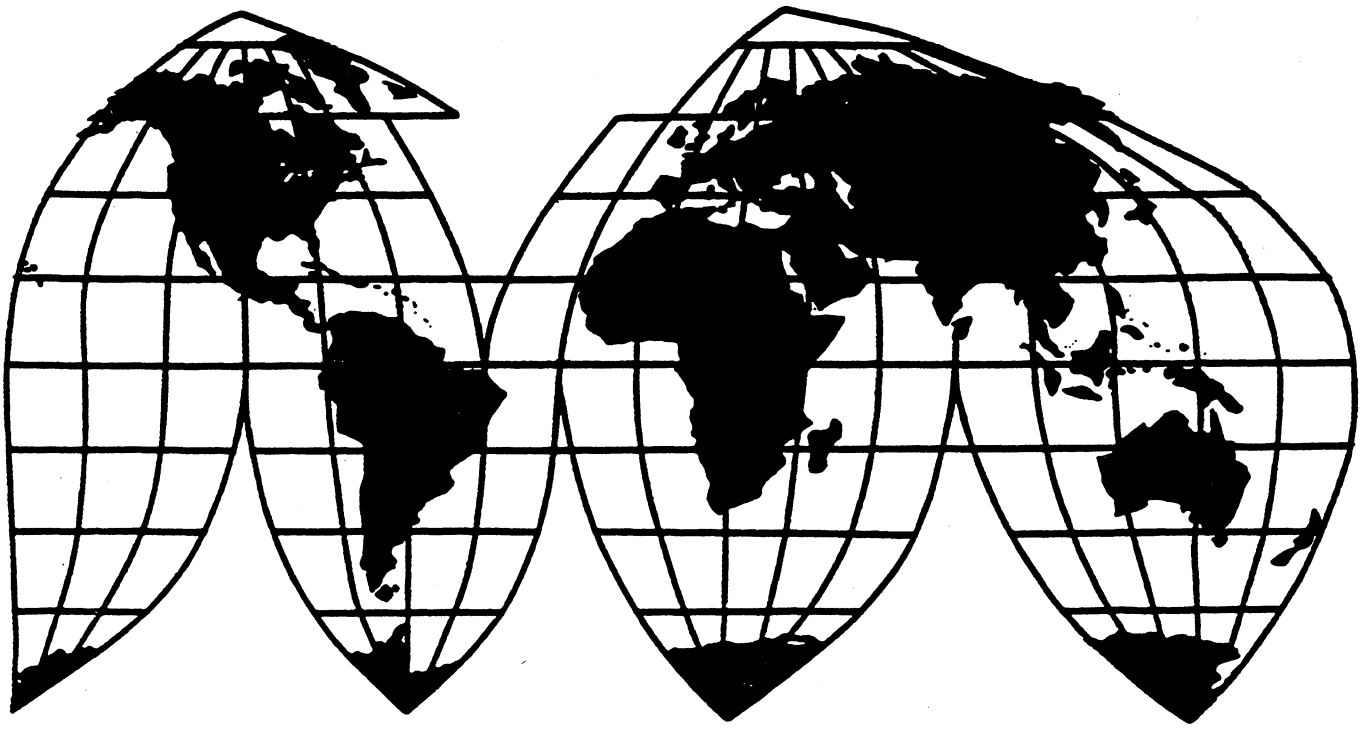
Engineered Process Gas Turbo-Compressor Systems From Japan

Investigation No. 731-TA-748 (Preliminary)

Publication 2976 **July 1996**

U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-748 (Preliminary)

ENGINEERED PROCESS GAS TURBO-COMPRESSOR SYSTEMS FROM JAPAN

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Japan of engineered process gas turbo-compressor systems, provided for in subheadings 8414.80.20, 8419.60.50, 8414.90.40, 8406.81.10, 8406.82.10, 8406.90.20 through 8406.90.45, 9032.89.60, 8501.53.40, 8501.53.60, 8501.53.80, and 8483.40.50, of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 8, 1996, a petition was filed with the Commission and the Department of Commerce by Dresser-Rand Co., Corning, NY, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of engineered process gas turbo-compressor systems from Japan. Accordingly, effective May 8, 1996, the Commission instituted antidumping investigation No. 731-TA-748 (Preliminary). On May 24, 1996, The United Steelworkers of America (USW), Pittsburgh, PA, which represents the production workers at the petitioner's and two other U.S. producers' facilities, filed a letter with the Commission and Commerce indicating that it was joining Dresser-Rand as a co-petitioner.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of May 17, 1996 (61 FR 24952). The conference was held in Washington, DC, on May 29, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of engineered process gas turbo-compressor systems ("EPGTC"), whether assembled or unassembled, and whether complete or incomplete, from Japan that are allegedly sold in the United States at less than fair value ("LTFV").

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, or threatened with material injury, by reason of the allegedly LTFV imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "domestic like product" and the "industry."[3] Section 771(4)(A) of the Act defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[4] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."[5]

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[6] No single factor is dispositive, and the Commission may consider other factors

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[1] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F.Supp. 377, 381 (Ct. Int'l Trade 1992).

[2] American Lamb 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(10).

[6] See, e.g., Nippon Steel Corp. v. United States, 19 CIT __, Slip Op. 95-57 at 11 (Apr. 3, 1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See id. at n.4, 18; Timken Co. v. United States, 20 CIT __, Slip Op. 96-8 at 9 (Ct. Int'l Trade, Jan. 3, 1996).

it deems relevant based on the facts of a particular investigation.[7] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[8] When appropriate, the Commission also uses a finished/semi-finished product analysis to determine whether products at different states of production are the same or different domestic like products.[9]

In its notice of initiation, the Department of Commerce has defined the imported articles subject to this investigation as follows:

> [T]urbo-compressor systems (i.e., one or more "assemblies" or "trains") which are comprised of various configurations of process gas compressors, drivers (i.e., steam turbines or motor-gear systems designed to drive such compressors), and auxiliary control systems and lubrication systems for use with such compressors and compressor drivers, whether assembled or unassembled. One or more of these turbo-compressor assemblies or trains may be combined. The systems covered are only those used in the petrochemical and fertilizer industries, in the production of ethylene, propylene, ammonia, urea, or methanol. This petition does not encompass turbocompressor systems incorporating gas turbine drivers, which are typically used in pipeline transmission, injection, gas processing, and liquid natural gas service.[10]

EPGTC systems are integral components in the production of ethylene, propylene, ammonia, urea, and methanol. EPGTC systems provide necessary pressure at some points in the production stream of these products to remove unwanted substances and at other points to temporarily refrigerate certain substances that loop in and out of the process. The systems, or "trains" as they are known in the industry, are large in scale and consist of at least one compressor (sometimes two or more exist in the same train), a driver (a steam turbine or motor to run the compressor(s)), and auxiliary components (chiefly a lubrication system and electronic control system), all of which are custom engineered to the specific parameters and needs of the plant producing the chemical product.[11] The design must take into account such variables as the feedstock for making the chemical, the necessary input and output pressures, horsepower requirements, the temperature and pressure of the steam, and a host of other factors particular to the plant.[12] The complete EPGTC system generally requires from 1 to 2 years to engineer, build, and deliver.[13]

We have considered two domestic like product issues in this investigation: (1) whether the domestic like product should be defined more broadly than the subject merchandise to include specially engineered compressor systems used in the transportation and storage of crude oil and natural gas ("transport gas systems"); and (2) whether incomplete and/or unassembled EPGTC systems constitute a separate like product.[14] For the reasons discussed below, we do not include in the domestic like product

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[7] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[8] Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

[9] See, e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Inv. Nos. 731-TA-736 and 737 (Preliminary), USITC Pub. 2916 (August 1995) at I-6.

[10] 61 Fed. Reg. 28164 (June 4, 1996).

[11] Confidential Report ("CR") at I-3, Public Report ("PR") at I-3.

[12] CR at I-4, PR at I-3.

[13] CR at I-4, PR at I-3.

[14] Petitioner Dresser-Rand ("Petitioner") argues that there is a single domestic like product, consisting of engineered process gas turbocompressor systems, as proposed in the petition. Petitioner asserts that Commerce's scope determination mirrors the domestic like product definition that it proposed. Petitioner's Postconference Brief at 3-4.

transport gas systems, nor do we find a separate domestic like product consisting of incomplete and/or unassembled EPGTC systems.

1. Whether the Domestic Like Product Should Be Defined More Broadly Than the Subject Merchandise to Include Specially Engineered Transport Gas Systems.

One of the defining characteristics of the subject EPGTC systems is that they are large-scale systems that are individually engineered to users' needs. Virtually all other common compressor systems are made to standard specifications, and while sometimes built to order, need not be individually designed around the specific parameters of the user. Transport gas systems are the only other type of large-scale compressors that are individually engineered to the users' needs.[15] Similar to EPGTC systems, transport gas systems are also used in the petrochemical industry, but they are different from EPGTC systems because they serve to transport and store upstream products (mainly crude oil and natural gas) rather than produce them. Further, because of the availability of gas fuels at these sites, transport gas systems use gas-driven turbines instead of steam turbines or motors.[16] We first consider whether these two types of systems are one like product.

Both types of systems are specifically engineered to the end users' needs, and their differing product applications and functions require different design considerations; and so, in one sense, every system sold of whatever type will have different physical characteristics. The two types of systems differ, however, in ways that reflect their different functions. Although different EPGTC systems process different gases, all EPGTCs are specifically designed to compress a gas under precise conditions of input and output pressure. Therefore, it appears that EPGTC systems have more precise instrumentation than other compressor systems.[17] Further, in EPGTC systems the compressor is driven by a motor or steam. In contrast, transport gas compressor systems routinely use gas-power.[18]

The two systems also have different end uses. Unlike EPGTC systems, transport gas systems are not integral components in a production process, but rather serve to transport products through pipelines or store products by pressuring them into liquids.[19]

EPGTCs are each designed for use in a specific application, and once designed and built, cannot easily be used in any other location.[20] Very few (if any) EPGTCs would be interchangeable with each other, much less with other compressor systems. Thus, it is clear that the two types of systems are not readily interchangeable.

Both types of systems appear to be sold in the same channel of trade, i.e., through individual bidding processes for manufacture, delivery and installation to a specific end user.[21] However, although

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Respondent Mitsubishi Heavy Industries (hereinafter "Respondent" or "MHI") has not argued for a different domestic like product. Instead, when asked directly whether it had a position on the definition of the domestic like product, respondent stated that it did not have adequate information to respond to the question. Respondent contends, however, that in any final investigation, the issue of the appropriate domestic like product would need to be investigated carefully. Respondent's Postconference Brief, Exhibit B at 21.

[15] CR at I-5, PR at I-4.

[16] CR at I-5, PR at I-4.

[17] See Petition at 28.

[18] CR at I-5, PR at I-4; Petition at 29.

[19] CR at I-5, PR at I-4.

[20] Petition at 29-30.

[21] CR at I-5, PR at I-4.

both types of systems are used in petrochemical applications, they are used for different purposes in different locations.[22] The record is clear that there is an overlap in the production facilities and workers used to make the two types of engineered compressor systems.[23] The petitioner states, however, that it treats pipeline transmission systems as a separate product line with a separate salesforce.[24] Further, it appears that the industry as a whole treats EPGTCs and transport gas systems as distinct categories.[25] Prices for each of the two types of systems differ markedly depending on the end user's specifications, and thus do not shed much light on the like product differences.

Given the differences in general physical characteristics, end uses, and the complete lack of interchangeability, we do not include transport gas systems in the domestic like product.

2. Whether Incomplete And/Or Unassembled EPGTC Systems Constitute a Separate Like Product.

Commerce's notice of initiation includes incomplete and unassembled systems in the scope of the investigation.[26] Petitioner states that this is because large trains cannot be shipped as a unit or in some cases even installed on a single platform and, thus, that the like product determination should likewise include incomplete or unassembled systems. Petitioner also contends that the "industry" producing unassembled or incomplete systems is coextensive with the producers of complete systems.[27]

We analyze whether incomplete and/or unassembled systems constitute a separate like product from the complete systems by applying our semi-finished products analysis.[28]

The record evidence shows that each EPGTC system, and therefore its component parts, are specially engineered for a specific application.[29] There is no independent use for an incomplete or unassembled system aside from being assembled into a specific and complete EPGTC system. Unassembled or incomplete systems are, therefore, dedicated for use in EPGTC systems. Similarly, because the unassembled or incomplete systems are used only to complete the system, there are no independent markets for incomplete systems.

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[22] CR at I-5, PR at I-4.

[23] Questionnaire Responses of Dresser-Rand, Elliot Turbomachinery Co., Demag Delaval Turbomachinery Corp.

[24] Petition at 28.

[25] Petition at 28, n.6.

[26] 61 Fed. Reg. 28164-5 (June 4, 1996). Commerce has defined unassembled compressors as consisting of (1) either half of the casing or the casing and end-caps, whether or not assembled, and whether or not mounted on a platform; or (2) the rotor, whether or not mounted in the casing. Unassembled steam turbines are defined as (1) either half of the turbine casing, whether or not mounted on a platform; or (2) the turbine rotor, whether or not mounted in the casing. Commerce has not defined incomplete systems. Id.

[27] Petitioner's Postconference Brief at 4.

[28] In a semi-finished products analysis, we generally examine: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles. Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Inv. Nos. 731-TA-736 and 737 (Preliminary), USITC Pub. 2916 (August 1995) at I-8-9; Canned Pineapple Fruit from Thailand, Inv. No. 731-TA-706 (Final), USITC Pub. 2907 (July 1995), at I-8, n.25; Stainless Steel Bar from Brazil, India, Japan, and Spain, Invs. Nos. 731-TA-678, 679, 681 and 682 (Final), USITC Pub. 2856 (Feb. 1995), at I-6.

[29] CR at I-3, PR at I-3.

An incomplete or unassembled system shares many of the same characteristics and functions as the finished system. By definition, parts of an unassembled or incomplete system will share some of the functions and characteristics of the completed system.

There does not appear to be an established price for unassembled or incomplete systems because the evidence indicates that the complete systems are manufactured by contract.[30] Thus, there are no independent sales of unassembled or incomplete systems. Finally, we note that there is no information in the record regarding the significance of assembling the incomplete systems into the final system, but installation is part of the purchase price of the entire system.[31]

Accordingly, based on the fact that unassembled or incomplete systems are dedicated for use in the finished EPGTC system, and that there are no independent market or uses for the unfinished or incomplete systems, we find that incomplete or unassembled systems are part of the same like product as the finished EPGTC system.[32]

C. Domestic Industry

In making its determination, the Commission is directed to consider the effect of the subject imports on the industry, defined as "the producers as a [w]hole of a domestic like product..."[33] Based on the definition of the domestic like product, the domestic industry consists of all producers of EPGTC systems.[34]

An industry issue in this preliminary investigation concerns whether any of the producers should

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[30] CR at I-3, PR at I-3.

[31] CR at I-4, PR at I-3.

[32] We are interested in comments from the parties in any final investigation concerning whether replacement parts or "revamps" should be included in the domestic like product.

[33] 19 U.S.C. § 1677(4)(A). In doing so, the Commission generally includes all domestic production, including tolling operations and captively consumed product, within the domestic industry. See United States Steel Group, et. al. v. United States, 873 F. Supp. at (673) at 16 ((Ct. Int'l Trade 1994), appeal docketed, No. 95-1245 (Fed. Cir. March 21, 1995).

[34] There are four known producers of EPGTC systems in the United States: the petitioner Dresser-Rand, Elliot Turbomachinery Co., Demag Delaval Turbomachinery Corp. and A-C-Compressor Corp. CR at III-1, PR at III-1. In deciding whether a particular firm that operates in the United States qualifies as a domestic producer, the Commission has generally examined the overall nature of a firm's production-related activities, including the source and extent of its capital investment, technical expertise in production activities, the value added in the United States, employment, quantity and type of domestically sourced parts, and other costs and activities in the United States directly leading to the production of the domestic like product. E.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Inv. Nos. 731-TA-736 and 737 (Preliminary), USITC Pub. 2916 (August 1995) at I-11, n.44.

We note that all of the domestic producers of EPGTC systems sometimes outsource some of the components of the system. CR at III-1, PR at III-1. All producers, however, manufacture their own compressors, which is the main component of the system because the purpose of the system is compression. Once produced, the major components of the system are shipped to, assembled, and tested at one location before delivery. CR at III-1, PR at III-1. All of the producers engage in bidding for contracts for a particular EPGTC system; designing of the specific EPGTC system; manufacturing of the compressor, which is the essential component of the EPGTC system; and performing the final assembly, testing and delivery of the EPGTC system. E.g., CR at III-1, PR at III-1. We find that each of the manufacturers of the complete EPGTC systems engage in sufficient domestic activity to be included in the domestic industry producing EPGTC systems.

be excluded from the industry as a related party.[35] If the Commission determines that a domestic producer satisfies the definition of a related party, the Commission may exclude the producer from the domestic industry if "appropriate circumstances" exist.[36] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[37] As discussed below, two domestic producers, Elliot and Dresser-Rand are or have been affiliated with Japanese manufacturers of EPGTC systems.

1. Elliot-Ebara

In this investigation Elliot Turbomachinery Co. ("Elliot") is affiliated with a producer of the subject merchandise in Japan, Ebara Corporation, which owns [***] percent of Elliot. Elliot's affiliation with Ebara includes a reciprocal licensing arrangement that restricts Ebara from providing systems to the U.S. market and Elliot from providing systems to the Asian market.[38] Based on the nature of their agreement, it does not appear that the Ebara/Elliot relationship fits the statutory criteria defining a related

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[35] A domestic producer is a related party if it is either related to the exporters or importers of subject merchandise, or is itself an importer of the subject merchandise. Parties are considered to be related if one party directly or indirectly controls another party, or if a third entity controls both. Direct or indirect control exists when "the party is legally or operationally in a position to exercise restraint or direction over the other party." 19 U.S.C. § 1677(4)(B).

[36] 19 U.S.C. § 1677(4)(B). The primary factors the Commission examines in deciding whether appropriate circumstances exist to exclude the related parties include:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and

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

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela, Inv. Nos. 701-TA-360 and 361, 731-TA-688-695 (Final), USITC Pub. 2870 at I-18 (April 1995)("Butt-Weld Pipe Fittings from France et al.").

[37] See Torrington v. United States, 790 F. Supp. at 1168; Empire Plow Co. v. United States, 675 F. Supp. at 1353-54 (analysis of "[b]enefits accrued from the relationship" as a major factor in deciding whether to exclude a related party held a "reasonable approach in light of the legislative history"); S. Rep. No. 249, 96th Cong. 1st Sess. at 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").

[38] CR at III-2, PR at III-1.

party, since Ebara does not appear to be an exporter of the subject merchandise.[39]

2. Dresser-Rand/MHI Joint Venture

Petitioner Dresser-Rand and respondent MHI entered into a joint venture agreement in 1990, which terminated in February 1994. [***].[40] Thus, by nature of its joint venture agreement, at least for part of the period of investigation, Dresser-Rand was "related" to MHI. However, pursuant to the agreement, [***],[41] and thus was not an exporter of the subject merchandise to the United States. Accordingly, it does not appear that the Dresser-Rand/MHI joint venture fits the statutory criteria defining a related party.

III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of allegedly LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[42] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[43]

Several conditions of competition are pertinent to our analysis of the U.S. EPGTC industry. The market for EPGTC systems is global in scope, with a small number of large firms worldwide competing for projects.[44] All U.S. producers exported a significant percentage of their production over the investigative period.[45]

The U.S. market for EPGTC systems is characterized by a small number of sales each year; these sales, however, involve high-value merchandise.[46] EPGTC systems are highly engineered products that are specifically designed by the producer to meet the individual plant owner's needs.[47] The demand for these systems is dependent on the number of new plants and plant expansions. Demand for EPGTC systems, both worldwide and in the U.S. market, increased significantly over the period of investigation.[48]

EPGTC systems in the United States are sold primarily to engineering construction firms that

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[39] Ebara did not export EPGTC systems to the United States during the period of investigation. There is no evidence indicating that Ebara controls Elliot. In fact, a German manufacturer, Man GuteHuffnangghuette, AG, also owns a [***] percent share in Elliot. CR at III-2, PR at III-1.

[40] CR at III-2, n.2, PR at III-1, n.2.

[41] Respondent's Postconference Brief at 21.

[42] 19 U.S.C. § 1677(7)(C)(iii).

[43] 19 U.S.C. § 1677(7)(C)(iii).

[44] CR at II-1, PR at II-1.

[45] CR at II-4, PR at II-3.

[46] Table IV-1; CR at IV-2, PR at IV-2.

[47] CR at I-4, PR at I-3. Because of the variation in size, value and specifications of EPGTC systems from sale to sale, we note that it may be less useful to rely on quantity data to assess market share, sales, shipments, and other information.

[48] CR at II-5, PR at II-3. In the U.S. market, for example, ethylene manufacturing capacity increased and there was growing environmental pressure on process gas manufacturers to reduce pollution. Id.

incorporate the systems in new process gas plants or expansion projects.[49] The engineering construction firm may solicit bids from suppliers of EPGTC systems, or may contract on a sole-source basis with a particular supplier. The construction firm, which itself generally bids for the plant construction or expansion projects, may solicit bids for the EPGTC system from qualified suppliers as part of its own bid preparation or after being awarded a contract.[50]

The engineering contract for the construction of a plant is generally awarded either as a fixed-cost or "cost-plus" contract.[51] Although the cost of an EPGTC system typically is less than 15 percent of the cost of a plant, it is nevertheless crucial to plant operations.[52] If the plant owner awards a fixed-cost contract for the construction or expansion of a plant, then he is not generally involved in price negotiations on individual components such as EPGTC systems.[53] However, the plant manager will either review the technical specifications of suppliers, or will reserve the right to select the supplier of the EPGTC system.[54] Efficiency is among the technical factors evaluated as a more efficient system will lower operating costs.[55] Also, if a plant owner currently uses EPGTC systems from a given supplier, it is more cost effective to use the same machinery in an expansion or replacement since components and spare parts are interchangeable.[56] According to several engineering construction contractors, however, the plant owner in a fixed cost contract may have to pay a premium if the lowest-priced, qualified supplier is not selected.[57]

The preparation of a bid on an EPGTC system is an involved process with costs for a single bid ranging from a few thousand dollars to $100,000.[58] Therefore, EPGTC manufacturers carefully assess their potential for securing a contract before deciding to bid on a particular job.

There is generally more than one chance to bid on a particular sales agreement, with changes in the specifications of the project often prompting a re-bid.[59] However, initial bids are important in the process because they may be used to determine a short list of EPGTC manufacturers which appear to have an EPGTC system that meets the technical requirements of the project in a cost-effective manner. Therefore, bidders must make their most technically attractive and cost-effective proposal in the initial bid in order to ensure participation in later negotiations.[60] Three of four responding U.S. producers indicated that the outcome of a bid to a particular purchaser affects their strategy for future bids.[61]

After an EPGTC system has been installed, the manufacturer of that system has the opportunity to supply replacement parts and upgrades (revamps). These potential sales are factored into the bid preparation. Although a manufacturer has an advantage in providing a revamp of its own equipment, a revamp of an existing compressor train will not occur for years after an EPGTC system is installed, if it

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[49] CR at II-1, PR at II-1.

[50] CR at II-1, PR at II-1.

[51] CR at II-1, PR at II-1.

[52] CR at II-2, PR at II-1.

[53] CR at II-1, PR at II-1.

[54] CR at II-2, PR at II-1.

[55] CR at II-7, PR at II-5.

[56] CR at II-7, PR at II-5.

[57] CR at II-1-2, PR at II-1.

[58] CR at II-2, PR at II-2.

[59] CR at V-3, PR at V-2.

[60] CR at V-3, PR at V-2.

[61] CR at V-2, PR at V-2.

happens at all.[62]

After finalization of a sales contract, there is generally a lengthy production and delivery period. Completion and installation of an EPGTC system typically takes between one year and eighteen months.[63] Because progress payments are usually required,[64] the full financial impact of a sale (or its loss) may not be reflected in a producer's financial records for up to eighteen months after the date of the sale.[65]

On the basis of purchases or contracts awarded, the number of trains purchased increased from 21 in 1993 to 25 in 1994, and further increased to 32 in 1995. Nine trains were purchased in interim (January-March) 1996 compared with four in interim 1995.[66] Similarly, domestic consumption increased by value during the period examined. Total U.S. purchases increased from $48.1 million in 1993 to $58.0 million in 1994. Total U.S. purchases increased to $86.1 million in 1995. Total U.S. purchases were $24.3 million in interim 1996 compared with $9.9 million in interim 1995.[67]

On the basis of contracts awarded (number of trains), the domestic industry's market share decreased from 85.7 percent in 1993 to 83.3 percent in 1994. The domestic industry's market share declined to 81.3 percent in 1995. The domestic industry's market share based on contracts awarded was 100 percent in both interim periods. The domestic industry's share of the value of U.S. purchases decreased from 86.4 percent in 1993 to 83.3 percent in 1994, and decreased to 71.3 percent in 1995. The domestic industry's share of the value of the contracts awarded was 100 percent in interim 1995 and interim 1996.[68]

The unique design and production demands for each train and the wide variation in time and resources preclude any meaningful assessment of the domestic industry's capacity. Similarly, production is not meaningful in the usual context because the completion time varies from system to system, generally requiring over a year, and for any given period of time a number of additional EPGTC systems are in various stages of completion.[69] Shipments are quantifiable during any given period. The value of shipments, however, takes into account work in progress because payments are received for the system throughout the course of its production.[70] The data show that domestic shipments increased from 13 trains in 1993 to 28 trains in 1994, and then declined to 24 trains in 1995. Eight trains were shipped in interim 1996 compared with 4 trains in the same period of 1995.[71] By value, the payments received for domestic shipments increased steadily from $39.4 million in 1993 to $56.8 million in 1994, and to $70.3

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[62] CR at V-2, PR at V-2.

[63] CR at II-2, PR at II-1.

[64] CR at II-2, PR at II-1.

[65] Commissioner Crawford recognizes that the full financial effect of a sale or lost sale is not reflected in accounting records until up to eighteen months after the date of the sale. Consequently, when it is reflected in the accounting records, the effect likely represents the "lingering effects" of the competition that occurred earlier. Rather than evaluate the "lingering effects" of competition, in this investigation Commissioner Crawford has focused her analysis on the point in time when competition between subject imports and the domestic product occurs, that is, when a contract is awarded to the winning bid.

[66] Table IV-1; CR at IV-2, PR at IV-2.

[67] Table IV-1; CR at IV-2, PR at IV-2.

[68] Table IV-1; CR at IV-2, PR at IV-2.

[69] CR at III-2, PR at III-2.

[70] CR at II-2-3, PR at II-2.

[71] Table III-1; CR at III-4, PR at III-3.

million in 1995.[72] Payments received for domestic shipments were $39.8 million in interim 1996 compared with $18.9 million in interim 1995.[73]

Petitioner's data (the only U.S. EPGTC producer that estimated and submitted employment data) indicate that there were [***]. Employment, [***].[74]

The financial data indicate that the domestic producers had aggregate operating losses in every period examined.[75] Net sales values increased by about one-quarter from 1993 to 1994, resulting in increased income at the gross profit level and diminished operating and net losses. However, in 1995 when sales values returned to 1993 levels the industry incurred increased operating losses. Comparing interim 1996 to interim 1995, net sales were higher, losses at the gross profit level turned to profits, and losses at the operating level declined.[76]

Capital expenditures and research and development for the companies reporting such information [***] during the period of investigation.[77] [78]

IV. NEGLIGIBLE IMPORTS

The URAA amended the law governing preliminary antidumping duty determinations to require that investigations terminate by operation of law without an injury determination if the Commission finds that the subject imports are negligible.[79] The provision defining "negligibility", 19 U.S.C. § 1677(24), provides that imports from a subject country that are less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or self-initiation, as the case may be, shall be deemed negligible. The statute provides, however, that the Commission shall not, inter alia, treat imports as negligible if it determines that there is a potential that imports from a country will imminently account for more than 3 percent of the volume of all such merchandise imported into the United States. However, in

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[72] Table III-1; CR at III-4, PR at III-3. These data include payments received for shipments and trains in process for shipment. Id.

[73] Table III-1; CR at III-4, PR at III-3.

[74] CR at III-3, PR at III-2. The average number of production and related workers [***]. Table III-1; CR at III-4, PR at III-3.

[75] It should be noted, however, that the data reflect only the original
sale--not revamps by the firm nor sales of replacement parts, which these firms would normally factor into their consideration of these systems "profitability."

[76] CR at VI-1, PR at VI-1. Net sales increased from $132.3 million in 1993 to $168.0 million in 1994, and then declined to $134.4 million in 1995. Net sales were $39.3 million in 1996 compared with $30.5 million in 1995. Gross profit increased from $4.3 million in 1993 to $21.0 million in 1994, and became a loss of $3.8 million in 1995. Gross profit in interim 1996 was $1.1 million in interim 1996 compared with a loss of $3.1 million in interim 1995. Net losses declined from $17.7 million in 1993 to $4.3 million in 1994, and then increased to $25.4 million in 1995. Net losses were $4.5 million in interim 1996 compared with $9.6 million in 1995. Cost of goods sold as a ratio to net sales declined from 96.8 percent in 1993 to 87.5 percent in 1994, and then increased to 102.8 percent in 1995. Costs of goods sold as a ratio of net sales was 97.3 percent in interim 1996 compared with 110.0 percent in 1995. Table VI-1; CR at VI-2, PR at VI-2. There are differences between the net sales values reported and the value of shipments reported. The shipments values represent payments received for both completed systems and work-in-progress, while sales values are for completed systems only. Further, [***]. CR at VI-3, PR at 1.

[77] Table VI-4; CR at VI-12, PR at VI-3.

[78] Based on the foregoing, Chairman Rohr and Commissioner Newquist find a reasonable indication that the domestic industry is vulnerable to the continuing adverse effects of allegedly unfair imports.

[79] 19 U.S.C. § 1673b(a).

these circumstances the statute also expressly requires that such imports "be considered only for the purpose of determining threat of material injury."[80]

In this investigation, there were no imports of compressor systems from Japan during the period of investigation. There has been, however, a significant [***] sale by MHI to Kellogg for an [***] facility. Delivery of the system is expected in the near future, [***].[81] The system, when delivered, would account for [***] percent by value of total imports in 1995, and will exceed 3 percent of imports in the imminent future.[82]

We find that where, as here, there are no imports of subject merchandise in the twelve month period for which data are available that precedes the filing of the petition, the plain language of the negligibility provision of the statute precludes us from consideration of whether there is a reasonable indication that the allegedly LTFV imports are materially injuring the domestic industry.[83] We find, however, that alleged LTFV imports from Japan should be considered under 1677(24)(iv) because the system scheduled for delivery in [***] constitutes "potential imports."[84] [85] The statutory provision, however, limits the Commission's consideration of those imports to whether or not there is a reasonable indication that the domestic industry is threatened with material injury. Accordingly, we have only considered the potential imports from Japan in the context of whether there is a reasonable indication that the domestic industry is threatened with material injury by reason of allegedly LTFV imports of EPGTC systems from Japan. We therefore proceed directly to our analysis of whether there is a reasonable indication that the domestic industry producing EPGTC systems is threatened with material injury by reason of subject imports.[86]

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[80] 19 U.S.C. § 1677(24)(A)(iv).

[81] CR at IV-3, PR at IV-1.

[82] CR at IV-1, PR at IV-1; Table IV-1, CR at IV-2, PR at IV-2.

[83] Commissioner Newquist does not join this conclusion.

[84] We have considered petitioner's argument that such imports are not "potential imports" but rather "definitive future imports." We note, however, that neither the statute nor the legislative history uses the term "definitive future imports." Because the negligibility provision distinguishes between "actual" and "potential" import volumes, it is not appropriate to consider goods which have yet to be imported as "actual" imports. We also have considered petitioner's argument that the statute allows consideration of sales without importation when making a material injury determination. However, the URAA negligibility provision requires that if imports are found to be negligible, the investigation is terminated as a matter of law without a material injury determination being made. See SAA at 857. The negligibility provision is thus an exception to the general language of 19 U.S.C. § 1673 cited by petitioner.

[85] As noted above, Commissioner Crawford focuses her analysis on the point of competition, i.e., when the bid is awarded, while the negligibility provisions of the statute focus on imports. Nevertheless, the statute does not require that imports be the sole focus of a determination of threat of material injury by reason of subject imports. Rather, the statute clearly contemplates that such a determination may be based on whether "there is likely to be material injury by reason of imports (or sale for importation) of subject merchandise (whether or not it is actually being imported at the time)." See 19 U.S.C. § 1677(7)(F)(i)(IX). Consequently, Commissioner Crawford focuses on the point of competition in the near future, i.e., when future contracts will be awarded, in her determination of whether the domestic industry is threatened with material injury by reason of the subject imports.

[86] Commissioner Newquist notes that in his analytical framework, irrespective of the negligibility issue, he would proceed directly to a threat analysis by virtue of his finding that the domestic industry is "vulnerable" to the continuing adverse effects of unfair imports.

V. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS[87]

Section 771(7)(F) of the Act directs the Commission to consider whether the U.S. industry is threatened with material injury by reason of the subject imports by taking into account whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[88] The Commission may not make such a determination "on the basis of mere conjecture or supposition,"[89] and considers the threat factors "as a whole" in determining "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued. . .".[90] In making our determination, we have considered all statutory factors[91] that are relevant to this investigation.[92]

For the reasons discussed below, we find there is a reasonable indication that the domestic industry producing EPGTC systems is threatened with material injury by reason of the allegedly LTFV imports from Japan.

EPGTC systems were not imported from Japan between 1993 and 1995. However, in 1995, MHI won a contract for three EPGTC systems for an [***] plant, which accounted for a significant -- [***], by value, of all U.S. purchases, and [***], by value, of all imports in 1995.[93] Additionally, MHI submitted bids on [***] U.S. projects in the United States in 1995, winning [***] and losing [***]. [***] are still pending, and another bidding process has been interrupted by the plant owner's change of contracting firms.[94] The imminent arrival of the [***] system, coupled with MHI's active bidding for U.S. sales

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[87] As part of its consideration of the impact of imports, the statute specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V). The SAA indicates that the amendment "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive of the Commission's material injury analysis." SAA at 180. The statute defines the "magnitude of the margin of dumping" to be used by the Commission in a preliminary determination as "the dumping margin or margins published by the administering authority [Commerce] in its notice of initiation of the investigation." 19 U.S.C. § 1677(35)(C). The estimated dumping margin identified by the Commerce Department in its notice of initiation of this investigation is 90.05 percent. 61 Fed. Reg. 28105 (June 4, 1996).

[88] 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

[89] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280. See also Calabrian Corp. v. United States, 794 F. Supp. 377, 387 and 388 (Ct. Int'l Trade 1992)(citing, H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

[90] While the language referring to imports being imminent (instead of "actual injury" being imminent and the threat being "real") is a change from the prior provision, the SAA indicates the "new language is fully consistent with the Commission's practice, the existing statutory language, and judicial precedent interpreting the statute." SAA at 184.

[91] The statutory factors have been amended to track more closely the language concerning threat of material injury determinations in the Antidumping and Subsidies Agreements, although "[n]o substantive change in Commission threat analysis is required." SAA at 185.

[92] 19 U.S.C. § 1677(7)(F)(i). Factor I regarding consideration of the nature of the subsidies alleged is inapplicable because there have not been any subsidies alleged. Factor VII regarding raw and processed agriculture products is also inapplicable to the products at issue. Moreover, there are no outstanding dumping findings in third countries which were relevant to the Commission's consideration in this investigation. See 19 U.S.C. § 1677(7)(F)(iii)(I).

[93] CR at IV-1, PR at IV-1; Table IV-1, CR at IV-2, PR at IV-2.

[94] CR at VII-1, PR at VII-1.

indicates the likelihood of a significant rate of increase in the volume and market penetration of imports in the near future, as well as the likelihood of substantially increased imports.[95] [96]

There is also evidence that imports of the subject merchandise will enter at prices likely to have a significant depressing or suppressing effect on domestic prices. As noted above, because of the highly technical nature of the systems, system providers are selective in their contract proposals, and contractors are equally selective in their solicitations.[97] However, once EPGTC producers bid on a project in which there is a "technical fit", the evidence suggests that price is a significant factor in a purchaser's decision to choose among systems that meet the performance specifications. Thus, there is price competition during the bidding process.

A major lost sale and lost revenue allegation in this investigation centers around a contract which was awarded to MHI for an [***]. [***] domestic producers, [***] allege that this sale was lost due to the lower price of the allegedly LTFV EPGTC system. According to the engineering contractor and the purchaser, [***] of the contract. [***] did indicate, [***], that one of the reasons for choosing [***]. While the record seems to indicate that [***] lost the [***] contract [***],[98] it is unclear on the present record whether [***] from the allegedly LTFV imports. We intend to investigate the nature of the [***] lost sale allegation further in any final investigation.[99] [100]

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[95] Commissioner Newquist additionally notes that, given the nature of the bidding process and MHI's well-documented and aggressive presence in the market, an invitation to MHI to bid on a project may adversely affect the domestic industry's pricing strategies.

[96] Commissioner Crawford does not join the remainder of the discussion. As noted above, Commissioner Crawford focuses her analysis of whether the domestic industry is threatened with material injury by reason of subject imports on the point of competition, i.e., when the contract is, or will be, awarded. She evaluates whether the domestic industry will be materially better off if subject imports are not dumped. In doing so, she evaluates whether it is likely that the allegedly dumped subject imports will capture [***], or [***], of the outstanding contracts. Commissioner Crawford then evaluates whether it is likely that subject imports would not capture [***] or [***] of the outstanding contracts if the bids were made at fairly traded prices. She then compares the likely state of the domestic industry when the bids are made at dumped prices, with what the state of the domestic industry will likely be if the bids had been made at non-dumped prices. If the domestic industry will likely be materially better off if the bids had been made at non-dumped prices, she finds that there is a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports.

In this investigation, MHI has bid on [***] contracts that are scheduled to be awarded in the near future. MHI is a [***] contracts and thus its systems are highly substitutable for other suppliers' systems. The estimated dumping margin is 90.05 percent, and thus at fairly traded prices, MHI's bids likely would have been made at significantly higher prices. At fairly traded prices, it is likely that the demand will shift away from subject imports to alternative suppliers. For one contract, it is unclear whether the domestic industry would have bid even had the subject imports bids been made at fairly traded prices. For [***], however, the domestic industry is the only alternative supplier, and thus demand likely will shift to the domestic industry if subject imports are priced fairly. The value of this contract is significant. Thus, it is likely that the domestic industry will increase significantly its output and sales if it is awarded this contract. Therefore, it is likely that the domestic industry will be materially better off if subject imports are sold at fairly traded prices. Consequently, Commissioner Crawford finds that there is a reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports.

[97] CR at VII-1, PR at VII-1.

[98] CR at V-10-11, PR at V-4.

[99] Commissioner Nuzum notes that the 90.05 percent margin of dumping set forth in Commerce's notice of initiation far exceeds the magnitude by which the subject EPGTC system underbid the domestic like products in the single sale won by the Japanese respondent in 1995. Table V-1; CR at V-5, PR at V-3. This suggests that, had the Japanese EPGTC system been priced at fair value, it would not have underbid the domestic like product for this sale. Given the evidence that price plays an important role in the awarding of a contract for an EPGTC system, dumping

In addition to the [***] contract, there is other evidence in the record that the allegedly LTFV imports depressed or suppressed domestic prices during contract negotiations. In the case of a project for [***], the evidence indicates that [***] was awarded the contract only when it offered to meet MHI's price, which was [***] lower than [***] initial bid.[101] Additionally, in the case of a contract for the [***] project, [***].[102] The available evidence indicates that [***].[103] Finally, we note that Dresser-Rand has decided not to bid on a project for [***], allegedly because it did not feel that it could compete with the prices of the allegedly LTFV imports.[104] [105] Thus, there is evidence that demand for further imports is likely to increase. We further find evidence of existing unused capacity in the exporting country. Because of the nature of the production process for this product, it is difficult to obtain reliable data concerning capacity to produce the subject merchandise.[106] Respondent, however, continued to aggressively bid for new contracts in the United States during the period of investigation indicating that there is sufficient foreign capacity to increase shipments of the subject merchandise to the United States. There was only one reported instance where [***].[107] Additionally, we note that [***], has recently bid on the [***] project.[108]

Inventories of the subject merchandise are not maintained because the EPGTC systems are made to order. While MHI produces more than one type of product in its facilities, there is no evidence of any significant potential for product shifting once resources have been committed to a specific project.

Finally, the data collected during the investigation indicate that the domestic EPGTC industry has not been performing well during the period of investigation. The effect of the [***] lost sale will also continue to have an adverse impact on the financial condition of the domestic industry.[109] Further, [***] stated that it had reduced [***], and [***] due to the allegedly LTFV imports.[110] Based on the combination of the probable rise in subject import volumes and market share, and the evidence of intensifying downward price pressure from subject imports, we find that subject imports are likely to have

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of the magnitude alleged here appears to have had a direct impact on the ability of the Japanese respondent to compete against domestic producers.

[100] Commissioner Watson finds that as the petitioner points out, a 90 percent dumping margin is substantial in comparison to the degree of underselling or underbidding and the sales prices for turbo-compressor systems. Petitioner's Postconference Brief at 38. Even if [***], one cannot reasonably conclude on the basis of this record that respondent's EPGTCs are not likely to enter at prices that will depress U.S. prices. Moreover, the [***] contract will be so substantial a part of the market in the near future that the likely impact of the alleged dumping on this contract alone indicates a reasonable indication of threat of material injury to the U.S. industry. The probable impact of the alleged dumping of the subject imports on other contracts only adds to its probable impact on the total EPGTC market.

[101] Table V-1; CR at V-5, PR at V-3. There is some dispute in the record as to whether [***] had been awarded the contract prior to the engineering contractor inviting MHI to bid on the contract. The engineering contractor, [***]. CR at V-12, PR at V-4.

[102] CR at V-8, PR at V-3.

[103] Table V-1; CR at V-5, PR at V-3.

[104] CR at V-12, PR at V-4. Respondent indicated that [***]. Id.

[105] Commissioner Watson is interested in obtaining information in any final investigation on the extent to which contracts are binding in the event that antidumping duties are imposed.

[106] [***]. CR at II-5, PR at II-3.

[107] CR at V-4, n.9, PR at V-3, n.9.

[108] [***]. CR at V-9, n.16, PR at V-3, n.16.

[109] Progress payments are generally required once a contract is accepted. CR at III-2-3, PR at III-2.

[110] CR at VI-13, PR at VI-3.

a significant adverse impact on the condition of the domestic industry, and that these factors provide a reasonable indication that the imminent LTFV imports pose a threat of material injury.[111]

CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry producing engineered process gas turbo-compressor systems, whether assembled or unassembled, and whether complete or incomplete, is threatened with material injury by reason of allegedly LTFV imports from Japan.

[111] We have considered the present condition of the domestic industry as among the "relevant economic factors" in our threat analysis.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed on May 8, 1996, by Dresser-Rand Company, Corning NY,[1] alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of engineered process gas turbo-compressor systems[2] from Japan. Information relating to the background of the investigation is provided below.[3]

Date	*Action*
May 8, 1996	Petition filed with Commerce and the Commission;[4] institution of Commission investigation (61 FR 24952, May 17, 1996)
May 29	Commission's conference[5]
June 4	Commerce's notice of initiation (61 FR 28164, June 4, 1996)
June 24	Commission's vote
June 24	Commission determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in this investigation is presented in table I-1. Except as noted, U.S. industry data are based on questionnaire responses of four firms that accounted for all U.S. production of EPGTC systems during the period for which data were collected (January 1993-March 1996). Purchases from foreign sources and imports are based on information supplied by U.S. purchasers, importers, and producers and are believed to account for 100 percent of the subject systems sourced outside the United States.

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[1] The United Steelworkers of America (USW), Pittsburgh, PA, which represents the production workers at the petitioner's and two other U.S. producers' facilities, filed a letter with the Commission and the U.S. Department of Commerce on May 24, 1996, indicating that it supports the petition and joins Dresser-Rand as a co-petitioner.

[2] Engineered process gas turbo-compressor (EPGTC) systems, as defined by Commerce's scope, are functional units comprised of variously configured compressors, steam turbines or motors to drive the compressors, and auxiliary control and lubrication systems, whether assembled or unassembled, engineered for use in process gas production, i.e., in the production of ethylene, propylene, ammonia, urea, or methanol. The scope also includes any spare parts that are included in the original sale. It does not include any parts sold separately from the original system. For a listing and discussion of tariff classifications for these systems, please refer to Commerce's notice of institution in app. A. The most-favored-nation (column 1-general) tariff rates for the subheadings most applicable to these systems in their entirety are 2 percent and 2.5 percent *ad valorem*.

[3] *Federal Register* notices cited in the tabulation are presented in app. A.

[4] The alleged LTFV margin (as revised by Commerce) is 90.05 percent, based on ***'s purchase of 3 systems from Mitsubishi Heavy Industries, Ltd. (MHI), Tokyo, Japan, in 1995.

[5] A list of witnesses appearing at the conference is presented in app. B.

Table I-1
EPGTC systems: Summary data concerning the U.S. market, 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

(Quantity= units, value=1,000 dollars, period changes=percent, except where noted)

Item	Reported data			Jan.-Mar.		Period changes			Jan.-Mar.
	1993	1994	1995	1995	1996	1993-95	1993-94	1994-95	1995-96
U.S. purchases:									
Quantity	21	30	32	4	9	52.4	42.9	6.7	125.0
U.S. producers' share (1)	85.7	83.3	81.3	100.0	100.0	-4.5	-2.4	-2.1	0.0
Foreign producers' share (1):									
Japan	0.0	0.0	9.4	0.0	0.0	9.4	0.0	9.4	0.0
All other sources	14.3	16.7	9.4	0.0	0.0	-4.9	2.4	-7.3	0.0
Total	14.3	16.7	18.8	0.0	0.0	4.5	2.4	2.1	0.0
Value	48,126	57,953	86,139	9,873	24,318	79.0	20.4	48.6	146.3
U.S. producers' share (1)	86.4	83.3	71.3	100.0	100.0	-15.1	-3.1	-11.9	0.0
Foreign producers' share (1):									
Japan	0.0	0.0	***	0.0	0.0	***	0.0	***	0.0
All other sources	13.6	16.7	***	0.0	0.0	***	3.1	***	0.0
Total	13.6	16.7	28.7	0.0	0.0	15.1	3.1	11.9	0.0
U.S. purchases from foreign producers:									
Japan:									
Quantity	0	0	3	0	0	(2)	(2)	(2)	(2)
Value	0	0	***	0	0	***	(2)	***	(2)
All other sources:									
Quantity	3	5	3	0	0	0.0	66.7	-40.0	(2)
Value	6,550	9,696	***	0	0	***	48.0	***	(2)
Total:									
Quantity	3	5	6	0	0	100.0	66.7	20.0	(2)
Value	6,550	9,696	24,700	0	0	277.1	48.0	154.7	(2)
U.S. producers:									
U.S. purchases from U.S. producers:									
Quantity	18	25	26	4	9	44.4	38.9	4.0	125.0
Value	41,576	48,257	61,439	9,873	24,318	47.8	16.1	27.3	146.3
U.S. shipments	13	28	24	4	8	84.6	115.4	-14.3	100.0
Payments received for U.S. shipments and in process for U.S. shipment	39,423	56,843	70,252	18,855	39,779	78.2	44.2	23.6	111.0
Exports	33	34	31	5	10	-6.1	3.0	-8.8	100.0
Payments received for exports and in process for export	95,927	113,601	140,750	30,345	76,698	46.7	18.4	23.9	152.8
Total shipments	46	62	55	9	18	19.6	34.8	-11.3	100.0
Total payments received	135,350	170,444	211,002	49,200	116,477	55.9	25.9	23.8	136.7
Production workers									
Hours worked (1,000s)									
Wages paid ($1,000)	*	*		*	*		*	*		*
Hourly wages									
Net sales:									
Quantity	19	33	29	5	9	52.6	73.7	-12.1	80.0
Value	132,288	168,032	134,400	30,509	39,331	1.6	27.0	-20.0	28.9
Cost of goods sold (COGS)	128,018	146,996	138,161	33,575	38,252	7.9	14.8	-6.0	13.9
Gross profit or (loss)	4,270	21,036	(3,761)	(3,066)	1,079	(3)	392.6	(3)	(3)
SG&A expenses	22,907	25,848	21,930	6,307	5,599	-4.3	12.8	-15.2	-11.9
Operating income or (loss)	(18,637)	(4,812)	(25,691)	(9,373)	(4,480)	-37.8	74.2	-433.9	52.2
Capital expenditures	*	*		*	*		*	*		*
COGS/sales (1)	96.8	87.5	102.8	110.0	97.3	6.0	-9.3	15.3	-12.8
Operating income or (loss)/sales (1)	(14.1)	(2.9)	(19.1)	(30.7)	(11.4)	-5.0	11.2	-16.3	19.3

1 "Reported data" are in percent and "period changes" are in percentage points.
2 Not applicable.
3 Not meaningful.

Note:-- Employment data are for Dresser-Rand only.

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

THE PRODUCT

EPGTC systems are integral components in the production, both directly and indirectly,[6] of ethylene, propylene, ammonia, urea, and methanol--widely traded chemical products that are heavily consumed for a variety of purposes worldwide. In the production stream for these products, compression is needed at some points to remove unwanted substances and at other points to temporarily refrigerate certain substances that loop in and out of the process. EPGTC systems provide the necessary pressure. These systems, or "trains" as they are known in the industry, are large in scale and consist of at least one compressor (sometimes two or more are in the same train), a driver (a steam turbine or motor to run the compressor(s)), and auxiliary components (chiefly a lubrication system and electronic control system), which are custom engineered to the specific parameters and needs of the plant producing the chemical product. The plants incorporating EPGTC systems are capital intensive and individually unique in many respects, often incorporating proprietary and patented phases in their respective processes. As an integral component, the EPGTC system must be tailored to maximize the plant's overall efficiency. Each train is specific to the plant for which it was built, and each of the major components, with the exception of the motor if a relatively small motor drive is used, is specific to the train. Steam turbines are most often used to drive these systems because the plants they are built for already generate steam in the course of producing the chemicals, thus providing a built-in power source.

In the face of competition for sales of these heavily traded chemicals, plant operators continually seek to reduce their costs of production by constructing new plants and upgrading and expanding old ones. They generally engage independent contractors for this purpose, who in turn contract for the design and building of the required EPGTC systems by soliciting for competitive bids, identifying the particular operating needs and constraints of its plant in the solicitation. (EPGTC systems typically represent 10-15 percent of the total cost of the plant, although their relative cost is disproportionate to their economic value because of their critical contribution to the plant's efficiency). The design must take into account such variables as the feedstock for making the chemical (ethylene, for example, can be made from ethane, propane, butane, and gas oil), the necessary input and output pressures, horsepower requirements, the temperature and pressure of the steam, and a host of other factors particular to the plant. Usually, only selected system providers are invited to bid, based on the specific needs of the plant and the contractor's assessment of the producer's ability to meet those needs. System providers are equally selective in making bids, factoring in the system's technical demands with their own expertise, delivery requirements, resource limitations, order backlogs, and other considerations. From the purchaser's point of view, price is not as important as the proposed system's compatibility with its production process--the savings to the plant provided by a more compatibly-designed EPGTC system can more than offset any unfavorable price differential. This does not mean, however, that price is of no consideration--just that the purchaser's assessment of the provider's ability to meet its technical requirements is paramount, particularly at the initial stages of bidding. The process can be long and complex, as is the eventual making of the system. The winner of the contract, or system provider (usually chosen by the plant operator on the basis of the contractor's recommendation), generally requires from 1 to 2 years to engineer, build, and deliver the system (or systems--users may contract providers for more than one train and/or may contract different providers for different trains at the same time). In building the system(s) the system provider may subcontract to unrelated firms the engineering and building of certain major components, depending on its production capabilities, the nature of the contract and system to be built, and other considerations. Before delivery, the system provider completely assembles the system for testing, then disassembles it for ease of shipment, and finally reassembles it at the user's site. Included with the system (and generally provided

[6] Directly, by being components of plants producing ethylene, propylene, ammonia, urea, and methanol; indirectly, by being components of oil refineries producing as by-products feedstocks for these chemicals.

for in the contract) are certain spare parts to facilitate the speed of repairs in the event of any unexpected breakdowns or malfunctions within a specified period (usually 2 years).

Only one other type of large-scale compressor system is individually engineered to users' needs. It also has petrochemical applications, but is made for even more upstream types of products (mainly crude oil and natural gas), serves to transport and store these products rather than produce them, and, because of the availability of gas fuels at these sites, utilizes gas-driven turbines instead of steam turbines or motors. Like EPGTC systems, they are made to order under contract and require significant time and investment to design, build, and deliver. Their different product applications and function, however, require different design considerations. Unlike EPGTC systems they are not integral components in a production process: they serve only to transport or store products--in most cases oil and natural gas--by pushing them through pipelines or pressuring them into liquids for storage. Their design, therefore, need not take into account their integration into a larger "operational" system--they are the only operational systems at the point of installation. Virtually all other common compressor systems, both large and small, are made to standard specifications and, while sometimes built to order, need not be individually designed around the specific parameters of the user.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

MARKETING CONSIDERATIONS

The industry which produces EPGTC systems is global in scope and comprised of a small number of large firms. Leaders in the industry include Dresser-Rand, Demag Delaval, Nuovo Pignone, Elliott, Sulzer, and MHI. Two responding U.S. producers listed MHI and Nuovo Pignone as price leaders. The other companies were said to be leaders in product line, technology, and/or experience. *** listed the same companies as leaders, and cited operating efficiency, research and development, aftermarket service, and staying current with new developments as factors contributing to their position as leaders in the market.

EPGTC systems in the United States are primarily sold by U.S. producers and importers to engineering construction firms which incorporate the systems in new process gas plants or expansion projects. The engineering construction firm solicits bids for the EPGTC system from qualified suppliers either while preparing its bid for or after being awarded a contract for a gas process plant. The respondent estimates that *** percent of contracts for the construction of these plants are fixed-price contracts, with the balance made on a "cost-plus" basis.[1] The petitioner claims that approximately one-half of all contracts are fixed-price between the end user and the plant engineering firm.[2] The engineering construction firm may solicit competitive bids from suppliers of EPGTC systems, or may contract on a sole-source basis with a particular supplier. If the ultimate purchaser of the system, the plant owner, awards a fixed-price contract for the construction of the plant, he is not involved in price negotiations on individual components such as the EPGTC system. ***, an engineering construction firm which purchases EPGTC systems, reports that there is generally a clause in contracts which allows the contractor to raise the price of a lump-sum contract if the plant owner does not choose the lowest-priced, qualified supplier. ***, another engineering construction firm, indicates that although the contract usually does not have a specific clause included, negotiations operate such that if the contractor selects the lowest cost supplier from the group of qualified suppliers and the plant owner chooses another, the plant owner may be forced to increase his payment in order to change.[3] The lead time between the award of a contract and delivery of the equipment will typically be between 1 year and 18 months, and progress payments are usually required.[4]

The EPGTC system typically comprises less than 15 percent of the cost of the plant,[5] but is crucial in the operations of the plant. Therefore, the plant owner often retains control over the selection of the EPGTC system manufacturer. The plant owner will either review the technical proposals of suppliers and allow the engineering construction firm to make the final decision from a list of vendors that are determined to be qualified, or will reserve the right to select the supplier of the EPGTC system.

If a bid is tendered, the EPGTC system manufacturer must submit a detailed technical proposal that meets the specifications outlined in the request for proposal. It is common practice for the manufacturer of the EPGTC system to take exception to certain specifications contained in the request for proposal. These exceptions are part of the negotiation process and the plant owner may either accept them or insist that the specific technical requirements be met in order for the proposal to be accepted. The preparation of bids is an involved process and costs to prepare an individual bid can range from a few

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[1] Respondent's post-conference brief, app. B, pp. 19-20.
[2] Petitioner's post-conference brief, p. 45.
[3] Conversations with *** and *** on June 6 and June 7, 1996, respectively.
[4] Conference transcript, p. 31.
[5] Ibid., p. 86.

thousand dollars to $100,000.[6] Therefore, system providers carefully assess their potential for securing a contract before investing in bid preparation. All four domestic producers and MHI/MIC[7] reported that they will sometimes decline to bid on a particular job. Factors reported to influence this decision include lack of a technical fit, competitors having a material advantage due to previously installed machinery in the plant, project specifications that can be readily met by lower cost and less technically competent suppliers, current shop load, and resource limitations. In addition, purchasers of EPGTC systems may exclude a supplier from the bid process due to lack of experience, preference for a particular country of origin, poor equipment fit, or technical limitations.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on the available information, staff believes that U.S. producers of EPGTC systems are likely to respond to changes in demand in the U.S. market with changes in shipments of U.S.-produced EPGTC systems to the U.S. market, and smaller changes in prices. Factors contributing to the responsiveness of supply include pricing policies based on cost-plus methods, the availability of production alternatives, and the availability of export markets. One factor which limits the responsiveness of supply is that EPGTC manufacturers need to maintain a variety of capital intensive production facilities which are associated with high fixed costs in order to produce the product. Hence a certain production volume is required in order to exceed these fixed costs and secure a profitable operation.[8]

Capacity in the U.S. industry

For a discussion of capacity in the U.S. industry, see the section in part III entitled "U.S. Production, Capacity, Capacity Utilization, Shipments, Inventories, and Employment".

Production Alternatives

All of the responding domestic producers reported producing a variety of other products using the same equipment, machinery, and workers which are used to produce EPGTC systems. Other products include steam turbines, pipeline compressors, axial compressors, electric motors, and hot gas expanders.

Inventory levels

Since EPGTC systems are custom designed for each project, no inventories are maintained.

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[6] Ibid., p. 64.

[7] Mitsubuishi International Corporation (MIC), a company not related to MHI, serves as MHI's sales representative in the United States. All bids within the United States are prepared by MIC.

[8] Conference transcript, p. 33.

Export markets

The market for EPGTC systems is global in scope. All U.S. producers export a significant percentage of their production. Dresser-Rand's domestic shipments were less than half of its total sales during the period 1993 through 1995.[9] Sales in North America represent only about one-fourth of EPGTC sales worldwide. The largest market is the Asia-Pacific market, with one-third of all sales in 1995. Other large emerging markets include China, Russia, and the former Soviet republics, and India.[10] In the Asia-Pacific region, petrochemical producers are planning to build a number of new, world-scale ethylene plants, in addition to upgrading and expanding existing facilities, and capacity is predicted to more than double by the year 2000.[11] World urea capacity is expected to grow by more than 15 percent for the 1993 to 1998 period, with most of the new capacity to be built in the developing countries of Asia.[12] Global capacity for the production of ammonia is expected to increase by 1.2 percent per year through 1998, with capacity increases occurring in Asia and the Middle-East.[13] Dresser-Rand claims that opportunities to expand into export markets are limited by global competition from MHI which has already caused it to lose sales and reduce prices.[14]

Subject Imports - Export Markets and Capacity Utilization

For MHI, sales are global, and less than 7 percent of its total sales are to the United States.[15] The petitioner claims that MHI's claims of high capacity utilization "rather than demonstrating real constraints on capacity, reflect the basis on which total capacity is calculated," noting that capacity may be rated on the basis of less than three shifts, etc. In addition, the petitioner claims that capacity restraints at MHI are due not to physical limitations, but pricing strategies which delay the production process.[16] According to the respondent, MHI is operating at high capacity utilization and not expanding capacity.[17] ***.

U.S. Demand

Based on available information, staff believes that demand for EPGTC systems will not change significantly with changes in their price. The main factors limiting the price sensitivity of overall demand for EPGTC systems are the lack of substitute products, the necessity of EPGTC systems in the production of process gasses, and the small cost share accounted for by EPGTC systems in the construction of a process gas plant.

Worldwide demand for EPGTC systems increased over the period of investigation and is rising sharply both worldwide and in the U.S. market.[18] In the U.S. market, U.S. ethylene manufacturing capacity increased and environmental pressures to reduce pollution led to increased capital expenditures by process gas manufacturers. Demand for the systems was stimulated by increased worldwide demand

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[9] Ibid., pp. 27-28.
[10] Ibid., pp. 22-23.
[11] "Asia/Pacific Ethylene Capacity to More than Double by 2000," *Oil & Gas Journal*, May 8, 1995, pp. 50-51.
[12] Chemical Economics Handbook - SRI International, May 1995, p. 758.8000 F.
[13] Ibid., Sept. 1995, p. 756.6000 N.
[14] Conference transcript, p. 28.
[15] Ibid., p. 83.
[16] Petitioner's post-conference brief, pp. 40-41.
[17] Conference transcript, p. 94.
[18] Ibid., p. 81.

for fertilizers (ammonia and urea) and plastics (which use ethylene and polyethylene as inputs) that require EPGTC systems in the production process.

Downstream products of EPGTC systems include ethylene, propylene, ammonia, urea, and methane. Global consumption of ethylene and propylene are forecast to grow at an annual rate of 4.9 and 5.4 percent, respectively, through the year 2000.[19] The demand for ethylene and propylene is cyclical with gross domestic product.[20] Ethylene derivatives capacity is greater then ethylene capacity by several billion pounds.[21] In order to meet demand, analysts estimate that a new, world-scale ethylene plant will be needed every year.[22] Global annual growth in ethylene capacity is forecast to be 5.1 percent through 2000 and U.S. producers have announced plans to add 5.9 million metric tons per year to existing capacity by the year 2000.[23] Forecasted growth in U.S. production of propylene through 1997 ranges from 2.5 to 3 percent annually.[24] Global propylene capacity is forecast to grow by at least 20 million tons over the period 1995 to 2000, with the majority of the new capacity derived from steam cracking, in which propylene is co-produced with ethylene.[25]

Demand for ammonia and urea as fertilizers is growing as crop acreage increases and the need for fertilizer increases for soil where nutrients are washed away by rain and flooding. In addition, demand for ammonia in industrial applications is strong. Future growth in both ammonia and urea is expected to be 4 percent annually through 1998, while growth from 1984 through 1993 was only 2 percent.[26,27] However, capacity for the production of urea is not expected to expand in the United States, and U.S. capacity for the production of ammonia is expected to decline through 1998.[28,29]

Substitute Products

There are no substitute products for EPGTC systems. Each EPGTC system is individually designed to meet the technical requirements of a particular manufacturer of process gasses and the system is required for the production of process gasses.

Cost Share

EPGTC systems are used in plants to produce process gasses such as ethylene and ammonia. The cost of the system relative to the total cost of the plant is estimated to be less than 15 percent.[30]

Factors Affecting Purchasing Decisions

The engineering construction company and/or plant owner evaluate several factors when considering a proposal for an EPGTC system. In fact, since the plant owner often accepts a proposal for an entire plant on a fixed-price basis, the price of an individual component such as the EPGTC system is

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[19] "World Ethylene Capacity Increased Marginally in 1995," *Oil and Gas Journal*, May 13, 1996, pp. 50, 54.
[20] Chemical Economics Handbook - SRI International, June 1995, p. 432.0000 H.
[21] "Strong Outlook for Ethylene Despite Current Weakness," *Chemical Week*, July 19, 1995, p. 12.
[22] "Huntsman Joins Cracker Race as Ethylene Demand Stays Strong," *Chemical Week*, June 7, 1995, p. 18.
[23] "World Ethylene Capacity Increased Marginally in 1995," *Oil & Gas Journal*, May 13, 1996, pp. 49-50.
[24] Chemical Economics Handbook - SRI International, Aug. 1993, p. 436.0003 B.
[25] "Ethylene, Propylene to Grow at Same Rate through 2000," *Chemical Marketing Reporter*, Feb. 6, 1995, p. 12.
[26] "Chemical Profile: Urea," *Chemical Marketing Reporter*, Sept. 12, 1994, pp. 41, 12.
[27] "Chemical Profile: Ammonia," *Chemical Marketing Reporter*, Sept. 19, 1994, pp. 37,14.
[28] Chemical Economics Handbook -SRI International, May 1995, p. 758.8000 L.
[29] Ibid., Sept. 1995, p. 756.6000 N.
[30] Conference transcript, p. 86.

not of primary concern. Technical factors are the most important since the EPGTC system will be integral in the production process for which the plant is being built. Efficiency is among those technical factors to be evaluated as a more efficient system will lower operating costs and be more desirable than a less efficient system. Also, if a plant owner currently uses EPGTC systems from a given supplier, it is more cost effective to use the same machinery in an expansion so that components and spare parts are interchangeable.[31] Risk is also reduced as the reliability of the system is proven, and the workers are familiar with the maintenance and operation of the system.[32]

[31] Respondent's post-conference brief, p. 31.
[32] Ibid., p. 41.

PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report, and information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V. Information on the other factors specified is presented in this section and/or part VI and (except as noted) is based on the questionnaire responses of four firms that accounted for all U.S. production of EPGTC systems during the period for which data were collected.

U.S. PRODUCERS

In addition to the petitioner, three other firms produced EPGTC systems in the United States during the investigative period--Elliott Turbomachinery Co., Inc., Jeannette, PA; Demag Delaval Turbomachinery Corp., Trenton, NJ (formerly Delaval Turbomachinery Corp.); and A-C Compressor Corp., Appleton, WI.[1] Dresser-Rand, Elliott, and Demag Delaval--along with Mitsubishi Heavy Industries, Inc. (MHI), of Japan, Mannesman Demag GmbH (Demag) of Germany, and Nuovo Pignone of Italy (in partnership with General Electric Corp.)--are frequently cited as being leading producers worldwide. None of the U.S. producers dominates the U.S. market, although A-C Compressor considers itself a niche-market producer and only produces the system's compressor, preferring to subcontract the manufacture of the system's other components. The other U.S. producers have the capability to manufacture the major components themselves, but often prefer to subcontract some or all of these components as well. Indeed, it is not uncommon for producers to source major components from each other. (Major producers of turbines in the United States other than the system producers include General Electric and Siemans, which, along with Westinghouse, also produce motors for these systems). Typically, the major components--compressor, driver, lube systems, and control systems--and other parts are produced in separate plants at different locations throughout the United States. Once produced, however, they are shipped to, assembled, and tested at one location before delivery. The plants' production capabilities are shared with gas turbo-compressor systems and a variety of other types of compressors, turbines, and related equipment.

None of the U.S. producers imports EPGTC systems, although components are imported from time to time and three firms are affiliated with overseas producers. Dresser-Rand is affiliated with Dresser-Rand, S.A., a producer in Le Havre, France, through their common parent, Dresser Industries, Inc., Dallas, TX;[2] Elliott is affiliated with a producer in Japan, Ebara Corporation, and with a producer in Germany, Man GuteHuffnangghuette, AG (GHH) (each of which owns *** percent of Elliott); and Demag Delaval has been affiliated with Demag since January 1995 through their common parent, Mannesmann Capital Corp., New York, NY. Elliott's affiliation with Ebara includes a reciprocal licensing arrangement that restricts Ebara from providing systems to the U.S. market and Elliot from providing systems to the Asian market.[3]

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[1] ***.

[2] Dresser-Rand is similarly affiliated with Kellogg, which, as noted previously, is an engineering contractor for the building and renewing of petrochemical plants and the acquisition of EPGTC systems therefor. Notwithstanding their common parent, Dresser-Rand and Kellogg are believed to operate independently of each other in the market.

[3] Dresser-Rand and MHI entered into a similar joint venture agreement in August 1990. ***. ***, the agreement was terminated by mutual consent in February 1994, ***.

U.S. PRODUCTION, CAPACITY, CAPACITY UTILIZATION, SHIPMENTS, INVENTORIES, AND EMPLOYMENT

Several unusual features of the EPGTC industry qualify the applicability of many of the Commission's statutory criteria for injury. The unique design and production demands for each train and the wide variation in time and resources devoted to these preclude any meaningful assessment of the industry's capacity. Production, moreover, is misleading in the usual context because its completion time varies widely from system to system, generally requiring over a year, and for any chosen period a number of additional EPGTC systems are in various stages of completion. Unlike production, shipments of the systems are readily quantifiable for any specific period; however, any consideration of the value of shipments need take into account work in process because payments are received for the system throughout the course of its production. As with other made-to-order products, no inventories are maintained. Employment is a somewhat artificial construct when applied strictly to EPGTC systems because of the multi-product nature of the production facilities, the separate plant locations for components, and the interchangeability of the workers. Indeed, only one producer, the petitioner, attempted to allocate workers and hours worked to the production of the subject product. Employment data, such as they are, and other data relevant to U.S. producers' operations are shown in table III-1.

The data show that from 1993 to Jan.-Mar. 1996 78 trains were purchased from U.S. producers for installation in the United States. The value of these trains, based on their production contracts, rose markedly during the period, particularly from Jan.-Mar. 1995 to Jan.-Mar. 1996, when the number and value of trains purchased more than doubled. Shipments of U.S.-produced trains--to both U.S. and foreign users--also increased markedly. Thirty-five, or 48 percent, more trains were exported than were shipped in the United States, reflecting U.S. producers' global participation in the market. All four U.S. producers shared in the increases. The data, however, do not show corresponding increases in employment--at least for Dresser-Rand, the only producer to estimate and submit such data. On the contrary, the data show marked declines from 1993 to 1995 in the average number of workers and corresponding hours worked. The decline reflects ***.

Table III-1
EPGTC systems: U.S. purchases from U.S. producers, U.S. shipments, exports, average number of U.S. production and related workers, and hours worked by and wages paid to such workers, 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

Item	1993	1994	1995	Jan.-Mar.-- 1995	1996
U.S. purchases from U.S. producers:					
Quantity *(trains)*	18	25	26	4	9
Value[1] *(1,000 dollars)*	41,576	48,257	61,439	9,873	24,318
Domestic shipments:					
Quantity *(trains)*	13	28	24	4	8
Payments received[2] *(1,000 dollars)*	39,423	56,843	70,252	18,855	39,779
Exports:					
Quantity *(trains)*	33	34	31	5	10
Payments received[2] *(1,000 dollars)*	95,927	113,601	140,750	30,345	76,698
Total shipments:					
Quantity *(trains)*	46	62	55	9	18
Payments received[2] *(1,000 dollars)*	135,350	170,444	211,002	49,200	116,477
Average number of production and related workers[3]	***	***	***	***	***
Hours worked by production and related workers[3] *(1,000 hours)*	***	***	***	***	***
Wages paid to production and related workers[3] *(1,000 dollars)*	***	***	***	***	***
Hourly compensation paid to production and related workers[3]	***	***	***	***	***

[1] Contract value.
[2] Payments received for shipments and trains in process for shipment.
[3] Employment data are for Dresser-Rand only.

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

PART IV: U.S. PURCHASES FROM FOREIGN PRODUCERS, TOTAL U.S. PURCHASES, AND MARKET SHARES

As indicated previously, the period of time between the awarding of a contract for an EPGTC system and its delivery is generally between 1 and 2 years. Because the industry's prices, investment decisions, and lost sale and revenue considerations are based on the time of contractual commitment rather than the time of delivery, contractual commitments, i.e. purchases, are used here as a basis for U.S. consumption rather than actual deliveries (shipments) by U.S. and foreign producers.

Japan, Germany, Switzerland, and Italy are the only known sources of EPGTC systems that have bid for U.S. projects. The data show that since 1992 a total of 14 trains valued (contractually) at $40.9 million were awarded under contract to foreign producers (table IV-1). Of these, three, valued at $*** million, were awarded to MHI under a single contract in 1995. This contract, for an ethylene plant owned by *** in ***, was negotiated by ***, ***'s plant contractor. (It should be noted that components valued at $*** million, or *** percent of this contract, will be sourced in the United States and the United Kingdom). As shown in table IV-1, this contract represents *** percent of the value of total U.S. purchases in 1995.[1] U.S. purchases of EPGTC systems increased markedly during the period of investigation for both U.S. and foreign producers. As a share of the market, however, the value of purchases from U.S. producers fell by over 15 percentage points between 1993 and 1995. There have been no purchases from Japanese companies as yet in 1996, although MHI tendered bids for *** other U.S. contracts--*** in 1995 and *** in 1996--of which two (***), valued at $*** million (based on MHI's last bids), are still pending. Of the remaining ***, *** (***) were awarded to other U.S. producers, and the *** has been postponed pending the plant owner's change in contractors and a reopening of the bidding. MHI was invited to bid on one other project--***--but could not meet the required delivery schedule and declined to bid. (These and other bids are discussed in greater detail in the following section). The trains purchased from MHI for ***'s plant are scheduled for delivery in ***. There have been no imports of these systems to date.

The importer of record for the *** trains will be ***. ***. In most other instances the importer of record has been the plant contractor.

[1] If the U.S.- sourced components of MHI's contract are excluded, the contract accounts for approximately *** percent of the total value of U.S. purchases in 1995.

Table IV-1
EPGTC systems: U.S. purchases from U.S. producers, from foreign producers, and total U.S. purchases, 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

Item	1993	1994	1995	Jan.-Mar.-- 1995	1996
	Quantity (*trains*)				
U.S. purchases from U.S. producers	18	25	26	4	9
U.S. purchases from--					
Japan	0	0	3	0	0
All other sources	3	5	3	0	0
Total	3	5	6	0	0
Total U.S. purchases	21	30	32	4	9
	Value (*1,000 dollars*)				
U.S. purchases from U.S. producers	41,576	48,257	61,439	9,873	24,318
U.S. purchases from--					
Japan	0	0	***	0	0
All other sources	6,550	9,696	***	0	0
Total	6,550	9,696	24,700	0	0
Total U.S. purchases	48,126	57,953	86,139	9,873	24,318
	Share of quantity of U.S. purchases (*percent*)				
U.S. purchases from U.S. producers	85.7	83.3	81.3	100.0	100.0
U.S. purchases from--					
Japan	0.0	0.0	9.4	0.0	0.0
All other sources	14.3	16.7	9.4	0.0	0.0
Total	14.3	16.7	18.8	0.0	0.0
	Share of value of U.S. purchases (*percent*)				
U.S. purchases from U.S. producers	86.4	83.3	71.3	100.0	100.0
U.S. purchases from--					
Japan	0.0	0.0	***	0.0	0.0
All other sources	13.6	16.7	***	0.0	0.0
Total	13.6	16.7	28.7	0.0	0.0

Note.--Because of rounding, figures may not add to the totals shown.

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

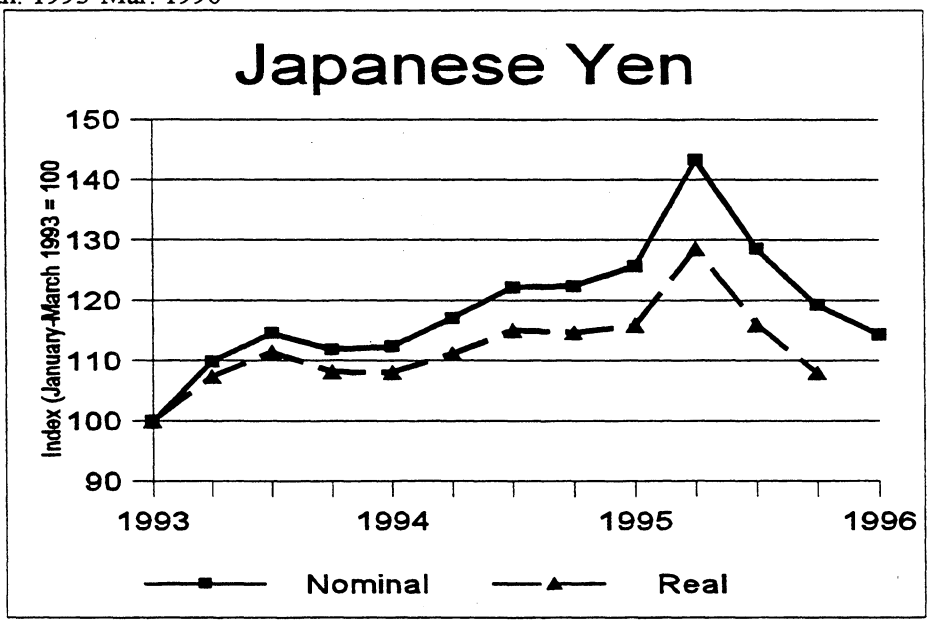
PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

Exchange Rates

Quarterly data reported by the International Monetary fund indicate that the real value of the Japanese yen appreciated by 8.0 percent in relation to the U.S. dollar during the period January-March 1993 through October-December 1995 (figure V-1). The nominal value appreciated by 14.4 percent during the period January-March 1993 through January-March 1996. Both nominal and real values for the Japanese yen appreciated from January-March 1993 through April-June 1995 (rising 43.3 and 28.6 percent respectively) to reach the high for the period, then depreciated from April-June 1995 through the end of the period.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the U.S. dollar and Japanese yen, by quarters, Jan. 1993-Mar. 1996



Source: International Monetary Fund, *International Financial Statistics*, May 1996.

PRICING PRACTICES

The bidding process for an EPGTC system is a two-stage process. First, a technical proposal which includes detailed engineering specifications for the entire installation is prepared to meet the specifications contained in the request for proposal. Next, a commercial proposal is completed which contains the bid price. All the U.S. producers and MHI/MIC reported setting prices to cover all costs plus a level of profit. Costs include materials, labor, overhead, freight, service warranties, engineering costs

(which can add 20 percent to the cost of the product), and research and development expenditures.[1] *** reported that market conditions, shop loading, the competition or customer involved, and the status of a project also affect its bid prices. *** indicated that competitive forces have been relevant in determining the price level for a project. According to Bill Barnett of Dresser-Rand, a manufacturer may still bid on a project even if the price level drops below its full cost in order to recover some capacity costs and try to at least cover its variable costs.[2] The technical proposal from each supplier will have its own unique technical and design characteristics which may affect the price of the system. For example, according to the respondent, MHI ***.[3]

After an EPGTC system has been installed, the manufacturer of that system has the opportunity to supply replacement parts and upgrades (revamps). These potential sales are factored into the bid preparation. Although a manufacturer has an advantage in providing a revamp on its own equipment, a revamp of an existing compressor train will not occur for years after an EPGTC system is installed, if it happens at all.[4]

Three of the four responding U.S. producers indicated that the outcome of a bid to a particular purchaser affects their strategy for future bids. *** stated that price negotiations are less flexible when its backlog is strong, while *** indicated that the winning bid establishes an expected price level for future projects with similar equipment. *** reported that it is rare to know the price outcome of bids, so such information cannot affect future bids, although efforts are made to acquire information which might prevent technical errors on future bids.

According to the U.S. producers, bids are sometimes open, sometimes closed, but due to the small number of acceptable bidders for this product, the competitors are generally known. *** states that bids are normally closed, although it has bid on a job where the bidders were invited to a pre-bid meeting.

Initial bids are important in the process because they may be used to determine a short list of providers which appear to have an EPGTC system that meets the technical requirements of the project in a cost effective manner, and thus bidders must make their most technically attractive and cost-effective proposal in the initial bid in order to ensure participation in later negotiations. *** indicates that a ranking among qualified suppliers based on commercial considerations is used to determine the success of a proposal or inclusion in subsequent re-bidding. There is generally more than one chance to bid on a particular sales agreement, with changes in the specifications of the project often prompting a re-bid.

*** indicate that competitors' bids are not revealed during the bidding process, while *** indicates that competing bids may be used in negotiations in order to apply pricing pressure and *** states that commercial bids are sometimes made known through public openings. According to ***, the purchaser will use other bids to influence the negotiations, although the actual bid amounts are seldom revealed. *** indicates that U.S. purchasers never disclose the pricing of competing suppliers or use the price of another supplier to leverage for a lower price. ***, a contractor, stated that it is highly unusual to have an open bid situation in the United States. *** generally does not reveal the position of suppliers, but the companies in the industry usually know their position in the bidding based on their own experience.[5] ***, another construction contractor, indicates that it is rare to reveal the actual bid prices, but attempts are made to obtain lower prices by giving indications of where a supplier stands.

The cost effectiveness of a given proposal includes considerations of more than just the price quoted. Efficiency of the proposed machinery is important. According to the petitioner, for every

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[1] Conference transcript, pp. 33-34.
[2] Ibid, p. 36.
[3] Respondent's post-conference brief, exhibit B, pp. 5, 18.
[4] Conference transcript, pp. 39 and 50-52.
[5] Telephone conversation, June 6, 1996.

horsepower saved on a motor drive, the system is worth approximately $1,000 more.[6] Also, each EPGTC system, even if designed for the same project, will have unique technology and design characteristics which may affect costs for other equipment to be used in the plant.[7]

BID COMPETITION FOR SALES TO DOMESTIC PURCHASERS

Domestic producers and importers were requested to report in their questionnaire responses the details of bid competition for EPGTC systems.[8] The following four producers and one importer that sold EPGTC systems during January 1993-April 1996 provided at least some information on bids for sales to engineering/contracting companies: A-C Compressor, Demag Delaval, Dresser-Rand, Elliott, and MHI/MIC (Japan). MHI/MIC reported information for *** bids made during the period from January 1993 to April 1996, of which it was awarded a contract for one[9] (see table V-1). All bids were initiated after January of 1995. Dresser-Rand reported information for *** bids for which it was awarded contracts and *** for which it lost the bid competition or the contract award is still pending. A-C Compressor submitted information on *** bids, *** of which resulted in a contract award. Demag Delaval gave information on *** successful and *** unsuccessful or still pending bids. Elliott provided information on *** bids, of which *** were successful in securing a contract.

Table V-1
Bids on U.S. projects involving competition with imports from Japan

* * * * * * *

In March of 1995, Kellogg solicited bids from *** to provide an EPGTC system for ***. Kellogg received bids from ***. ***. MHI/MIC won the contract with a final bid price of ***. Delivery terms were ***. Payment terms were ***.

In mid-1995, *** solicited bids from *** for an EPGTC system consisting of *** project. All three manufacturers responded and were judged to be technically competent, although each had some exceptions to the specifications. ***.

* * * * * * *

LOST SALES AND LOST REVENUES

In the petition, Dresser-Rand alleged one lost sale, *** project, and one instance of lost revenues, *** project, due to competition from MHI/MIC. In its questionnaire response, *** alleged two instances of lost revenues due to competition with MHI/MIC: *** and the *** project. ***, in its questionnaire response, also alleged a lost sale in the case of the *** project. The other *** responding U.S. producers did not allege lost sales or revenues due to competition with imports from Japan. In addition, Dresser-

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[6] Conference transcript, p. 59.

[7] Ibid., p. 96.

[8] Comparison of the price level of a given bid for an EPGTC system with another bid, even for the same project, is problematic. Each bid is for a unique system with its own design characteristics and technology, which may affect the value. In addition, the price alone may not accurately reflect the true cost to the purchaser. Design characteristics unique to the proposal may affect costs elsewhere in the construction of the plant.

[9] MHI/MIC reported being invited to bid on ***.

Rand stated that the low quotes given by MHI/MIC may influence whether to continue in the bid process for the *** project since the costs of bid preparation are high and it cannot compete with MHI/MIC.

In the ***] project,[10] Dresser-Rand alleges that it quoted ***. *** also alleged that the *** project was a lost sale due to competition from Japan and ***. Both Kellogg and ***, the end user, have given details of the alleged lost sale transaction. Both indicate that ***.

*** claims that competition with MHI/MIC for the *** project has forced it to lower prices to a level which will not cover the full costs of production or ensure an adequate return on investment. *** estimated that an adequate return on investment would be earned at a price of ***. In response to ***'s quote, *** allegedly offered to ***. According to ***, during negotiations, ***.

For the *** project, *** claims that its estimated bid price was ***, which was revealed in the pre-bid meeting to be too high to be competitive. ***. In response, ***'s formal bid was submitted at ***. According to ***. *** won the contract with a final price of ***.

In the case of the *** project, ***.

*** claims that it is not bidding on the *** project because of competition with MHI/MIC. According to the respondent, ***.

[10] The respondent contends that the price quoted by Dresser-Rand is a transfer price since the engineering construction firm, Kellogg, is owned by Dresser Industries, the petitioner's majority parent company. Conference transcript, p. 99.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Four producers--A-C Compressor, Demag Delaval, Dresser-Rand, and Elliott--supplied profit-and-loss data on their EPGTC operations. These producers accounted for all known U.S. production of EPGTC systems in 1995. Dresser-Rand's fiscal year ends October 31, Elliott's ends on or about May 31, and the year end for the two other producers is December 31. Elliott's data for its fiscal year ending May 28, 1995, are presented as fiscal 1995 data in this report; the company was unable to provide financial data for its year ending May 25, 1996.

Because of the nature and length of the bidding, selection, negotiation, and manufacturing processes in the production of EPGTC systems, questions have arisen concerning the merits of presenting revenue and cost data in our traditional format. Additionally, parties have pointed out similarities between this investigation and Large Newspaper Printing Presses from Germany and Japan, Invs. Nos. 731-TA-736 and 737 (Final). In response, staff has requested revenue and cost data on a contract-by-contract basis. Dresser-Rand and Demag Delaval were able to comply while A-C Compressor and Elliott were not. This information and a discussion of its content is presented later in this section.

Based on shipment data, export sales for the four producers combined represented about two-thirds of sales values in every period. There were virtually no intercompany transfers.[1]

OPERATIONS ON EPGTC SYSTEMS

Profit-and-loss data on the producers' sales of EPGTC systems are shown in table VI-1. In short, results were poor, as the producers had aggregate operating losses and net losses in every period. Net sales values increased by about one-quarter from 1993 to 1994, resulting in increased income at the gross profit level and diminished operating and net losses. However, when sales values returned to 1993 levels the following year, so did profitability. Comparing interim 1996 to interim 1995 was much like comparing 1994 to 1993--net sales increased by a bit over one-quarter, losses at the gross profit level became profits, and losses at the operating and net income levels became smaller.

There are considerable differences between the net sales values in table VI-1 and the value of shipments in table III-1. Almost all of the difference can be traced to ***. The reasons for the differences are twofold. First, shipment values in table III-1 are payments received for both completed EPGTC systems and work-in-process, while sales values in table VI-1 are payments for completed systems only. Next, ***.

Because of the limited number of systems produced and sold each year and the large variation in product specifications from contract to contract, per-unit and variance analysis are both of limited relevance in this particular case and are not being presented.

Selected financial data on a company-by-company basis for sales of EPGTC systems are shown in table VI-2. A-C Compressor ***.

A-C Compressor's sales of EPGTC systems ***.

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[1] ***.

Table VI-1
Income-and-loss experience of U.S. producers[1] on their operations producing EPGTC systems, fiscal years 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

Item	1993	1994	1995	Jan.-Mar. 1995	Jan.-Mar. 1996
	Value (*1,000 dollars*)				
Net sales	132,288	168,032	134,400	30,509	39,331
Cost of goods sold	128,018	146,996	138,161	33,575	38,252
Gross profit or loss (-)	4,270	21,036	-3,761	-3,066	1,079
SG&A expenses[2]	22,907	25,848	21,930	6,307	5,559
Operating loss (-)[2]	-18,637	-4,812	-25,691	-9,373	-4,480
Interest expense	0	1,440	1,831	458	143
Other expense items	214	124	124	130	120
Other income items	1,148	2,060	2,247	387	285
Net loss (-) before income taxes	-17,703	-4,316	-25,399	-9,574	-4,458
Depreciation and amortization	3,639	4,649	5,300	1,277	1,082
Cash flow	-14,064	333	-20,099	-8,297	-3,376
	Ratio to net sales (*percent*)				
Cost of goods sold	96.8	87.5	102.8	110.0	97.3
Gross profit or loss (-)	3.2	12.5	-2.8	-10.0	2.7
SG&A expenses	17.3	15.4	16.3	20.7	14.1
Operating loss (-)	-14.1	-2.9	-19.1	-30.7	-11.4
	Number of firms reporting				
Operating losses	3	3	3	3	3
Net losses	3	3	3	3	3
Data	4	4	4	4	4

[1] The producers (and their fiscal year ends if other than December 31) are A-C Compressor, Demag Delaval, Dresser-Rand (October 31), and Elliott (on or about May 31).
[2] A-C Compressor was ***.

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

Table VI-2
Selected financial data of U.S. producers on their operations producing EPGTC systems, by firms, fiscal years 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

* * * * * * *

Demag Delaval also accounts for sales of its EPGTC systems ***.
Dresser-Rand also accounts for sales of its EPGTC systems ***.
Finally, Elliott ***.

Demag Delaval's and Dresser-Rand's revenue and cost information on a contract-by-contract basis are shown in table VI-3. Demag Delaval's data, which agree with its questionnaire data in table VI-2, indicate that ***. Dresser-Rand's data, on the other hand, only partially ***.

* * * * * * *

Table VI-3
Demag Delaval's and Dresser-Rand's revenue and cost data on a contract-by-contract basis on their operations producing EPGTC systems, fiscal years 1993-96

* * * * * * *

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES

The data of the producers that provided information on the value of their property, plant, and equipment, on capital expenditures, and on research and development expenditures are shown in table VI-4.

Table VI-4
Value of fixed assets of U.S. producers used in the production of EPGTC systems, their capital expenditures, and their research and development expenses, fiscal years 1993-95, Jan.-Mar. 1995, and Jan.-Mar. 1996

* * * * * * *

CAPITAL AND INVESTMENT

The producers' comments regarding any actual or potential negative effects of imports of EPGTC systems from Japan on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product) are as follows:

* * * * * * *

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(I)). Information on the volume and pricing of purchases from foreign producers is presented in parts IV and V, and information on the effects of these purchases on U.S. producers' existing development and production efforts is presented in part VI. Because the systems are custom-designed for individual plants, inventories are not a factor. Information on foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

MHI and Ebara are the only known providers of EPGTC systems in Japan.[1] Like the U.S. producers and other foreign producers such as Demag and Nuovo Pignone, their market is worldwide--indeed, for lack of a large Japanese petrochemical industry, the home market for their systems is limited. Ebara, however, is currently excluded from the U.S. market under a licensing agreement with Elliott.

Since 1992, MHI has been awarded contracts for a total of *** EPGTC systems--***. All are for installation outside Japan. Like other producers, MHI produces more than one type of product in its facilities, and components are produced in separate locations. It reports, however, that it ***.

As noted earlier, system providers are selective in their contract proposals, and contractors are equally selective in their solicitations. To date, MHI has bid on *** contracts for U.S. systems--winning one and losing ***. ***. Although recognized as a world-class producer, MHI has yet to deliver and install a system in the United States. Its reputation and future bidding opportunities will depend in part on the operating success of its systems in ***'s plant.

So far as it is known, MHI's EPGTC systems are not subject to any antidumping findings or remedies in any other country.

[1] At least two other firms (Kobe Steel Corp. and Hitachi, Ltd.), however, produce compressors for these systems.

APPENDIX A

FEDERAL REGISTER NOTICES

Dated: May 14, 1996.
Ed Hastey,
State Director.
[FR Doc. 96-12592 Filed 5-16-96; 8:45 am]
BILLING CODE 4310-40-M

INTERNATIONAL TRADE COMMISSION

Report to the President on Investigation No. NAFTA-302-1 (Provisional Relief Phase); Broom Corn Brooms [1]

Determinations

On the basis of the statute and available information developed to date in the subject investigation—

Chairman Watson and Commissioner Crawford make a negative determination with respect to whether—

(1) There is clear evidence that, as a result of the reduction or elimination of a duty provided for under the NAFTA, broom corn brooms from Mexico are being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of serious injury or a threat of serious injury to the domestic industry producing an article that is like, or directly competitive with, the imported article; and

(2) Delay in taking action would cause damage to that industry that would be difficult to repair.

Commissioner Rohr determines—

(1) There is clear evidence that, as a result of the reduction or elimination of a duty provided for under the NAFTA, broom corn brooms from Mexico are being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of a threat of serious injury to the domestic industry producing an article that is like, or directly competitive with, the imported article; but

(2) Delay in taking action would not cause damage to that industry that would be difficult to repair.

Vice Chairman Nuzum and Commissioners Newquist and Bragg determine—

(1) There is clear evidence that, as a result of the reduction or elimination of a duty provided for under the NAFTA, broom corn brooms from Mexico are being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of a threat of serious injury (Vice Chairman Nuzum, Commissioners Newquist and Bragg) to the domestic industry producing an article that is like, or directly competitive with, the imported article; and

(2) Delay in taking action would cause damage to that industry that would be difficult to repair.

Background

Following receipt of a petition filed on March 4, 1996, on behalf of the U.S. Cornbroom Task Force and its individual members, the Commission instituted investigation No. NAFTA-302-1 to determine whether, as a result of the reduction or elimination of a duty provided for under the NAFTA, broom corn brooms from Mexico are being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of serious injury, or a threat of serious injury, to the domestic industry producing an article that is like or directly competitive with the imported article. In addition, the petitioner asserted that critical circumstances exist and requested, pursuant to section 302(a)(2) of the NAFTA Implementation Act (19 U.S.C. § 3352(a)(2)), that provisional relief be provided.

Notice of the institution of the Commission's investigation 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 March 18, 1996 (61 F.R. 11061).

The Commission transmitted its determination in this investigation to the President on May 3, 1996. The views of the Commission are contained in USITC Publication 2963 (May 1996), entitled "Broom Corn Brooms: Investigation No. NAFTA 302-1 (Provisional Relief Phase)."

Issued: May 10, 1996.
By order of the Commission.
Donna R. Koehnke,
Secretary.
[FR Doc. 96-12409 Filed 5-16-96; 8:45 am]
BILLING CODE 7020-02-P

[1] Broom corn brooms are provided for in subheadings 9603.10.05, 9603.10.15, 9603.35, 9603.10.40, 9603.10.50, and 9603.10.60 of the Harmonized Tariff Schedule of the United States.

[Investigation No. 731-TA-748 (Preliminary)]

Engineered Process Gas Turbo-Compressor Systems From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-748 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of engineered process gas turbo-compressor systems, provided for in subheadings 8414.80.20, 8414.90.40, 8419.60.50, 8406.81.10, 8406.82.10, 8406.90.20 through 8406.90.45, and 9032.89.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. § 1673a(c)(1)(B)), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 24, 1996. The Commission's views are due at the Department of Commerce within five business days thereafter, or by July 1.

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

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-205-3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 8, 1996, by Dresser-Rand Company, Corning, NY.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven 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 section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven 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.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on May 29, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than the day preceding the conference to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 3, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 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: The investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: May 13, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12410 Filed 5–16–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation Nos. 332–350 and 332–351]

Monitoring of U.S. Imports of Tomatoes and Peppers

AGENCY: International Trade Commission.

ACTION: Notice that Commission will not publish monitoring reports in 1996.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Timothy McCarty (202–205–3324) or Lowell Grant (202–205–3312), Agriculture and Forest Products Division, Office of Industries, or William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on these studies by contacting the Commission's TDD terminal on (202–205–1810).

Background

Section 316 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3381) directs the Commission to monitor imports of fresh or chilled tomatoes (HTS heading 0702.00) and fresh or chilled peppers, other than chili peppers (HTS subheading 0709.60.00), until January 1, 2009, as if a request for such monitoring had been made under section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)), for purposes of expediting an investigation concerning provisional relief under section 202 of the Trade Act of 1974. In response, the Commission instituted Investigation No. 332–350, Monitoring of U.S. Imports of Tomatoes (59 F.R. 1763, January 12, 1994) and Investigation No. 332–351, Monitoring of U.S. Imports of Peppers (59 F.R. 1762, January 12, 1994). Although section 316 of the NAFTA Implementation Act does not require the Commission to publish reports on the results of its monitoring activities, the Commission's notices announcing the investigations stated that the Commission planned to publish annual statistical reports of certain trade data through the year 2008.

The Commission has recently instituted two investigations concerning imports of tomatoes and/or peppers, Investigation No. TA–201–66, Fresh Tomatoes and Bell Peppers (61 F.R. 13875, March 28, 1996), under section 202(b) of the Trade Act of 1974 (19 U.S.C. 2252(b)); and preliminary antidumping Investigation No. 731–TA–747 (Preliminary), Fresh Tomatoes from Mexico (61 F.R. 15968, April 10, 1996), under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)). To avoid possible public confusion due to the release of multiple reports containing different data series, the Commission will not publish reports on the results of monitoring in 1996. The Commission will continue to monitor as required by section 316 of the NAFTA Implementation Act and will consider at a later date whether to resume publication of monitoring reports in 1997 and later years.

Issued: May 13, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12408 Filed 5–16–96; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Invitation for Membership on Advisory Committee

The Joint Board for the Enrollment of Actuaries (Joint Board) established under the Employment Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of

[A-588-840]

Initiation of Antidumping Duty Investigation: Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta at (202) 482-6320 or Katherine Johnson at (202) 482-4929, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA").

The Petition

On May 8, 1996, the Department of Commerce ("the Department") received a petition filed in proper form by Dresser-Rand Company. On May 21, 1996, Dresser Rand Company provided supplemental data regarding specific issues relating to scope, industry support, and pricing information. On May 23, 1996, the United Steelworkers of America ("USW") entered an appearance as co-petitioners in this investigation. The USW represents turbo-compressor systems production workers for three domestic producers of the subject merchandise. In accordance with section 732(b) of the Act, the petitioners allege that imports of engineered process gas turbo-compressor systems, whether assembled or unassembled, and whether complete or incomplete ("turbo-compressor systems") from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Since the petitioners are interested parties as defined under section 771(9)(C) of the Act, they have standing to file a petition for the imposition of antidumping duties.

Determination of Industry Support for the Petition

Section 732(c)(4)(A) of the Act requires the Department to determine, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets the minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) those domestic producers or workers expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

On May 24, 1996, Mitsubishi Heavy Industries ("MHI") submitted a letter challenging the industry support for the petition. MHI argued that the turbo-compressor systems covered in the petition are comprised of numerous products, including steam turbines, lubrication systems, and seal systems, as such the petitioners are required to show industry support for domestic producers of these products. MHI further argued that because the petition contains no data showing industry support for these products, *e.g.*, steam turbines, the Department must resort to polling of these producers. We have determined that MHI's challenge is without merit. The like product covered by this investigation is a complete system. The "products" identified by MHI are subcomponents which are included within the like product of systems only to the extent that they are designed and dedicated to a specific system, which is typically designed to contract specifications. Thus, for example, steam turbines by themselves are not covered by the scope of this investigation and as a result a showing of support by the steam turbine industry is not required. Rather, only steam turbines included in the contract for the initial system designed and dedicated for use in a complete system (the like product) are covered. Accordingly, it would be inappropriate to consider whether steam turbine producers support a petition on turbine-compressor systems.

A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioners account for more than 50 percent of the total production of the like product. (*See* Office of Antidumping Investigation's Initiation checklist dated May 28, 1996). The Department received no expressions of opposition to the petition from any U.S. producers or workers. Accordingly, the Department determines that the petition is filed on behalf of the domestic industry.

Scope of the Investigation

The products covered by this investigation are turbo-compressor systems (*i.e.*, one or more "assemblies" or "trains") which are comprised of various configurations of process gas compressors, drivers (*i.e.*, steam turbines or motor-gear systems designed to drive such compressors), and auxiliary control systems and lubrication systems for use with such compressors and compressor drivers, whether assembled or unassembled. One or more of these turbo-compressor assemblies or trains, may be combined. The systems covered are only those used in the petrochemical and fertilizer industries, in the production of ethylene, propylene, ammonia, urea, or methanol. This petition does not encompass turbo-compressor systems incorporating gas turbine drivers, which are typically used in pipeline transmission, injection, gas processing, and liquid natural gas service.

Compressors are machines used to increase the pressure of a gas or vapor, or mixture of gases and vapors. Compressors are commonly classified as reciprocating, rotary, jet, centrifugal, or axial (classified by the mechanical means of compressing the fluid), or as positive-displacement or dynamic-type (classified by the manner in which the mechanical elements act on the fluid to be compressed). Subject compressors include only centrifugal compressors engineered for process gas compression, *e.g.*, ammonia, urea, methanol, propylene, or ethylene service. Unassembled compressors for purposes of this investigation consist of (1) either half of the casing (in the case of a horizontally split casing) or the casing and end-caps, whether or not assembled, and whether or not mounted on a platform; or (2) the rotor, whether or not mounted in the casing. Compressors are often disassembled into such component parts for shipping.

Turbines are classified (1) as steam or gas; (2) by mechanical arrangement as single-casing, multiple shaft, or tandem-compound (more than one casing with a single shaft); (3) by flow direction (axial or radial); (4) by steam cycle, whether condensing, non-condensing, automatic extraction, or reheat; and (5) by number of exhaust flows of a condensing unit. Steam and gas turbines are used in various applications. Only steam turbines as dedicated for a turbo-

compressor system are subject to this investigation.

An "unassembled" steam turbine, for purposes of this investigation, includes (1) either half of the turbine casing, whether or not mounted on a platform; or (2) the turbine rotor, whether or not mounted in the casing. Steam turbines are commonly disassembled into major segments for shipping.

A motor and gear box is used as a compressor driver in lieu of a steam turbine. A control system is used to monitor and control the operation of a turbo-compressor system. A lubrication system is engineered to support a subject compressor and steam turbine (or motor/gear box).

A typical turbo-compressor system consists of one or more compressors driven by a turbine (or in some cases a motor drive). A compressor is usually installed on a base plate and the drive is installed on a separate base plate. The turbine (or motor drive) base plate will typically also include any governing or safety systems, couplings, and a gearbox, if any. The lube and oil seal systems for the turbine and compressor(s) are usually mounted on a separate skid.

This scope covers only constituent parts of turbo-compressor systems that are integral to the original start-up and operation of the turbo-compressor system, whether shipped individually or in combination with other subject merchandise. This scope excludes spare parts that are sold separately from a contract for a turbo-compressor system.

Turbo-compressor systems imported from Japan as an assembly or train (*i.e.*, including turbines, compressors, motor and gear boxes, control systems and lubrication systems, and auxiliary equipment) may be classified under Harmonized Tariff Schedule of the United States ("HTSUS") subheading 8414.80.2015, which provides for centrifugal and axial compressors. The U.S. Customs Service may view the combination of turbine driver and compressor as "more than" a compressor and, as a result, classify the combination under HTSUS subheading 8419.60.5000.

Compressors for use in turbo-compressor systems, if imported separately, may also be classified under HTSUS subheading 8414.80.2015. Parts for such compressors, including rotors or impellers and housing, are classified under HTSUS subheading 8414.90.4045 and 8414.90.4055.

Steam turbines for use in turbo-compressor systems, if imported separately, may be classified under the following HTSUS subheadings: 8406.81.1020: steam turbines, other than marine turbines, stationary, condensing type, of an output exceeding 40MW; 8406.82.1010: Steam turbines, other than marine turbines, stationary, condensing type, exceeding 7,460 Kw; 8406.82.1020: Steam turbines, other than marine turbines, stationary, condensing type, exceeding 7,460 Kw, but not exceeding 40 MW; 8406.82.1050: Steam turbines, other than marine turbines, stationary, other than condensing type, not exceeding 7,460 Kw; 8406.82.1070: steam turbines, other than marine turbines, stationary, other than condensing type, exceeding 7,460 Kw, but not exceeding 40 MW. Parts for such turbines are classified under HTSUS subheading 8406.90.2000 through 8406.90.4580.

Control and other auxiliary systems may be classified under HTSUS 9032.89.6030, "automatic regulating or controlling instruments and apparatus: complete process control systems."

Motor and gear box entries may be classified under HTSUS subheading 8501.53.4080, 8501.53.6000, 8501.53.8040, or 8501.53.8060. Gear speed changers used to match the speed of an electric motor to the shaft speed of a driven compressor, would be classified under HTSUS subheading 8483.40.5010.

Lubrication systems may be classified under HTSUS subheading 8414.90.4075.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

The scope of this investigation includes incomplete and unassembled systems. Given that systems may be shipped in different containers, it is important to ensure that the subject merchandise, in particular components and subassemblies, be readily identifiable to the U.S. Customs Service. To ensure that any antidumping order which may result is clear and enforceable, we are asking interested parties to submit comments to the Department by July 8, 1996. Reply comments will be due by July 22, 1996.

Export Price and Normal Value

The petitioners based export price on a foreign producer's 1995 contract price for the sale of: (1) A charge gas compressor train, (2) a propylene compressor train, and (3) an ethylene compressor sold as an entire package. The terms of the contract were based on a delivered price with duties paid to the nearest U.S. port. Deductions were made to export price for packing, inland freight, ocean freight, and customs duties.

The petitioners submitted three alternatives for determining normal value. Of the three alternatives, the Department, for initiation purposes, relied on the normal value calculated based on constructed value ("CV") using the U.S. producer's production costs, because the other calculations were based on non-contemporaneous prices. Since the CV calculation provided an adequate basis for initiation, we did not further analyze the remaining two normal value calculations submitted by the petitioners.

CV includes the cost of manufacturing ("COM"), selling, general and administrative expenses ("SG&A"), U.S. packing, and profit.

The petitioners calculated COM based on the U.S. producer's own cost data as reflected in a recent bid proposal to produce a turbo-compressor system for a U.S. sale, adjusted for known differences between costs incurred in producing turbo-compressor systems in the United States and in Japan. The labor and engineering cost estimates were adjusted from one of the U.S. producer's cost models to reflect the higher compensation levels existing in Japan compared to those in the United States. The Japan/U.S. labor cost inflator used to adjust the labor and engineering cost estimates was based on data petitioners obtained from reports issued by the U.S. Bureau of Labor Statistics.

For SG&A and profit, the petitioners relied on the 1995 financial statements of a Japanese producer of turbo-compressor systems. We recalculated the SG&A and profit rates, revising the figures upward to account for an error in the petitioners' calculations. The petitioners did not separately report an amount for U.S. packing.

Based on comparison of export price to the Department's recalculation of CV, the estimated dumping margin is 90.05 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of turbo-compressor systems from Japan are being, or are likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available under section 776 of the Act, we may further review the calculations.

Initiation of Investigation

We have examined the petition on turbo-compressor systems and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material

injury to the domestic producers of a like product by reason of the subject imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of turbo-compressor systems from Japan are being, or are likely to be, sold at less than fair value in the United States. Unless extended, we will make our preliminary determination by October 15, 1996.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Japan. We will attempt to provide a copy of the public version of the petition to each exporter of turbo-compressor systems named in the petition.

International Trade Commission ("ITC") Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by June 24, 1996, whether there is a reasonable indication that imports of turbo-compressor systems from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Dated: May 28, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-13966 Filed 6-3-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-201-601]

Fresh Cut Flowers From Mexico; Preliminary Results and Partial Termination of Antidumping Duty Administrative Review, and Intent to Revoke Antidumping Duty Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial termination of antidumping duty administrative review, and intent to revoke antidumping duty order in part.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain fresh-cut flowers from Mexico, in response to a request by a respondent, Rancho El Aguaje (Aguaje). Although we initiated reviews for two other producers, Rancho El Toro (Toro) and Rancho Guacatay (Guacatay), we are terminating these reviews because Toro and Guacatay timely withdrew their requests for review. We preliminarily intend to revoke the antidumping duty order with respect to Aguaje, based on our preliminary determination that Aguaje has had a three-year period of sales at not less than normal value (NV). This review covers one producer/exporter and entries of the subject merchandise into the United States during the period April 1, 1994 through March 31, 1995.

We have preliminarily determined that sales have not been made below NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of the comment.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4733.

Applicable Statutes and Regulations

Unless otherwise states, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1987, the Department published in the Federal Register an antidumping duty order on certain fresh cut flowers from Mexico (52 FR 13491).

On April 27, 1995, Toro and Guacatay requested that the Department conduct an administrative review in accordance with 19 CFR 353.22(a)(1). Toro and Guacatay also requested that the Department revoke the antidumping duty order as it pertains to them upon completion of the review. On April 28, 1995, Aguaje requested an administrative review and revocation of the order as it pertains to it upon completion of the review. We published a notice of initiation on May 15, 1995 (60 FR 25885), covering Toro, Guacatay, and Aguaje, and the period April 1, 1994 through March 31, 1995. On August 11, 1995, Toro and Guacatay timely withdrew their requests for review. Because there were no other requests for review for these two respondents from any other interested party, the Department is now terminating this review for Toro and Guacatay in accordance with section 353.22(a)(5) of the Department's regulations. We shall instruct the Customs Service to liquidate Toro's and Guacatay's entries of this period at the rates in effect at the time of entry. Because they are previously reviewed companies, the cash deposit rates will continue to be the company-specific rates currently in effect.

The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this review are certain fresh cut flowers, defined as standard carnations, standard chrysanthemums, and pompon chrysanthemums. During the period of review, such merchandise was classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) items 0603.10.7010 (pompon chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispoitive as to the scope of the order.

This review covers sales of the subject merchandise entered into the United States during the period April 1, 1994 through March 31, 1995.

Verification

From April 17 through April 19, 1996, the Department conducted verification of the questionnaire responses submitted by Aguaje, as provided in section 782(i) of the Act. We used standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant accounting, sales, and other financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

APPENDIX B

WITNESSES AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

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

Subject	:	ENGINEERED PROCESS GAS TURBO-COMPRESSOR SYSTEMS FROM JAPAN
Inv. No.	:	731-TA-748 (Preliminary)
Date and Time	:	May 29, 1996 - 9:30 a.m.

Sessions were held in the Main Hearing Room of the United States International Trade Commission, 500 E St., S.W., Washington, DC.

In Support of the Imposition of Antidumping Duties:

Stewart and Stewart
Washington, DC
On behalf of

Dresser-Rand Company, Corning, NY

William Barnett, V.P. of Turbo Products Division
Walter J. Nye, Controller of Turbo Products Division

Terence P. Stewart)--OF COUNSEL
James R. Cannon, Jr.)--OF COUNSEL
Timothy C. Brightbill)--OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Steptoe & Johnson
Washington, DC
On behalf of

Mitsubishi Heavy Industries, Ltd.

Ken Button, Economic Consulting Services, Washington, DC

Richard O. Cunningham)--OF COUNSEL
Gracia Berg)--OF COUNSEL
Peter Lichtenbaum)--OF COUNSEL