/15/ proportional	10/12/15/ proportional
Weight (pounds)	[3]	41.5	41.5

[1] The Swintec Typing System chassis is compatible with any 12" monochrome TTL monitor.
[2] Optional expansion to 177,000 bytes.
[3] Information not available.

Firm: Matsushita/Panasonic Communications & Systems Co.
Product: Office typing systems

Item	KX-E4500	KX-E7500
Display:		
Type	9" CRT	12" CRT
Size (rows by columns)	25x80	25x80
Internal storage (bytes)	25,000[1]	64,000[2]
External storage (bytes per storage unit)	720,000	720,000[3]
Dictionary availability	Standard	Option
Thesaurus availability	None	None
Spreadsheet availability	None	None
Print line width	11.5"	13.2"
Print speed (cps)	20	25
Pitch options	10/12/15/ proportional	10/12/15/ proportional

[1] Optional expansion to 57,000 bytes.
[2] Optional expansion to 128,000 bytes.
[3] Optional second disk drive for 720,000 byte diskettes.

Firm: Canon Business Machines
Product: Office typewriters (without displays)

Item	AP330	AP110-II	AP800-III
Availability of--			
Display	None	None	None
Internal storage	(1)	(1)	(1)
External storage	None	None	None
Dictionary (words)	55,000	55,000	55,000
Thesaurus	None	None	None
Spreadsheet	None	None	None
Print line width	13.2	12.0"	13.2"
Print speed (cps)	16	18	25
Pitch options	10/12/15	10/12/15/ proportional	10/12/15/ proportional
Weight (pounds)	19.2	24.7	34.8

[1] 2,500 bytes of phrase memory only.

Firm: Canon Business Machines
Product: Office typewriters (with displays)

	AP380	AP160-II	AP170	AP810-III
LCD size (rows by columns)	1x31	2x80	8x80	2x80
Internal storage (bytes)	22,000	31,000[1]	31,000[1]	31,000[1]
External storage--				
Availability	None	Option	Option	Option
Bytes per storage units)	(2)	160,000	160,000	720,000
Dictionary (words)	55,000	90,000	90,000	90,000
Thesaurus availability	None	None	None	None
Spreadsheet availability	None	None	None	None
Print line width	13.2	12.0"	12.0"	13.2
Print speed (cps)	16	18	18	25
Pitch options	10/12/15	10/12/15/ proportional	10/12/15/ proportional	10/12/15/ proportional
Weight (pounds)	19.6	24.7	24.7	36.8

[1] Optional expansion to 63,000 bytes.
[2] Not applicable; feature is not available.

Firm: Matsushita/Panasonic Communications & Systems Co.
Product: Office typewriters

	KX-E7000	
	Base model	Options
Display size (rows by columns) and type	(1)	1x20 LCD, 1x40 VFD, 1x80 LCD
Internal storage (bytes)	(1)	32,000, 64,000
External storage (bytes per storage unit	(1)	360,000
Dictionary (words)	(1)	87,000
Thesaurus availability	None	(2)
Spreadsheet availability	None	(2)
Print line width	13.2	(2)
Print speed (cps)	25	(2)
Pitch options	10/12/15 proportional	(2)

[1] Not applicable; feature is not available.
[2] Not applicable; no available options.

APPENDIX E

TRADE AND EMPLOYMENT DATA, BY COMPANY

Table E-1
Typewriters and word processors: Trade and employment data reported by Smith Corona Corp., by product,[1] 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Smith Corona did not produce either office typewriters or office typing systems during the period of investigation.

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

Table E-2
Typewriters and word processors: Trade and employment data reported by Brother Industries (U.S.A.), Inc., by product,[1] 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Brother Industries (U.S.A) did not produce either office typewriters or office typing systems during the period of investigation.

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

Table E-3
Typewriters: Trade and employment data reported by Nakajima All Manufacturing Co., Ltd., by product,[1] 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Nakajima All Manufacturing did not produce word processors during the period of investigation.

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

Table E-4
Typewriters and word processors: Trade and employment data reported by International Business Machines Corp. (IBM), by product,[1] 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] IBM did not produce either portable typewriters or word processors other than office typing systems during the period of investigation.

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

Table E-5
Typewriters and word processors: Trade data[1] reported by Xerox Corp., by product,[2] 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Xerox did not provide employment data.
[2] Xerox did not produce either portable typewriters or word processors other than office typing systems during the period of investigation.

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

Table E-6
Automatic office typewriters:[1] Data reported by Canon Business Machines, Inc., 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] Canon Business Machines did not produce either portable typewriters or word processors during the period of investigation.

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

APPENDIX F

DOMESTIC- AND FOREIGN-CONTENT DATA

In the questionnaire, U.S. producers were requested to provide, for each model produced during the period of investigation, the following general information: period of production, period of sales, total U.S. sales by quantity and value, principle channel of distribution, and two principle (or target) end users. In addition, producers were requested to report the source and the average unit values of the domestic and foreign content of specified components and other items. Respondents were instructed that if costs changed during the period of production they were to report for the period of peak production, and if sourcing patterns changed during the period they were to provide weighted-average unit values of the domestic and foreign content. The data provided by Smith Corona and BIUSA in response to this request were verified and are presented on the following pages.

* * * * * * *

APPENDIX G

FINANCIAL DATA FOR PORTABLE ELECTRIC TYPEWRITERS, PORTABLE AUTOMATIC TYPEWRITERS, PORTABLE WORD PROCESSORS, AND OFFICE TYPEWRITERS AND OFFICE TYPING SYSTEMS

Table G-1
Income-and-loss experience of U.S. producers[1] on their operations producing portable electric typewriters, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The companies are BIUSA/BIC, Nakajima Manufacturing, and Smith Corona.

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

Table G-2
Income-and-loss experience of U.S. producers on their operations producing portable electric typewriters, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Table G-3
Income-and-loss experience of U.S. producers[1] on their operations producing portable automatic typewriters, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The companies are BIUSA/BIC and Smith Corona.

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

Table G-4
Income-and-loss experience of U.S. producers on their operations producing portable automatic typewriters, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Table G-5
Income-and-loss experience of U.S. producers[1] on their operations producing portable word processors, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The companies are BIUSA/BIC and Smith Corona.

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

Table G-6
Income-and-loss experience of U.S. producers on their operations producing portable word processors, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Table G-7
Income-and-loss experience of U.S. producers[1] on their operations producing office typewriters and office typing systems, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

[1] The producers are Canon Business Machines and IBM.

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

Table G-8
Income-and-loss experience of U.S. producers on their operations producing office typewriters and office typing systems, by firm, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

Table G-9
Value of assets and return on assets of U.S. producers' operations on portable electric and portable automatic typewriters, portable word processors, office typewriters and office typing systems, and all typewriters and word processors, by firm, 1988-90, and January-March 1990 and 1991

*	*	*	*	*	*	*

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

Table G-10
Capital expenditures by U.S. producers of portable electric and portable automatic typewriters, portable word processors, office typewriters and office typing systems, and all typewriters and word processors, by firm, 1988-90, and January-March 1990 and 1991

*	*	*	*	*	*	*

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

Table G-11
Research and development expenditures by U.S. producers of portable electric and portable automatic typewriters, portable word processors, office typewriters and office typing systems, and all typewriters and word processors, by firm, 1988-90, and January-March 1990 and 1991

*	*	*	*	*	*	*

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

APPENDIX H

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF CERTAIN WORD PROCESSORS FROM JAPAN ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND 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 certain word processors from Japan on their firms' growth, investment, ability to raise capital, and development and production efforts. * * *.

Actual negative effects

* * * * * * *

Anticipated negative effects

* * * * * * *

Influence of imports on capital investment

* * * * * * *

APPENDIX I

IMPORT AND MARKET-PENETRATION DATA FOR WORD PROCESSORS AND TYPEWRITERS

Table I-1
Typewriters and word processors: U.S. imports, by product, 1988-90, January-March 1990, and January-March 1991[1]

*	*	*	*	*	*	*

[1] Unit values are not presented because they are significantly affected by product mix.

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

Table I-2
Typewriters and word processors: Apparent U.S. consumption and market shares of U.S. producers' shipments, U.S. shipments of the subject imports, and U.S. shipments of nonsubject imports, by product, 1988-90, January-March 1990, and January-March 1991

*	*	*	*	*	*	*

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

APPENDIX J

PRICING DATA FOR PORTABLE ELECTRIC TYPEWRITERS AND PORTABLE AUTOMATIC TYPEWRITERS

The following material was taken from the pricing section of the report in the typewriters investigation.

Questionnaire price data

The products for which the Commission requested pricing data in the typewriters investigation are described below.[1]

PRODUCT 1: Basic portable electric typewriters that are most similar to the BIC model AX250 and its predecessor AX22 model. Such portable electric typewriters include one-line memory correction, but no spell-check, additional memory, or display.

PRODUCT 2: Basic portable electric typewriters that are most similar to the BIC model GX6000 and its predecessor C320 model. Such portable electric typewriters include one-line memory correction, but no spell-check, additional memory, or display.

PRODUCT 3: Dictionary portable electric typewriters that are most similar to the BIC model AX350 and its predecessor AX24 model. Such portable electric typewriters include one-line memory correction and spell-check, but no additional memory or display.

PRODUCT 4: Dictionary portable electric typewriters that are most similar to the BIC model GX7000 and its predecessor C340 model. Such portable electric typewriters include one-line memory correction and spell-check, but no additional memory or display.

PRODUCT 5: Portable automatic typewriters that are most similar to the BIC model AX450 and its predecessor AX25 model. Such portable automatic typewriters include one-line memory correction, spell-check, additional memory, and LCD.

PRODUCT 6: Portable automatic typewriters that are most similar to the BIC model GX8000 model and its predecessor C355 model. Such portable automatic typewriters include one-line memory correction, spell-check, additional memory, and LCD.

The Commission requested U.S. producers to provide quarterly price data between January 1988 and March 1991 for the specified portable electric and portable automatic typewriters. The price data were requested on a net U.S. f.o.b. basis for the responding firm's largest sale and total quarterly sales.[2] Three U.S. producers (BIUSA/BIC, Nakajima Manufacturing, and Smith Corona) provided price information for the largest sale made in each quarter for each of the specified products that they produced over the period of

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[1] BIUSA indicated that these products were representative of the competition between U.S.-produced and the subject imported PETs/PATs. (Brother's faxed response to questions of Commission staff, Apr. 12, 1991).

[2] The Commission further requested that separate pricing data be provided by model.

investigation. The reporting U.S. producers accounted for virtually all portable electric and portable automatic typewriters produced in the United States during January 1988-March 1991.[3]

U.S. producers were not able to adjust their reported f.o.b. selling prices for freight absorption, cooperative advertising, and year-end rebates extended to their customers. The responding firms reported that they consider * * *. Promotional expenditures tended to increase for all suppliers during the period of investigation. As a result, price data shown may overstate the actual net realized unit sales values.

Price trends

Prices of the domestic products fluctuated but generally fell during the period of investigation.[4] Prices of the portable electric and portable automatic typewriters are presented in table J-1. Price trends do not appear to be significantly affected by apparently limited year-to-year changes in product features of the models for which pricing data were reported; any new or updated models are typically introduced during June-August.

Table J-1
Weighted-average U.S. f.o.b. selling prices[1] of specified portable electric and portable automatic typewriters produced in the United States, by quarter, January 1988-March 1991

*	*	*	*	*	*	*

[1] Prices of the domestic models are averages of the U.S. f.o.b. quarterly selling prices of the responding U.S. producers' largest quarterly sales weighted by each responding firm's total quarterly sales quantity of the specified product.

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

On a product line basis, declines in quarterly weighted-average prices of the U.S.-produced products ranged from about * * * percent for product 5 to almost * * * percent for product 2 during January 1988-March 1991.

[3] The responding U.S. producers provided price information for the specified products accounting for * * * percent of total domestic shipments of U.S.-produced portable electric and portable automatic typewriters over the investigation period.

[4] * * *.