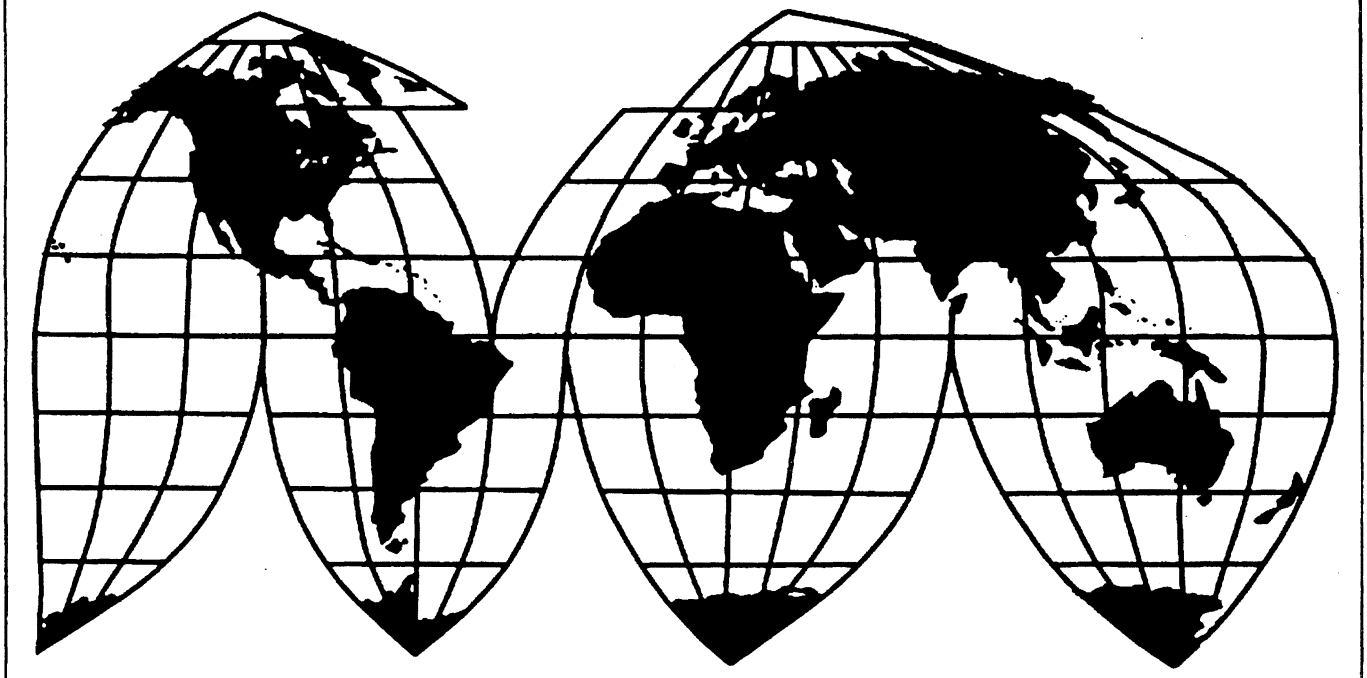
# Hydraulic Magnetic Circuit Breakers From South Africa

Investigation No. 731-TA-1033 (Preliminary)

**Publication 3600** **June 2003**

**U.S. International Trade Commission**



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# U.S. International Trade Commission

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# Hydraulic Magnetic Circuit Breakers From South Africa

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-1033 (Preliminary)

HYDRAULIC MAGNETIC CIRCUIT BREAKERS FROM SOUTH AFRICA

## DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from South Africa of hydraulic magnetic circuit breakers, provided for in subheadings 8535.21.00 and 8536.20.00 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 April 14, 2003, a petition was filed with the Commission and Department of Commerce (Commerce) by Airpax Corp., Cambridge, MD, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of hydraulic magnetic circuit breakers from South Africa. Accordingly, effective April 14, 2003, the Commission instituted antidumping duty investigation No. 731-TA-1033 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 22, 2003 (*68 FR 19849*). The conference was held in Washington, DC, on May 5, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

## CONTENTS

## CONTENTS



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

# VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of hydraulic magnetic circuit breakers ("HMCBs") from South Africa that are alleged to be sold in the United States at less than fair value (LTFV).[1]

## I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the subject imports.[2] 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."[3]

The Court of Appeals for the Federal Circuit has stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the "reasonable indication" standard requires more than a finding that there is a "possibility" of material injury.[4] It also has noted that, in a preliminary investigation, the "[t]he statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[5] Moreover, the CIT recently has reaffirmed that in applying the reasonable indication "standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence."[6]

The record in this investigation includes complete or nearly complete information from the sole domestic producer of HMCBs, the sole producer of the subject merchandise, and the only known importers of the subject merchandise and non-subject merchandise. It also contains information from some of the purchasers of HMCBs. As we discuss below, we find that this record contains clear and convincing evidence that the domestic industry producing HMCBs is neither materially injured nor threatened with material injury by reason of the subject imports. We see no likelihood that any evidence we obtain in any final investigation would change our findings that the domestic industry has been impacted in a minimal manner, at most, by the subject imports during the period and no likelihood that any evidence obtained in any final investigation would change our findings with respect to either present material injury or threat of material injury by reason of subject imports.

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[1] Whether the establishment of an industry is materially retarded is not an issue in this investigation.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999) ("R-CALF").

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] American Lamb, 785 F.2d at 1004.

[5] Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[6] R-CALF, 74 F. Supp.2d at 1368 (Ct. Int'l Trade 1999).

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[7] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic 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."[8] 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 . . . ."[9]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[10] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[11] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[12] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[13]

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[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(10).

[10] See, e.g., NEC Corp. v. Department of Commerce, Slip Op. 98-164 at 8 (CIT, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). 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 Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996).

[11] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[12] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[13] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

## B. Product Description

In its notice of institution, Commerce defined the scope of this investigation as follows:

> all hydraulic magnetic circuit breakers (sometimes referred to as magnetic hydraulic) . . . incorporating a tripping means of a magnetic coil surrounding a tube and plunger, restrained by air, liquid or spring, whether or not sealed, whether or not of molded case, of any voltage less than 72.5 kilovolts, of any amperage rating, with single or multiple poles, of any mounting or connection means and of any terminal type, whether or not having a magnetic latch, and excluding thermal and thermal magnetic circuit breakers.[14]

A circuit breaker is a device that breaks an electrical circuit when the electrical current exceeds a predetermined value. Breaking the circuit in such an "overcurrent" condition protects the wires and other devices connected within the circuit. Breaking can be performed by a fuse or circuit breakers of various types, including HMCBs, thermal circuit breakers (TCBs), and thermal magnetic circuit breakers (TMCBs). Like other circuit breakers, after an HMCB breaks (or "trips") the circuit, it can be reset in order to restore the circuit.[15]

## C. Domestic Like Product Issues

Petitioner Airpax Corp. asserts that the Commission should find a single domestic like product that is co-extensive with the scope of the subject merchandise. Respondents in the investigation -- Circuit Breaker Industries, Ltd. (the sole foreign producer) and CBI, Inc. (an importer of the subject merchandise) (collectively "Respondents") -- initially requested a broader like product that also included TCBs and TMCBs, but did not address the issue at the preliminary staff conference or in their brief.

For the reasons set forth below, we define the domestic like product co-extensively with the subject merchandise: all HMCBs of any voltage of less than 72.5 kilovolts. We do not include TCBs or TMCBs in the domestic like product.

### 1. Physical characteristics and uses

HMCBs differ from TCBs and TMCBs both in their tripping mechanisms and in the performance characteristics that result from the different tripping mechanisms. The tripping mechanism in HMCBs is a delay tube containing a fluid and a movable solid core. The core moves in response to changes in a surrounding magnetic field produced by passing electricity through wires coiled around the tube. In contrast, the tripping mechanism in a TCB is a strip containing two different metals (a "bimetal"), which warps in response to heat. TMCBs use a three-sided piece of metal surrounded by a bi-metal plate.[16]

The delay tube generally permits HMCBs to provide a more precisely-calibrated tripping performance than do TCBs or TMCBs. Movement of the core within the tube is readily controlled, primarily by adjusting the viscosity of the fluid. The delay tube allows a precise trip time delay (the

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[14] 68 Fed. Reg. 25332, 25333 (May 12, 2003).

[15] Confidential Staff Report ("CR") and Public Staff Report ("PR") at I-2.

[16] CR and PR at I-2 to I-4; Petition at 8-9; Petitioner's Postconference Brief at 3; Transcript of May 5, 2003 Conference ("Tr.") at 10-13 (testimony of Steven A. McDonald, Executive Vice President and General Manager of Airpax Corporation).

length of time between the sensing of the overcurrent and the breaking of the circuit), ranging from milliseconds to minutes. In contrast, trip times in TCBs and TMCBs are not as readily adjusted.[17]

There are other differences in physical characteristics as well. All circuit breakers are calibrated to trip when they sense a specified amount of current, measured in amperes ("A"). HMCBs are offered in amperage rating increments of 0.1A, while TCBs and TMCBs typically are offered in increments of 5A or 10A, although some are offered in increments of 0.5A.[18] HMCBs have a better direct current short circuit rating than do TCBs or TMCBs. HMCBs also provide a lower handle force than TCBs and TMCBs, allowing HMCBs to function as a switch in some instances. Because their tripping mechanism is not activated by heat, HMCBs are not subject to the nuisance tripping due to changes in ambient temperature that can occur in TCBs and TMCBs.[19]

The broader range of performance offered by HMCBs, and their greater precision, result in more varied uses for HMCBs than for TCBs or TMCBs. Although all circuit breakers are used to break circuits, HMCBs primarily are used by original equipment manufacturers in equipment applications, including telecommunications; power equipment; base transceiver stations; UPS systems; datacom/server equipment; HVAC systems; railway equipment; marine panels; and power generators. Uses in many of these industries require particular trip time characteristics to accommodate different conditions and requirements.[20] TCBs primarily are used as supplementary protectors and generally are not capable of branch circuit protection. TMCBs primarily are used in wire protection applications.[21]

### 2. Interchangeability

Interchangeability between HMCBs on the one hand and TCBs and TMCBs on the other is limited. TCBs and TMCBs cannot substitute for HMCBs in many products where the user requires the tripping characteristics available only through HMCBs.[22] [23] Moreover, once a product is designed, interchangeability is very low.[24] Even prior to design, performance characteristics or industry standards may prevent the use of a TCB or TMCB instead of an HMCB.[25]

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[17] CR and PR at I-2 to I-4.

[18] CR at I-4, PR at I-3, Petition at 8-9, Tr. at 10-14 (McDonald), Petitioner's Postconference Brief at 2-4.

[19] CR at I-4 to I-5; PR at I-3 to I-4; Tr. at 12-14, 36 (McDonald); Petitioner's Postconference Brief at 3. Nuisance tripping can be minimized in TCBs by use of a compensating bimetal. Tr. at 66 (Helmuth H. Fischer, Managing Director of Circuit Breaker Industries, Ltd. and President of CBI, Inc.).

[20] Tr. at 14 (McDonald).

[21] CR at I-4, PR at I-3, Tr. at 15-16 (McDonald), Petitioner's Postconference Brief at 4-5.

[22] As discussed above, Respondents assert that their Q-Frame products may be substituted for TCBs and TMCBs. Tr. at 65 (Fischer). Respondents also assert, however, that their Q-Frame product is smaller than that of the domestic producer, and thus that there is no comparable domestic product. Tr. at 94 (Chris Oliver, Sales and Marketing Manager, CBI, Inc.). Accordingly, it does not appear that domestically produced Q-Frame HMCBs are often substituted for TCBs or TMCBs.

[23] CR at I-2, I-4 to I-5, II-11; PR at I-2 to I-4, II-6 to II-7; Tr. at 17 (McDonald); Petitioner's Postconference Brief at 6.

[24] CR at II-11, PR at II-7.

[25] CR at I-2, I-4 to I-5; PR at I-3 to I-4; Tr. at 90-92 (John M. Tremaine, Chief Executive Officer, Q-Tran, Inc. (a purchaser of HMCBs)).

### 3. Channels of distribution

There is some overlap in the channels of distribution through which HMCBs and TCBs are sold, but relatively little between the channels through which HMCBs and TMCBs are sold. About 80 percent of HMCBs are sold directly to OEMs while 20 percent are sold to distributors. About 40 percent of TCBs are sold to OEMs and 60 percent to distributors. Nearly all TMCBs are sold directly to distributors and large retailers.[26]

### 4. Common Production Facilities, Production Processes, and Production Workers

The sole domestic producer of HMCBs does not produce TCBs or TMCBs. Accordingly, there is no overlap in manufacturing facilities or production employees.[27] The record also indicates that production processes differ. The production process for HMCBs is more labor-intensive than that for TCBs or TMCBs, particularly the production of the delay tubes, which is done by hand by skilled workers.[28] Petitioner states that it would be unable to ***, suggesting a lack of overlap in production processes.[29]

### 5. Producer and Customer Perceptions

The sole domestic producer of HMCBs views HMCBs as distinct from TCBs and TMCBs, and it does not produce TCBs or TMCBs.[30] The Commission received the testimony of a customer who generally viewed HMCBs to be distinct from TCBs and TMCBs, due to performance and regulatory requirements, as well as design constraints.[31]

### 6. Price

Available record data indicate that HMCBs are higher in price than TCBs and TMCBs, but the difference is less than in the past.[32]

In summary, HMCBs appear distinct from either TCBs or TMCBs due to differences in their tripping mechanisms. These differences in structure result in important differences in performance, and ultimately in uses. The differences limit interchangeability, and there is no overlap in manufacturing facilities or production workers. Producers and customers appear to view HMCBs as distinct from TCBs and TMCBs. There is some overlap in channels of distribution between HMCBs and TCBs, but very little between HMCBs and TMCBs. There are some differences in price as well.

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[26] CR at I-7, PR at I-5, Tr. at 16-17 (McDonald), Petitioner's Postconference Brief at 5-6.

[27] CR and PR at III-1, Petitioner's Postconference Brief at 6.

[28] Tr. at 18-19 (McDonald), Petitioner's Postconference Brief at 7.

[29] CR at II-6, PR at II-3.

[30] Tr. at 17 (McDonald).

[31] Tr. at 89-93 (Tremaine). See generally Tr. at 75-79 (Tremaine) (addressing design constraints in another context).

[32] Tr. at 16 (McDonald), Petitioner's Postconference Brief at 6-7.

On the basis of the foregoing, we find a clear dividing line between HMCBs on the one hand and TCBs and TMCBs on the other, for purposes of this preliminary phase investigation. Accordingly, we define the domestic like product as HMCBs, co-extensive with the scope of the subject merchandise.[33]

### D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product . . ."[34] In defining the domestic industry, the Commission generally includes in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[35] Based on our definition of the domestic like product, we conclude that the domestic industry consists of Airpax Corp., the only domestic producer of HMCBs.[36]

## III. NEGLIGIBLE IMPORTS[37]

By statute, imports from a subject country corresponding to a domestic like product that account for less than three percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.[38] The statute further provides that imports from a single country that comprise less than three percent of total imports of such merchandise may not be considered negligible if there are several countries subject to investigation with negligible imports and the sum of such imports from all those countries in the aggregate accounts for more than seven percent of the volume of all such merchandise imported into the United States.[39]

The statute also provides that, even if imports are found to be negligible for purposes of present material injury, they shall not be treated as negligible for purposes of a threat analysis should the Commission determine that there is a potential that imports from the country concerned will imminently account for more than three percent of all such merchandise imported into the United States.[40] By operation of law, a finding of negligibility terminates the Commission's investigations with respect to

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[33] No party advocated that the domestic like product be expanded to include upstream components of HMCBs, although there is production of HMCB components in the United States for assembly into HMCBs in Mexico. See CR at II-1 to II-2, n. 4; PR at II-1 n.4; Petitioner's Brief at Appendix, p. 27; Respondents' Postconference Brief at 5 n.17 and at Exh. A at 2-3.

[34] 19 U.S.C. § 1677(4)(A).

[35] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[36] No party has argued for the exclusion of Airpax under the related party provision of the statute, 19 U.S.C. §1677(4)(B), and nothing in the record indicates that it was a related party during the period examined.

[37] When considering negligibility in a preliminary determination, the Commission applies the American Lamb standard. The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 857 (1994) ("SAA").

[38] 19 U.S.C. § 1677(24)(A)(i)(I).

[39] 19 U.S.C. § 1677(24)(A)(ii).

[40] 19 U.S.C. § 1677(24)(A)(iv).

such imports.[41] The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.[42]

The most recent twelve-month period prior to the filing of the petition for which data are available is April 2002 through March 2003, and it is the appropriate period for evaluating negligibility in this investigation.[43] Total imports over the period were calculated using complete information received from all known importers of HMCBs. The record includes import data measured in units, in "poles,"[44] and in value. During the twelve-month period, the ratio of subject imports to all imports corresponding to the domestic like product was *** percent in units, *** percent in poles, and *** percent in value. For the reasons discussed below, we base our negligibility determination on the data based in units. Although the volume of subject imports is less than three percent of total imports when measured in poles or by value, it is not negligible when measured by units and we therefore do not terminate this investigation on the basis of negligibility.

The Commission must determine whether the volume of subject imports makes up three percent of all imports corresponding to a domestic like product, but the statute does not specify whether volume should be measured in units, by value, or by some other measure. The Commission's general practice is to evaluate such volume based on units, unless the record clearly demonstrates that some other measure better represents volume.[45] There is no indication on this record that poles or value clearly is a better measure of volume than units.[46]

The SAA supports the use of units. The SAA permits the Commission to estimate the percentage of subject imports based on U.S. government import statistics, which are collected and reported according to the provisions of the Harmonized Tariff System of the United States (HTSUS).[47] Specifically, the SAA permits the Commission to base estimates on data from U.S. government import statistics, even if the basket tariff provision encompasses not only the imports at issue but others as well. Because the SAA permits the use of HTS methodology, the method of measuring volume in that data is also, by implication, permitted under the SAA. The SAA does not, however, prohibit the use of other

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[41] 19 U.S.C. § 1671b(a)(1), 19 U.S.C. § 1673b(a)(1).

[42] 19 U.S.C. § 1677(24)(C). See also SAA at 856-57.

[43] The Commission has found that the 12-month period preceding the filing of the petition ends "with the last full month prior to the month in which the petition is filed, if those data are available." Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela, Inv. Nos. 701-TA-417-421 (Preliminary) and 731-TA-953-963 (Preliminary), USITC Pub. 3456 (October 2001) at 8 n. 37.

[44] HMCBs can have one or multiple "poles." A pole consists of a delay tube and the exterior attachments. CR at II-3, PR at II-2. Each pole is a completely separate circuit that can be protected simultaneously by an HMCB. CR and PR at I-2. In some instances, one HMCB with two poles can substitute for two HMCBs with one pole. Industry data sometimes are recorded in poles rather than units. See CR and PR at I-2.

[45] See Ball Bearings from China, Inv. No. 731-TA-989 (Preliminary), USITC Pub. 3504 (May 2002) at 7 n.28 & at 8 n.38; Engineered Process Gas Turbo-Compressor Systems from Japan, Inv. No. 731-TA-748 (Final), USITC Pub. 3042 (June 1997) at 13-14 and 20-21; Static Random Access Memory Semiconductors From the Republic of Korea and Taiwan, 731-TA-761-762 (Final), USITC Pub. 3098 (April 1998) at 12 n.78.

[46] In its Postconference Brief, Petitioner suggested that in making the negligibility determination the Commission measure volumes of HMCBs in units because that is how HMCB imports were reported in Census Bureau statistics. Petitioner's Postconference Brief at 12 n.26. Petitioner also, however, suggested that the Commission use poles when measuring volume for its injury analysis, because data based on units were incomplete at that time. Petitioner's Postconference Brief at 10 n.21. Although the data were incomplete at the time of Petitioner's brief, the Commission subsequently received complete data.

[47] SAA at 856.

data as the basis for reasonable estimates. The HTSUS provisions at issue here -- those covering subject HMCBs -- require import volumes to be reported in numbers (units).[48]

Given that the volume of subject imports as measured in units exceeds the three percent negligibility threshold, we determine that the volume of subject imports is not negligible for purposes of this preliminary determination.[49] [50]

## IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM SOUTH AFRICA

In the preliminary phase of antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[51] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[52] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[53] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[54] 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."[55]

For the reasons discussed below, we determine that there is no reasonable indication that the domestic industry is materially injured by reason of subject imports of HMCBs from South Africa that are allegedly sold in the United States at less than fair value.

### A. Conditions of Competition

When performing our analysis in this investigation, we took into account the following conditions of competition:

Non-subject imports, almost all from Mexico, accounted for the vast majority (more than *** percent) of HMCBs sold in the United States throughout the period examined.[56] Prior to the period examined, several domestic concerns that formerly produced HMCBs in the United States relocated all of

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[48] Harmonized Tariff Schedule of the United States, subheadings 8535.21.00 and 8536.20.00.

[49] Moreover, although the volume of subject imports is below the negligibility threshold when measured by poles or by value, because subject imports exceed the threshold when measured in units, we conclude that the record evidence as a whole does not contain clear and convincing evidence that the volume of subject imports is negligible.

[50] The remainder of our analysis is based on HMCB volume measured in units, although volume measured in poles and by value both exhibit similar trends. See CR and PR at Tables C-1 and C-2.

[51] 19 U.S.C. § 1673b(a).

[52] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[53] 19 U.S.C. § 1677(7)(A).

[54] 19 U.S.C. § 1677(7)(C)(iii).

[55] 19 U.S.C. § 1677(7)(C)(iii).

[56] CR and PR at Table IV-4.

their HMCB production activity to Mexico.[57] Similarly, Petitioner Airpax, the sole remaining domestic producer of HMCBs, shifted the vast majority of its production to Mexico prior to the appearance of subject imports in the United States.[58] During the period examined, more than *** percent of Airpax's production was in Mexico.[59] A substantial portion of Airpax's domestic production is of military specification HMCBs for sale to the U.S. military and small production runs to satisfy small orders.[60] During the period examined, the Petitioner and former U.S. producers Carling and Eaton produced the vast majority of HMCBs sold in the United States at their production facilities in Mexico and accounted for all non-subject imports from Mexico.[61] [62]

While supply is concentrated in the Mexican operations of a few concerns, demand in the United States is widely dispersed among many small-volume customers. HMCBs, including both domestic product and imports, are sold primarily to OEMs (80 percent), with the remainder sold to distributors.[63] HMCBs have a wide range of end-use applications, including telecommunications equipment, power equipment, base transceiver stations, UPS systems, datacom/server equipment, HVAC systems, railway equipment, marine panels, and power generators.[64]

Among HMCBs sold in the United States, the most common frame sizes are B, C, D, E, F, and Q.[65] In general, HMCBs of one frame size cannot be substituted for HMCBs of another frame size, due to differences in size, amperage capacity, and industry standards.[66]

Even within frame sizes, there are a multitude of configurations sold. For example, Petitioner builds roughly 40,000 to 50,000 different configurations from its domestic production in a year, often ordered in very small quantities.[67] HMCBs produced in these small runs are tailored for a particular application.[68]

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[57] Petition at 3-4 & Exh. 3; Respondents' Postconference Brief at 11-12; Tr. at 41 (McDonald), 61 (Fischer).

[58] Petitioner's Postconference Brief at Exh. 4. The Petitioner revised some of the data contained in Exhibit 4 in a subsequent submission to the Commission. Both sets of data show that Airpax shifted the bulk of its production to Mexico well before the period examined. Petitioner asserts that subject imports appeared in the U.S. market in 2000. Petition at 17. Even during 2000, subject imports accounted for less than *** of U.S. apparent consumption. CR and PR at Table IV-4, Petitioner's Postconference Brief at 11.

[59] CR at II-2 to II-3, PR at II-2.

[60] Tr. at 33-34, 48-50 (McDonald) and Petitioner's Postconference brief at Exhibit 2.

[61] Airpax's HMCB production in Mexico accounted for *** percent of apparent U.S. consumption during the period examined, Carling's Mexican production accounted for *** percent, and Eaton's Mexican production accounted for *** percent. Subject imports made up the remaining *** percent. CR at II-2 to II-3, PR at II-2.

[62] In addition, several of the former U.S. producers manufacture HMCBs in China, and Petitioner will begin production in China in the near future. Tr. at 69-70 (Fischer); Respondents' Postconference Brief, Exh. A at 4 and Exh. Q; Petition at 3-4 and Exh. 4 at 1-2; CR and PR at II-1 n.3.

[63] Petitioner's Postconference Brief at 5.

[64] Petitioner's Postconference Brief at 4.

[65] Tr. at 9 (McDonald), 65 (Fischer).

[66] Petitioner's Postconference Brief at 27-28. See Tr. at 9 (McDonald). Respondents' Postconference Brief at Exh. V.

[67] Tr. at 33, 48-50 (McDonald).

[68] Tr. at 33-35 (McDonald). See Respondents' Postconference Brief at 14.

Apparent U.S. consumption fell *** over the period examined, from *** million units in 2000 to *** million units in 2001 and *** million units in 2002.[69] The value of apparent U.S. consumption fell even more abruptly, from $*** million in 2000 to $*** million in 2001 and $*** million in 2002.[70]

The decline in overall demand was due largely to a sharp decline in demand for HMCBs for use in telecommunications equipment.[71] Prior to the period examined, the need for telecommunications equipment expanded substantially and demand for HMCBs in this application increased significantly. This trend reversed dramatically during the period examined, however, as the telecommunications "bubble" burst.[72] Investment in the U.S. telecommunications sector declined by 44.5 percent from 2000 to 2002, and the U.S. telecommunications sector reportedly amassed total debts of about $1 trillion and lost 500,000 jobs.[73] In contrast, demand in other end-use applications, such as lighting and industrial equipment, has been steady or has increased from 2000 to 2002.[74]

Certain factors limited direct competition between subject imports and the domestic like product during the period examined. Sales of HMCBs for telecommunications applications accounted for nearly *** of Petitioner's sales (in units) over the period examined.[75] In contrast, over *** of subject imports were sold for use in lighting products.[76] [77] As a result, there is *** on the other (E-T-A Circuit Breakers was the only other importer of record of subject merchandise apart from CBI, Inc.).[78] Also reflective of the limited direct competition, Airpax ships HMCBs in 40,000 to 50,000 configurations per year, while Circuit Breaker Industries, Ltd. supplies only *** to *** configurations.[79] In contrast, Carling offers HMCBs from its Mexican production in up to *** configurations, and Airpax indicated that Carling was its biggest competition in the U.S. HMCB market.[80] A high share of Airpax's U.S. production is in small

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[69] CR and PR at Table IV-4.

[70] CR and PR at Table IV-4.

[71] Petitioner's Postconference Brief at 14. Petitioner contends that "the telecommunications sector is largely responsible for the overall decline in estimated U.S. apparent consumption from 2000 to 2002 . . . [and that,] [i]n contrast, demand in other end-use sectors, such as lighting and industrial equipment, has been static or increased from 2000 to 2002." Id. See CR and PR at VI-1 n.1.

[72] Tr. at 44 (McDonald). Accord Petitioner's Postconference Brief at Appendix, p. 26:

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[73] CR at II-10, PR at II-6.

[74] Petitioner's Postconference Brief at 14.

[75] CR at II-14, PR at II-8 to II-9. U.S. shipments of HMCBs were sold primarily into the telecommunications sector, followed by the HMCB distributor, industrial user, and power distribution market sectors. CR at II-14, PR at II-8.

[76] CR at II-14, PR at II-8 to II-9. See CR at II-8 n.31, PR at II-5, n.31 (***).

[77] Pricing data gathered by the Commission reflect limits on competition between subject imports and the domestic product as well. The Commission requested sales prices on certain HMCB products, as further discussed in subsection C below. The quantity of sales represented in the reported sales in those categories account for *** percent of the U.S. shipment quantity of subject imports over the period examined, but only *** percent of the U.S. shipment quantity of the domestic product. CR at V-8 & nn.19-20, PR at V-5 & nn.19-20.

[78] CR at II-4, PR at II-2.

[79] Tr. at 33 (McDonald), CR at II-3 and PR at II-2.

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

runs to satisfy specialized small orders, while a large portion of its non-subject production in Mexico is in larger runs, directed to large-volume customers.[81]

### B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[82]

The volume of subject imports increased between 2000 and 2002, but we determine, in light of the prevailing market conditions, that neither the absolute volume nor increase in volume is significant. The volume of U.S. shipments of subject imports from South Africa started from a very low level. The volume of U.S. shipments of subject imports was *** units in 2000, *** units in 2001, and *** units in 2002.[83] In the first quarters of 2002 and 2003, the volume of U.S. shipments of subject imports was *** and *** units, respectively.[84] In contrast, apparent U.S. consumption was *** units in 2000, *** units in 2001, and *** units in 2002.

Despite these absolute increases, the volume of U.S. shipments of subject imports remained small in terms of market share, due primarily to the very large presence of non-subject imports. The market share of U.S. shipments of subject imports was *** percent in 2000, *** percent in 2001, and *** percent in 2002.[85] In the first quarters of 2002 and 2003, the market shares of subject imports were *** and *** percent, respectively.[86] Due to the predominant presence of non-subject imports, market share held by the domestic product was low as well. In units, the market share of the domestic product was *** percent in 2000, *** percent in 2001, and *** percent in 2002.[87] For the first quarters of 2002 and 2003, the domestic industry's market share was *** percent and *** percent, respectively.[88] In contrast, non-subject imports held a market share of *** percent in 2000, *** percent in 2001, and *** percent in

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[81] The majority of sales of the domestic product is made pursuant to ***. CR at II-15, PR at II-9. ***, subject imports primarily are sold ***. CR at II-16, PR at II-9.

[82] 19 U.S.C. § 1677(7)(C)(i).

[83] CR and PR at Table IV-3. In poles, U.S. shipments of subject imports were *** in 2000, *** in 2001, and *** in 2002. CR and PR at Table IV-3. In value, U.S. shipments of subject imports were $*** in 2000, $*** in 2001, and $*** in 2002. CR and PR at Table IV-3.

[84] CR and PR at Table IV-3. In poles, U.S. shipments of subject imports were *** in the first quarter of 2002 and *** in the first quarter of 2003. Id. In value, U.S. shipments of subject imports were $*** in the first quarter of 2002 and $*** in the first quarter of 2003. Id.

[85] CR and PR at Table IV-4. In poles, the market share of subject imports was *** percent in 2000, *** percent in 2001, and *** percent in 2002. Id. In value, the market share of subject imports was *** percent in 2000, *** percent in 2001, and *** percent in 2002. Id.

[86] CR and PR at Table IV-4. In poles, the market share of subject imports was *** percent and *** percent in the first quarters of 2002 and 2003, respectively. Id. In value, the market share of subject imports was *** percent and *** percent in the first quarters of 2002 and 2003, respectively. Id.

[87] CR and PR at Table IV-4. In poles, the domestic industry's market share was *** percent in 2000, *** percent in 2001, and *** percent in 2002. Id. In value, the domestic industry's market share was *** percent in 2000, *** percent in 2001, and *** percent in 2002. Id.

[88] CR and PR at Table IV-4. In poles, the domestic industry's market share was *** percent in the first quarter of 2002 and *** percent in the first quarter of 2003. Id. In value, the domestic industry's market share was *** percent in the first quarter of 2002 and *** percent in the first quarter of 2003. Id.

2002.[89] For the first quarters of 2002 and 2003, the non-subject imports held a market share of *** percent and *** percent, respectively.[90] Accordingly, even in 2002, when the market share of subject imports was at its highest and that of non-subject imports at its lowest, the market share of non-subject imports was still more than *** times greater than the volume of subject imports.

Moreover, these figures show that any increase in the market share of subject imports tended to displace the predominant non-subject imports, rather than the domestic product. From 2000 to 2001, the market share of subject imports increased by *** percentage points while that of the domestic industry also increased, by *** percentage points.[91] Accordingly, subject imports did not displace the domestic product from 2000 to 2001. From 2001 to 2002, the market share of subject imports increased by *** percentage points, while the market share of domestic shipments decreased by only *** percentage points. During these years, therefore, the small increase in market share of subject imports primarily displaced non-subject imports. Overall, from 2000 to 2002, the market share of subject imports increased by *** percentage points, while that of the domestic industry also increased, by *** percentage points.[92] Between the first quarters of 2002 and 2003, the market share of the domestic industry rose very ***, while subject imports lost market share, primarily to non-subject imports.[93]

We find that the volume and increase in volume of subject imports are not significant, because the volume and increase in volume of subject imports are relatively small, because the volume of non-subject imports was at least *** times greater, and because the small increases in subject import volumes tended not to displace domestic production, but rather the predominant non-subject imports.

Our finding is not changed by a comparison of subject import volumes to the volume of domestic production.[94] Relative to domestic production, subject imports increased sharply, from an amount much smaller than the amount of domestic production in 2000 to an amount much larger than domestic production in 2002.[95] However, we do not find this measure of increased volume to be significant in light of the pertinent market conditions. The absolute volume of subject imports, as noted, remained small, and the vast majority of demand in the United States is satisfied by neither subject imports nor the domestic product, but by non-subject imports from Mexico. The non-subject imports from Mexico are produced solely at the Mexican production facilities of Carling and Eaton, former U.S. producers, and Airpax, the current U.S. producer, the three companies that account for all current non-subject imports from Mexico. These three companies' relocation of all or most of their production to Mexico -- actions unrelated to and predating the appearance of subject imports -- dramatically reduced the amount of domestic production, and thus the ratio of subject imports to U.S. production. In this investigation,

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[89] CR and PR at Table IV-4.

[90] CR and PR at Table IV-4.

[91] Measured by poles, the market share held by U.S. product showed a slight decrease over the period examined, of *** percentage point, but the increase in subject imports' market share of *** percentage points was still mainly at the expense of non-subject imports, whose market share decreased by *** percentage points. CR and PR at Table IV-4.

[92] As indicated in our discussion of the conditions of competition, the Petitioner conceded that it experienced lower sales as a result of sharp contraction in demand in the telecommunications sector, whereas subject imports were concentrated in the lighting sector.

[93] CR and PR at Table IV-4.

[94] Petitioner urged the Commission to find the volume of subject imports significant relative to domestic production. Petitioner's Postconference Brief at 8-9, 12.

[95] Domestic production was *** units in 2000, *** units in 2001, and *** units in 2002. CR and PR at Table III-1. As reported in the text above, the volume of U.S. shipments of subject imports was *** units in 2000, *** units in 2001, and *** units in 2002.

therefore, factors not related to subject imports explain the change in the volume of subject imports relative to domestic production.

An additional factor supporting our conclusion is that more than *** percent of domestic production of HMCBs was exported outside the United States during the period examined.[96] These export shipments declined sharply over the period examined, and thus contributed to lower production by the domestic industry later in the period examined.[97] This decline cannot be due to subject imports.[98]

In conclusion, we find that the volume of subject imports, and the increase in that volume, both in absolute terms and relative to domestic consumption or production, is not significant.

### C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[99]

Gathering meaningful pricing data for this industry is complicated by the multitude of configurations in which HMCBs are sold. As noted, the sole domestic producer reported selling 40,000 to 50,000 different configurations in a single year. One company producing non-subject imports reported nearly *** different configurations.[100] As a result, no single configuration or group of configurations accounted for a significant share of sales, which makes it impractical to obtain pricing data accounting for a substantial percentage of total sales or to make price comparisons covering a substantial volume of product. Analysis of price comparisons is further complicated by the very large volume discounts provided by suppliers in this market, which can result in price discounts of 50 to 60 percent.[101] [102]

The Commission requested quarterly price data for domestic products and subject imports for four HMCB products suggested by Airpax. As requested, Product 1 was defined as all single pole, B-Frame size HMCB. Product 2 was defined as all single pole, D-Frame size HMCB.[103] Products 1 and 2

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[96] Figure derived from CR and PR at Tables III-1 and III-2.

[97] CR and PR at Table III-2.

[98] We cannot attribute the effects of other factors to the subject imports. See Senate Doc. 96-249, 96th Cong. 1st Sess. (1979) at 74-75 and H.R. Doc. 96-317, 96th Cong., 1st. Sess. (1979) at 47 (Commission's analysis to take into account evidence showing that harm to the domestic industry is attributable to other factors, including competition of non-subject imports sold at fair value, contraction in demand or changes in patterns of consumption, and the export performance of the domestic industry). Accord SAA at 851-52.

[99] 19 U.S.C. § 1677(7)(C)(ii).

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

[101] CR at V-6, PR at V-4.

[102] Even if the Commission were to proceed to a final phase investigation, the same limitations would apply. Moreover, due to the substantial range of products and volume discounts, average unit values are not a useful proxy for prices.

[103] CR at V-7 and PR at V-5.

each encompassed a broad range of configurations.[104] Product 3 was defined as a subset of Product 1: single pole, B-Frame HMCB, single coil, 25-ampere capacity, 240 vAC.[105] [106] The pricing data coverage for subject imports is relatively high, representing *** percent of U.S. shipments of subject imports during the period examined, but only *** percent of U.S. shipments of U.S. product.[107] We attribute the lower coverage for U.S. product not to a lack of response to our data request, given that the data sought were based on product categories suggested by the sole U.S. producer, but to limited competition with the subject imports, as discussed more fully below.

While the average quarterly pricing data for Products 1 and 2 may be used to show trends, the trends observed are mixed and inconclusive. Prices for Product 1 produced in the United States fluctuated but tended to rise in 2000 and 2001, before declining in the last quarter of 2002 to a level approximately the same as in the first quarter of 2000.[108] Prices for Product 1 from South Africa showed a different trend, falling *** during 2000, and then decreasing at a much *** rate during 2001 and 2002.[109] Prices for Product 2, for both subject imports and the domestic product, fluctuated in a downward trend during the period examined. We do not find a clear correlation in these trends between U.S. and subject import prices, particularly given that the broad product mixes reported in the pricing categories admit the possibility that changes in the composition of the products accounted for changes in average prices rather than changes in the prices for particular products.[110]

Five quarterly price comparisons were possible for Product 3, which is a subset of Product 1. Three comparisons showed that the subject imports undersold the domestic like product, by margins ranging from *** percent to *** percent.[111] The two other comparisons showed the subject imports oversold the domestic product, by margins of *** percent and *** percent.[112]

We do not find these mixed instances of underselling to be significant. First, there are multiple configurations of HMCBs within the definition of Product 3.[113] Additionally, the volume of product captured in these comparisons was very small for the domestic producer.[114] As noted, volume discounts are significant in this market, and thus price comparisons of sales of different volumes may not indicate actual price differences.[115]

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[104] CR at V-7 and PR at V-5. See Tr. at 33, 48-50 (McDonald); CR at II-3; PR at II-2.

[105] CR at V-7, V-8 n.20; PR at V-5 & n.20.

[106] The Commission also gathered data as to a Product 4 suggested by Petitioner. Product 4 is a subset of Product 2: single pole, D-frame HMCBs, single coil, 100-ampere capacity, 240 vAC. CR at V-7, V-8 n.20; PR at V-5 & n.20. Airpax ultimately determined that it did not sell any HMCBs of that description during the period examined. CR at V-16 and PR at V-8. Accordingly, no price comparison or domestic price trend data are available regarding Product 4.

[107] CR at V-8; PR at V-5.

[108] CR and PR at Figure V-2.

[109] CR and PR at Figure V-2.

[110] See, e.g., CR and PR at VI-1 n.1.

[111] CR at V-16 and PR at V-8.

[112] CR at V-16 and PR at V-8.

[113] CR at V-7 and PR at V-5. Petitioner stated that ***. Staff interview with Messrs. John Smirnow and Myron Barlow, counsel to Petitioner, April 2, 2003.

[114] CR at V-16 and PR at V-8.

[115] With respect to price trends for Product 3, the limited and sporadic data show an increase in price for domestically manufactured Product 3 and a decrease in the price for subject imports of Product 3. CR and PR at Table V-3a.

Price comparisons for broadly defined Products 1 and 2 are problematic because they each include HMCBs with very different configurations and values.[116] Moreover, due to the large volume discounts in this market, even if sales of Products 1 or 2 of the same configuration were available, analysis of price comparisons would still be complicated.

Competition between subject imports and the domestic product is attenuated due to their respective concentrations in different end-use applications, as well as by the many differing configurations of the products. As indicated in our discussion of the conditions of competition, the domestic product is concentrated in telecommunications, HMCB distributors, industrial users, and power distribution. By contrast, about *** of subject imports were sold for use in lighting applications. The limited competition is corroborated by the Commission's investigation of Airpax's allegations of lost sales and lost revenues, which indicated that the vast majority of Airpax's sales allegedly lost to subject imports were of Airpax's Mexican production, that is, non-subject imports, rather than its U.S. production.[117]

In addition, we again note the predominant presence of non-subject imports, which never accounted for less than *** times the volume of subject imports. Although price comparisons involving non-subject imports are subject to the same limitations discussed above, data submitted by one producer of non-subject imports (***), indicate that they on occasion undersold both the U.S. product and subject imports.[118] Further, the record suggests that any price declines[119] for domestic HMCBs were due to the sharp contraction in demand in the telecommunications sector. In short, we do not attribute any significant price depression experienced by the domestic industry to subject import volume given the predominant position of non-subject imports and the limits on competition between subject imports and the domestic product.

Nor do we find that subject imports prevented the domestic industry from raising prices to any significant degree. The rising per unit costs and lower per unit sales values in 2002 experienced by the domestic industry indicate a motivation to raise prices. We do not attribute to subject imports to a significant degree any inability on the part of the domestic industry to raise prices given the steep decline in demand for HMCBs, the predominant presence of non-subject imports, and the limits on competition between subject imports and the domestic product.

We accordingly find that subject imports have not had significant adverse effects on domestic prices during the period examined.

### D. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[120] These factors include output, sales, inventories, capacity utilization, market

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[116] CR at V-7 and PR at V-5. Compare General Motors Corp. v. United States, 827 F. Supp. 774, 787 (Ct. Int'l Trade 1993) (differences in the products made specific price comparisons unreliable).

[117] CR at V-19 to V-23, PR at V-8 to V-10.

[118] CR at V-16, V-19; PR at V-8.

[119] See Tr. at 20 (McDonald), 23 (Michael V. Rabasca, Vice President and Chief Executive Officer, Airpax Corp.) (asserting price declines). As noted above, however, price trends on Products 1 and 2 are mixed and inconclusive.

[120] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing (continued...)

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 industry."[121]

We find that the subject imports of HMCBs from South Africa have not had a significant adverse impact on the condition of the domestic industry. As discussed below, the domestic industry experienced substantial losses in 2002 after positive financial results in 2000 and 2001. A comparison of data from the first quarters of 2002 and 2003 suggest that the domestic industry's losses are continuing, likely at a higher rate. We do not attribute the domestic industry's financial reversal to subject imports, consistent with our findings that the volume of subject imports is not significant and that subject imports are not having significant negative price effects on prices for the domestic product. Instead, the record demonstrates that the domestic industry's poorer performance after 2001 is due to other factors, as described below.

By most measures, the domestic industry showed positive results in 2000 and 2001, in contrast to declining performance in 2002. The domestic industry produced *** units in 2000, *** units in 2001, and *** units in 2002.[122] During the first quarter of 2002 the domestic industry produced *** units compared to *** units during the first quarter of 2003.[123]

Because the domestic industry produces to order, its output and shipments follow a similar pattern. The industry's domestic shipments were *** units in 2000, *** units in 2001, and *** units in 2002.[124] Its domestic shipments totaled *** during the first quarter of 2002 compared to *** units in the first quarter of 2003.[125]

As noted previously, the industry's share of apparent U.S. consumption was low throughout the period. The domestic industry had a market share of *** percent in 2000, *** percent in 2001, and *** percent in 2002. Overall, the domestic industry's market share did not decline over the period examined, and any increase in subject imports' market share over the period examined came at the expense of non-subject imports, not the domestic product. Primarily as a result of Airpax's ongoing shift of production activities to Mexico, the domestic industry's capacity utilization rates were low and declining throughout the period examined. The domestic industry's capacity utilization rate was *** percent in 2000, *** percent in 2001, and *** percent in 2002.[126] During the first quarter of 2002, its capacity utilization rate was *** percent, compared to *** percent in the first quarter of 2003.[127]

The domestic industry's financial performance reflects the same pattern. As a ratio of net sales, the domestic industry earned an operating margin of *** percent in 2000, *** percent in 2001, but it

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[120] (...continued)
difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[121] 19 U.S.C. § 1677(7)(C)(iii). The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. In its notice of initiation, Commerce estimated that dumping margins for imports of HMCBs from South Africa ranged from 129.43 to 721.95 percent. 68 Fed. Reg. 25332, 25334 (May 12, 2003).

[122] CR and PR at Table III-1.

[123] CR and PR at Table III-1.

[124] CR and PR at Table III-2.

[125] CR and PR at Table III-2.

[126] CR and PR at Table III-1.

[127] CR and PR at Table III-1.

experienced an operating margin of a negative *** percent in 2002.[128] During the first quarter of 2002, the domestic industry experienced operating margins of negative *** percent and negative *** percent in the first quarter of 2003.[129] Gross profits, operating income, and net income followed similar patterns.[130]

The record indicates that the domestic industry's financial reversal after 2001 resulted from sharp reductions in the quantity of its U.S. shipments as well as the lower per unit value of its sales that year. The quantity of the domestic industry's U.S. shipments fell by nearly *** from 2001 to 2002, from *** units to *** units.[131] The lower quantity of shipments resulted in lower net sales and lower production.[132] The drop in production had the effect of raising per unit costs, as substantial fixed costs were spread across fewer units in 2002 than in 2001. The other major factor adversely affecting the financial performance of the domestic industry is *** lower unit values for sales, which declined nearly *** from $*** in 2001 to $*** in 2002.[133] [134]

We find that the factors affecting the domestic industry's performance were not related to any significant degree to subject imports. As to the decrease in quantity of U.S. shipments, the domestic industry experienced a decline from 2000 to 2002 that was slightly less than the overall decline in apparent U.S. consumption over the same period.[135] From 2001 to 2002, the domestic industry experienced a decline in U.S. shipments that was steeper than the decline in apparent U.S. consumption. The domestic industry indicated to the Commission, however, that the telecommunications sector "played a dominant role during [fiscal years] 2000 and 2001" and "experienced a significant downturn as the end of 2001 that has carried through to the present."[136] Telecommunications was the leading end-use application for the HMCBs that the domestic industry sold, and therefore the decline in telecommunications demand accounts in large part for the domestic industry's decline in sales in 2002.

Other factors unrelated to subject imports also contributed to the domestic industry's decline in U.S. shipments after 2001. Sales of military specification HMCBs accounted for between *** and *** percent of Airpax's total sales of domestically produced HMCBs during each full year of the period examined.[137] Airpax is the sole certified domestic producer of military specification HMCBs, so these sales were effectively shielded from competition with subject imports.[138] Nevertheless, the domestic industry largely shifted the sourcing of HMCBs to fill military orders from its U.S. production to its Mexican production in 2002.[139] In 2000, the domestic industry sourced only *** percent of its HMCBs

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[128] CR and PR at Table VI-1.

[129] CR and PR at Table VI-1.

[130] CR and PR at Table VI-1.

[131] CR and PR at Table C-1.

[132] The domestic industry produces only to order. CR at II-15, PR at II-9.

[133] CR and PR at Table C-1.

[134] In the first quarter of 2002, the domestic industry's unit values were much higher than any full-year average at $***, while during the first quarter of 2003 they were much lower than any full-year average at $***. CR and PR at Table C-1. Because the figures appear aberrational, we place little weight on these quarterly unit value data.

[135] For the domestic industry, the decline was *** percent whereas the decline in overall U.S. apparent consumption was *** percent. CR and PR at Table C-1.

[136] CR and PR at VI-1 n.1.

[137] Petitioner's Postconference Brief at Exh. 2 (Petitioner supplied these data in poles).

[138] Petition at 34, Tr. at 37-38 (Smirnow).

[139] Petitioner's Postconference Brief at Exh. 2. It appears that the domestic industry has found it more profitable to produce HMCBs for military orders in Mexico, even though domestic production and sales were shielded from competition from subject imports. Airpax's combined U.S. and Mexican HMCB operations were *** at a gross

(continued...)

for military orders from Mexico; this figure rose to *** percent in 2001 and *** percent in 2002.[140] During the first quarter of 2003, the domestic industry sourced fully *** percent of its military sales from Mexico.[141] Airpax's shift of this production to Mexico – production effectively shielded from competition with subject imports – contributed in significant part to the decline in the domestic industry's U.S. shipments in 2002.

The subject imports in contrast had no significant role. From 2000 to 2002, the domestic industry gained slightly in market share, and thus the small increase in market share by the subject imports did not displace the domestic product. From 2001 to 2002, the small volume gain in subject imports predominantly displaced non-subject imports. The subject imports had a smaller market share in the first quarter of 2003 than in the first quarter of 2002, yet the domestic industry's performance was significantly worse in the first quarter of 2003 than the first quarter of 2002.[142]

Nor does the record indicate that the lower unit sales values experienced by the domestic industry in 2002 were due to any significant degree to subject imports. The domestic industry informed the Commission that:

> ***[143]

Based on this and other record information, we conclude that the lower unit values experienced by the domestic industry in 2002 were the result of changes in product mix caused by the contraction in demand for "***" HMCBs used in the production of telecommunications equipment.[144]

For the reasons discussed above, we do not find that the subject import volume had any significant adverse effects on the domestic industry during the period examined. The decline in the domestic industry's financial performance in 2002 was due to its lower volume of sales and lower unit values for the sales. Both of these declines were caused by factors not related to subject imports. Although subject imports increased in volume and market share over the period examined, they did not gain market share at the expense of the domestic industry, which increased its market share ***. Instead, these adverse factors observed in 2002 were caused by the ongoing contraction in demand for higher unit value HMCBs for use in the production of telecommunications equipment, and the decision by the domestic industry to produce military specification HMCBs in Mexico rather than in the United States and to shift some production to lower unit value HMCBs.

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[139] (...continued)
profit level, even during 2002. Airpax's questionnaire response (April 29, 2003) attachment to Part III. Airpax experienced positive operating margins for its combined U.S. and Mexican operations ***. Id. As Petitioner urges, however, the Commission must as a matter of law examine only the U.S. operations of the domestic industry in evaluating material injury and threat of material injury. Petitioner's Postconference Brief at 8; 19 U.S.C. § 1677(7)(B)(i)(III); General Motors Corp. v. United States, 827 F. Supp. 774, 779-80 (Ct. Int'l Trade 1993).

[140] Figures derived from Petitioner's Postconference Brief at Exhibit 2.

[141] Figures derived from Petitioner's Postconference Brief at Exhibit 2.

[142] Even if the domestic industry had captured the entire volume of sales filled by subject imports, the domestic industry still would have operated at low capacity utilization rates. Moreover, there is no indication that the domestic industry could have captured more than a modest portion of the already small volume of subject import sales, given that subject imports gained market share at the expense of non-subject imports.

[143] CR and PR at VI-1 n.1.

[144] Petitioner's Postconference Brief at Exh. 2. The domestic industry's decision to supply the bulk of its military orders from its Mexican production after 2001 also affected product mix.

Accordingly, for the reasons discussed above, we determine that there is not a reasonable indication that the domestic HMCB industry is materially injured by reason of subject imports from South Africa.

## V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS FROM SOUTH AFRICA

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing 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."[145] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[146] In making our determination, we have considered all factors that are relevant to this investigation.[147] Based on an evaluation of the relevant statutory factors, we find that there is no

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[145] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[146] 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. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[147] 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
> (V) inventories of the subject merchandise,
> (VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
> (VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),
> (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).
> Moreover, the Commission shall consider the threat factors "as a whole" in making its determination

(continued...)

reasonable indication that an industry in the United States is threatened with material injury by reason of imports of HMCBs from South Africa that allegedly are sold in the United States at LTFV.

As an initial matter, we find that the record has mixed indications regarding whether the domestic industry is vulnerable to a threat of material injury by reason of subject imports from South Africa. The domestic industry's performance generally was positive during 2000 and 2001, but it experienced losses in 2002. One of the factors causing those losses was the Petitioner's decision to supply military orders through Mexican production instead of its U.S. production.[148] There is no indication that the domestic industry intends to shift production back to the United States for its military orders, and thus the effect of this decision appears likely to continue in the imminent future. As to the other factor causing the domestic industry's lower performance in 2002, it is unclear whether demand in the telecommunications sector will remain at current levels, decline further, or recover somewhat.[149] On balance, we conclude that the financial condition of the domestic industry likely will remain in a weakened state during the imminent future.

As with regard to present material injury, our consideration of threat of material injury takes into account the predominant position of non-subject imports in the market. There is no indication that non-subject imports will cease to dominate the U.S. market in the imminent future. Our threat analysis also takes into account the limits on the competition between subject imports and the domestic product. As discussed more fully above, subject imports and the domestic product are sold primarily for different end-use applications; subject imports are offered in many fewer configurations than is the domestic product; and subject imports, in contrast to the domestic product, are directed to large volume, rather than small volume, customers.

We do not find a significant rate of increase in the volume or market penetration of subject imports that would indicate a likelihood of substantially increased imports. Neither the volume nor increase in volume of subject imports was high during the period examined. In addition, increases in the market share held by subject imports primarily came at the expense of non-subject imports. From 2000 to 2002, the domestic industry increased its market share ***, despite concurrent gains by subject imports. Circuit Breaker Industries, Ltd., the sole foreign producer of the subject merchandise, provided a listing of all booked orders through ***, and on that basis projects a decline in sales compared to 2002.[150] Moreover, subject import volumes were lower during the first quarter of 2003 than during the first quarter of 2002.[151]

Nor do we find that existing inventories of the subject merchandise indicate the potential for a significant increase in the volume of subject imports in the imminent future. Inventories were not

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[147] (...continued)
"whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur" unless an order issues. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.

Factors I and VII are inapplicable to this investigation.

[148] As noted above, it appears that the domestic industry has found it more profitable to produce HMCBs for military orders in Mexico, even though they are shielded from competition from subject imports. As also noted, the Commission must as a matter of law examine only the U.S. operations of the domestic industry in evaluating material injury and threat of material injury.

[149] CR at II-10, PR at II-6; Petitioner's Postconference Brief at Exh. 6.

[150] CR at VII-5, PR at VII-2, Respondents' Postconference Brief at 48.

[151] CR and PR at Table IV-2.

substantial relative to apparent U.S. consumption.[152] Subject imports have competed primarily with the predominant non-subject imports during the period examined, and they likely will continue to do so in the imminent future. Approximately 46 percent of the inventory of subject imports held in the United States (80 percent of CBI's U.S. inventories) is earmarked to fill existing orders, and thus is not available to supply new orders.[153] Almost all the uncommitted inventory is a Q-Frame product sold for lighting applications, which is not a major area of sales for the domestic industry.[154] As for subject merchandise in inventory in South Africa, only a small portion of it is suitable for sale in the United States.[155]

Our conclusion is supported further by record evidence regarding the operations of Circuit Breaker Industries, Ltd. The sole foreign producer operated at nearly full capacity during the period examined, and it is projected to do so in 2003 and 2004.[156] Circuit Breaker Industries, Ltd. reported a recent expansion in capacity, but it also represented that the new capacity was for HMCBs that cannot be sold in the United States.[157]

The record also indicates that the foreign producer is not primarily export oriented. Although that figure declined somewhat during the period examined, the percentage of Circuit Breaker Industries, Ltd.'s sales that were made into the home market still accounted for the bulk (more than ***), of its total sales in 2002.[158] Even as to its exports, the foreign producer's sales to third country markets increased more rapidly than did its exports to the United States.[159] There are no reported antidumping orders on exports of HMCBs from South Africa into third country markets.

Subject imports are not entering the United States at prices likely to have significant price depressing or price suppressing effects, or to result in a significantly increased volume of sales. In considering price effects, we note that the volume of subject imports is small, particularly considering that non-subject imports were at least *** times higher. Moreover, as discussed above, subject imports and the domestic product largely were sold to different customers for different end-use applications, and subject imports were offered in many fewer configurations than was the domestic product. These and other factors mentioned previously result in limited competition between subject imports and the domestic product. Finally, the sharp decline in demand for HMCBs for use in telecommunications end-use applications strongly influenced any price declines during the period examined. Given these facts, we conclude that any possible price effects of subject imports are not significant or likely to result in increased volumes of subject imports at the expense of U.S. product.

The record does not indicate any actual or potential negative effects by subject imports on the existing development and production efforts of the domestic industry. The domestic industry reduced spending on research and development ("R&D") during the period examined, but we do not find the decline substantial nor do we attribute it to subject imports. The domestic industry's R&D expenses

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[152] CR and PR at Table C-1.

[153] Tr. at 71 (Fischer), CR at II-7 n.28, PR at II-4 n.28.

[154] Tr. at 71 (Fischer), CR at II-14, PR at II-8.

[155] Tr. at 71 (Fischer).

[156] CR and PR at Table VII-1.

[157] CR at II-7 n. 27, PR at II-4 n.27. Respondents indicated that this additional capacity cannot be shifted to production of HMCBs suitable for sale in the United States without "significant retooling and time." Tr. at 71 (Fischer). Similarly, Respondents indicated that it would require significant retooling to shift production of TMCBs to HMCBs. Respondents' Postconference Brief at 49.

[158] CR and PR at Table VII-1.

[159] CR and PR at Table VII-1.

were $*** in 2000, $*** in 2001, and $*** in 2002.[160] For the first quarter of 2002, R&D expenses were $***, compared to $*** in the first quarter of 2003.[161]

We do not find that these modest declines are evidence of actual or potential negative effects of subject imports on the domestic industry. The domestic industry slightly reduced R&D expenses from 2000 to 2001, even though in 2001 it gained market share, and remained profitable. Although most of the small gain in market share by subject imports occurred from 2001 to 2002, the reduction in R&D by the domestic industry from 2001 to 2002 was *** as it was from 2000 to 2001. Thus, the record does not indicate an accelerated reduction in R&D spending as a result of the increase in subject imports from 2001 to 2002. Moreover, based on the record, we attribute the slight decreases in R&D spending to the significant decline in HMCB demand discussed above.

The domestic industry's capital expenditures declined sharply from $*** in 2000 to $*** in 2001, but then were higher at $*** in 2002.[162] During the first quarters of 2002 and 2003, capital expenditures were little changed, at $*** and $*** respectively.[163] The record does not indicate that subject imports caused the fluctuations to any significant degree. From 2000 to 2001, the domestic industry reduced capital expenditures yet it continued to generate operating income. Subject imports gained minimally in market share, and the domestic industry increased its market share as well. The domestic industry increased capital expenditures from 2001 to 2002, although it lost some market share to subject imports and experienced operating losses. Therefore, we do not find that the domestic industry's fluctuating capital expenditures are evidence of actual or potential negative effects of subject imports on the domestic industry.

Finally, there is no evidence of any other demonstrable adverse trends that indicate that there is likely to be material injury by reason of subject imports.[164] Petitioner notes that public statements by Circuit Breaker Industries, Ltd. indicate an intent to expand sales in the United States market. As discussed above, however, we do not find a likelihood that the volume of subject imports is likely to increase substantially, or that subject imports will enter the United States at prices likely to result in price depression or price suppression. Competition between subject imports and the domestic like product is limited. Subject imports primarily compete with non-subject imports, which never held less than a *** percent market share during the period examined.

## CONCLUSION

For the reasons stated above, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of HMCBs from South Africa that are allegedly sold in the United States at less than fair value.

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[160] CR and PR at Table VI-3.

[161] CR and PR at Table VI-3.

[162] CR and PR at Table VI-3.

[163] CR and PR at Table VI-3.

[164] 19 U.S.C. § 1677(7)(F)(I)(IX).

# PART I: INTRODUCTION

## BACKGROUND

This investigation results from a petition filed by Airpax Corp., Cambridge, MD, on April 14, 2003, 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 hydraulic magnetic circuit breakers (HMCBs)[1] from South Africa. Information relating to the background of the investigation is provided below.[2]

| *Date* | *Action* |
|---|---|
| April 14, 2003 ..... | Petition filed with Commerce and the Commission;[3] institution of Commission investigation (68 FR 19849, Apr. 22, 2003) |
| May 5 ..... | Commission's conference[4] |
| May 12 ..... | Commerce's notice of initiation (68 FR 25332) |
| May 29 ..... | Commission's vote |
| May 29 ..... | Commission determination sent to Commerce |

## SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1 (units) and C-2 (poles). Except as noted, U.S. industry data are based on the questionnaire response of one firm that accounted for nearly all U.S. production of HMCBs during 2002. U.S. import data are also based on questionnaire responses. Throughout the report both units and poles are reported for quantity. Units are the individual complete HMCB and poles are the number of completely separate circuits that can be simultaneously protected by a HMCB.

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[1] For purposes of this investigation, the subject goods are all hydraulic magnetic circuit breakers circuit breakers, incorporating a tripping means of a magnetic coil surrounding a tube and plunger, restrained by air, liquid or spring, whether or not sealed, whether or not of molded case, of any voltage less than 72.5 kilovolts, of any amperage rating, with single or multiple poles, of any mounting or connection means and of any terminal type, whether or not having a magnetic latch, and excluding thermal and thermal magnetic circuit breakers. The subject merchandise is classified under Harmonized Tariff Schedule of the United States ("HTS") subheadings 8535.21.00 and 8536.20.00. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive. The normal trade relations tariff rate, applicable to imports from South Africa, is 2.7 percent *ad valorem*. Both tariff categories accord duty-free entry under the GSP to eligible goods.

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

[3] The petition alleged LTFV margins to be as follows: B frame (based on Circuit Breakers Industries, Inc. (CBI) USA price quotes) - 235 percent; B frame (based on Census Bureau average unit value) - 158 percent; C and E frame (based on CBI USA price quotes) - 928 percent; C and E frame (based on Census Bureau average unit value) - 515 percent; D frame (based on CBI USA price quotes) - 292 percent; D frame (based on Census Bureau average unit value) - 327 percent. In its initiation notice, Commerce recalculated estimated LTFV margins for HCMBs from South Africa to range from 129.43 percent to 721.95 percent.

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

## THE SUBJECT PRODUCT

### Physical Characteristics and Uses

Electrical circuits often employ devices such as fuses or circuit breakers to protect the wires and other devices connected within the circuit. When the flow of electricity through a circuit breaker exceeds predetermined values, the circuit breaker trips and breaks the circuit, thereby protecting the wiring and devices within the circuit. Circuit breakers can be reset, after they have broken the circuit, in order to restore the circuit. Circuit breakers are actuated by the flow of electricity through a bimetallic strip or through an electromagnet, or a combination of the two.[5]

There are a number of different types of circuit breakers, including but not limited to HMCBs, thermal circuit breakers (TCBs), and thermal magnetic circuit breakers (TMCBs). HMCBs possess physical characteristics and uses distinct from either TCBs or TMCBs. The most important distinguishing feature of an HMCB is its ability to provide a precisely timed response to an overcurrent condition. Unlike TCBs or TMCBs, HMCBs incorporate a time delay mechanism called a "delay tube," which allows for precisely calibrated trip timing ranging from milliseconds up to minutes. The components that make up the HMCB delay tube subassembly collectively represent the heart of an HMCB, and distinguish the HMCB from other less expensive, less precise, and less sophisticated circuit breakers.[6]

An illustration of the operating mechanism of an HMCB is shown in figure I-1. The HMCB is connected in series with the protected device and the power source. As long as the current flowing through the HMCB remains below 100 percent of the rated current of the unit, the contacts will remain closed as shown in figure I-1 (a), and the electrical circuit can be opened and closed by moving the toggle handle (10) on and off. If the current increases to a point between 100 percent and 125 percent of the rated current of the unit, the magnetic flux generated in the coil (5) is sufficient to move the core (3) against the spring (11) to a position where it comes to rest against the pole piece (12) as shown in figure I-1 (b). The movement of this core against the pole piece increases the flux in the magnetic circuit described above enough to cause the armature (2) to move from its normal position shown in figure I-1 (a) to the position shown in figure I-1 (b). As the armature moves, it trips the sear pin (13) which, in turn, triggers the collapsible link of the mechanism, thus opening the contacts (7, 8).[7]

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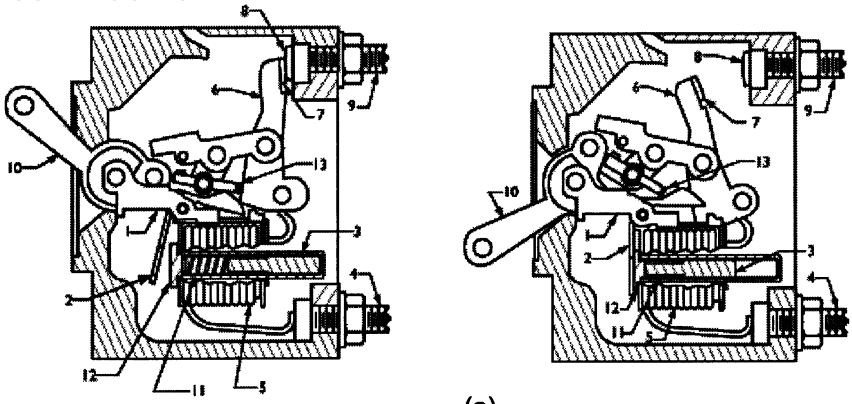
[5] "How Stuff Works: Circuit Breakers," article retrieved from at http://home.howstuffworks.com/circuit-breaker.htm/, May 1, 2003.

[6] *See*, testimony of Steve McDonald, Airpax, conference transcript, pp. 11-13. *See*, petition, pp. 2-3. *See*, CBI, "Hydraulic Magnetics," found at http://www.cbibreakers.com/magnetic.asp, May 1, 2003.

[7] Airpax, "Magnetic Circuit Breakers," found at http://www.airpaxppp.com/pppsite/copmag.html, May 1, 2003.

**Figure I-1 (a) and (b): Operating mechanism of a hydraulic magnetic circuit breaker**



(a) (b)

Source: Airpax.

The movement of the core within the tube, and thus the timing, is controlled primarily by adjusting the viscosity level of the silicone dampening fluid within the tube. A higher viscosity level will lower the time delay while a lower viscosity level will increase the time delay. The timing can be precisely controlled to within milliseconds.[8]

TCBs do not contain a magnetic trip mechanism, but instead utilize a thermal sensing element. When the pre-determined temperature of the thermal sensing element is reached, a piece of bimetal warps, triggering a release mechanism that breaks the circuit. TCBs are particularly susceptible to nuisance tripping - the circuit is broken when it is not desired - associated with changes in ambient air temperature and/or moderate overload currents.[9]

TMCBs contain a magnetic trip mechanism, but this mechanism is much less sophisticated than the HMCB delay tube. The magnetic trip mechanism within a TMCB is a three-sided piece of metal surrounding the bi-metal plate, and does not include either a core, tube, or dampening fluid. This magnetic mechanism allows for a "dead short" in very high overload situations, where the magnetic trip mechanism of a TMCB engages faster than would the bi-metal plate. In contrast, the HMCB's delay tube allows better protection over a wider range of currents and not just during very high overloads.[10]

According to the petitioner, HMCBs have the ability to hold at 100 percent of current over a much larger temperature range than do TCBs or TMCBs, from roughly -45°C to +85°C. In addition, HMCBs are offered in increments of 0.1 amp (A). In contrast, TCBs and TMCBs are typically offered in 5A or 10A increments, with some thermal manufacturers going as low as 0.5A. Certain industries, such as heating, ventilation, and cooling ("HVAC"), require circuit breakers with amperage ratings in increments of 0.1A, and thus primarily use only HMCBs, especially for compressor and motor control protection.[11]

According to the petitioner, HMCBs are made of 50-70 individual components including those necessary for the more sophisticated delay tube mechanism, whereas TCBs and TMCBs are made up of only 20-30 individual components. HMCBs offer better DC short circuit protection than TCBs or TMCBs. HMCBs generally are available with handle (actuator) and terminal offerings far in excess of the offerings for TCBs or TMCBs. HMCBs also have handle force levels low enough that they can be

[8] Id.

[9] *See* petition, p. 9.

[10] Id.

[11] *See* petition, p. 10.

used as on-and-off switches as well as circuit protection devices, whereas the force needed to cycle the handle of TMCBs would discourage such use.[12]

The petitioner contends that, within the United States, HMCBs are primarily used by original equipment manufacturers ("OEMs"). As noted previously, HMCBs are primarily used to protect business and industrial equipment. Such uses include, but are not limited to, telecom power equipment, base transceiver stations, uninterruptible power supply systems, datacom/server equipment, HVAC systems, railway equipment, marine panels, and power generators. Meanwhile, TMCBs are primarily used to protect wiring, such as the wiring within the walls of a house or other building. In contrast to the petitioner, the respondent asserts that HMCBs and TMCBs do compete in certain situations.[13]

**Manufacturing Facilities and Production Employees**

The petitioner is the sole U.S. manufacturer of commercial quantities of HMCBs and manufactures no other types of circuit breakers. As such, in the United States, HMCBs do not share manufacturing facilities or production employees with TCBs or TMCBs. The petitioner asserts that the manufacturing process for HMCBs, which have more components than other types of circuit breakers, requires more labor intensive assembly than for either TCBs or TMCBs. The petitioner further asserts that, while TCBs and TMCBs are generally produced by automated production processes, the same is not necessarily true for HMCBs. Although some components within HMCBs are manufactured by an automated process, the production of delay tubes and final assembly of an HMCB must be done by hand.[14]

The respondent contends that HMCBs are not necessarily more complicated or expensive to manufacture than TCBs or TMCBs.[15] According to the respondent, HMCBs and TMCBs with similar degrees of complexity require similar assembly processes. More complex products are more labor intensive and more sensitive to hourly wage rates.[16]

**Interchangeability**

According to the petitioner, in the United States, one would generally not use TCBs or TMCBs in applications for which HMCBs are used. Petitioner also maintains that, due to their differing physical characteristics, HMCBs are more reliable than TCBs or TMCBs in protecting equipment.[17] Further, petitioner contends that HMCBs are significantly more expensive to produce than TCBs or TMCBs, containing more components that must be assembled by hand.[18] As such, petitioner asserts that HMCBs are not generally used in the United States in applications where cheaper TCBs or TMCBs would suffice. Conversely, according to petitioner, TCBs and TMCBs are not used in applications where the reliability of an HMCB is required. As noted above, petitioner asserts that HMCBs are primarily used to provide

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[12] *See*, testimony of Steve McDonald, Airpax, conference transcript, p. 15.

[13] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 59.

[14] *See*, testimony of Steve McDonald, Airpax, conference transcript, p. 18.

[15] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 67.

[16] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 66.

[17] Both TCBs and TMCBs generally are more sensitive than HMCBs to ambient temperature changes that impact their performance - higher temperatures lead to nuisance tripping. HMCBs are not sensitive to ambient temperature changes and performance is more reliable, because the dampening fluid used in the delay tube is not affected by ambient temperature, as is the metal bi-plate mechanism of the TCBs and TMCBs.

[18] *See*, testimony of Steve McDonald, Airpax, conference transcript, p. 16.

customized protection to expensive business equipment, while TCBs or TMCBs are primarily used to protect wiring.

The respondent contends that TMCBs do compete with HMCBs in certain applications in the U.S. market.[19] TMCBs can be built incorporating temperature-compensating bi-metal, which alleviates their sensitivity to ambient temperature.[20] The respondent also contends that HMCBs can be built with fewer parts than petitioner asserts, thus reducing the cost of production.

### Customer and Producer Perceptions

According to the petitioner, both customers and producers view HMCBs as distinct from either TCBs or TMCBs. Although HMCBs could be used in applications where TCBs or TMCBs are used, HMCBs' higher cost discourages the use of HMCBs in thermal or thermal magnetic applications. Similarly, although TCBs and TMCBs could theoretically be used in HMCB applications, the high cost of the equipment typically protected by HMCBs demands a higher level of performance and reliability than possessed by TCBs and TMCBs. However, the respondent notes that in certain cases, customers do switch in their use between HMCBs and TMCBs.[21]

### Channels of Distribution

The petitioner contends that HMCBs are generally sold through different channels of distribution than TCBs or TMCBs in the United States. The petitioner estimates that approximately 80 percent of HMCBs are sold directly to OEMs, with the remaining 20 percent sold to distributors. The petitioner further contends that, in contrast, about 40 percent of TCBs are sold to OEMs and 60 percent to distributors, and nearly all TMCBs are sold to distributors and large retailers.[22] More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

### Price

The petitioner contends that HMCBs and TCBs or TMCBs can be distinguished by price. HMCBs generally have carried a considerable price premium over TCBs or TMCBs, due largely to HMCB manufacturing requiring more components and a higher-skilled workforce. However, the petitioner further contends that this premium has recently been severely eroded due to the entrance of unfairly traded South African subject imports.[23] The respondent asserts that the price of an HMCB will depend on the complexity of the product and the production processes required.[24] More detailed information on prices can be found in Part V of this report, *Pricing and Related Information.*

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[19] *See*, testimony of Helmuth Fischer, CBI, conference transcript, pp. 59 and 64.

[20] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 66.

[21] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 64.

[22] *See*, testimony of Steve McDonald, Airpax, conference transcript, pp. 15-16.

[23] *See*, testimony of Steve McDonald, Airpax, conference transcript, p. 16.

[24] *See*, testimony of Helmuth Fischer, CBI, conference transcript, pp. 66-67.

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

## CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

The lone U.S. HMCB producer, Airpax, and the two U.S. importers of HMCBs from South Africa, CBI and ETA, ship their HMCBs primarily to OEMs and the remainder to distributors.[1] Airpax reported shipping *** percent of its U.S.-produced HMCBs to U.S. OEMs and the remaining *** percent to U.S. distributors during January 2000-March 2003, while the two U.S. importers reported shipping *** percent of their combined imported South African HMCBs to U.S. OEMs and the remaining *** percent to U.S. distributors. Most of the U.S.-produced HMCBs and a majority of the subject imported HMCBs from South Africa were produced *** and shipped nationwide during January 2000-March 2003.

Five firms are believed to have accounted for almost all of the supply of HMCBs to the U.S. market during January 2000-March 2003--Airpax, Carling, Eaton, CBI, and ETA (***).[2] Airpax supplied HMCBs to the United States mostly from its *** facilities;[3] Carling[4] [5] and Eaton[6] supplied HMCBs from their *** facilities; and both CBI and ETA supplied HMCBs from South Africa.[7] Airpax, Carling, and Eaton were all once U.S. producers of HMCBs, but shifted their production to Mexico to take advantage of low labor rates.[8] Supplier concentration is very high in the U.S. HMCB market as Airpax (its U.S. and Mexican HMCBs combined) accounted for *** percent of the quantity (in units) of U.S. apparent consumption of HMCBs during January 2000-March 2003; Carling accounted for *** percent; Eaton accounted for *** percent; and CBI and ETA combined accounted for *** percent.[9] On the demand side, however, several hundred U.S. firms purchase HMCBs.[10] As a result, the supplier concentration figures suggest that the larger HMCB suppliers may exert at least some market power over pricing and sales terms, especially, but not exclusively, for small-volume sales.[11]

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[1] These three firms collectively are believed to account for all U.S.-produced and imported South African HMCBs sold in the United States during January 2000-March 2003.

[2] ***.

[3] ***.

[4] ***. *** indicated that if a U.S. company exports parts to Mexico under one HTS category (at the six-digit level) and imports the finished product (made from those parts) from Mexico under a different HTS category (at the six-digit level), Customs considers the imported Mexican product to be produced in Mexico. This would occur regardless of where in Mexico the product was produced and whether the facilities in Mexico were owned by the U.S. company or by a Mexican firm. ***.

[5] ***.

[6] ***.

[7] In addition to importing HMCBs from South Africa during January 2000-March 2003, ETA produced TCBs and TMCBs in the United States and ***. ETA noted that production of TCBs and TMCBs are labor intensive and ***.

[8] The production of HMCBs becomes increasingly labor intensive as production moves closer to the final product (***). Airpax reported in its questionnaire response that direct labor accounted for *** percent to *** percent of the total cost to produce HMCBs in the United States.

[9] CBI accounted for *** percentage points and ETA accounted for *** percentage points.

[10] ***.

[11] ***.

Airpax's imports of its Mexican-produced HMCBs accounted for *** of its HMCB sales in the United States during January 2000-March 2003.[12] Airpax's questionnaire responses indicated that *** percent of its total number of units of HMCBs sold in the United States during this period were imported from Mexico and the remaining *** percent were produced in the United States.[13] Airpax's U.S. production share of its total U.S. shipment quantity (in units) of HMCBs increased from *** percent in 2000 to *** percent in 2001, and then fell to *** percent in 2002.[14] During January-March 2003, its U.S.-produced HMCB share was *** percent of its total U.S. shipment quantity of HMCBs.[15] Airpax produces about *** of the poles it uses in its combined U.S.-produced and imported Mexican HMCBs in the United States and the remaining *** in Mexico.[16] The pole consists of the delay tube, which contains the silicone, sometimes a spring, and a metal plunger, and exterior to the delay tube a coil, armature, and spacer bobbin.[17]

Airpax indicated that Carling was its biggest competitor in the U.S. HMCB market;[18] both suppliers offer a wide range of HMCBs. Airpax reported at the Commission conference that it offers 40,000 to 50,000 different HMCB configurations,[19] while Carling indicated that it produces about *** different HMCB configurations weekly and offers up to a total of *** configurations of HMCBs.[20] On the other hand, CBI reported that it offers *** HMCB configurations for the U.S. market,[21] and ETA reported that it imports *** HMCB products from South Africa.[22] Airpax, Carling, CBI, and ETA reported in their questionnaire responses their top 10 U.S. customers during 2002 for the U.S.-produced, imported Mexican, and imported South African HMCBs. ***.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### U.S. Production

Based on available information, Airpax has the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced HMCBs to the U.S. market. The main factor contributing to this degree of responsiveness is the reported unused U.S. production capacity. However, the availability of Airpax's much larger HMCB production facility in Mexico that could also supply an increased demand, and the reported *** could moderate the degree of responsiveness of Airpax's domestic HMCB production. The relevant supply factors are discussed below.

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[12] ***.

[13] ***.

[14] Prior to this period, Airpax's U.S. production share of its total U.S. shipment quantity of HMCBs *** from *** percent in 1997 to *** percent in 2000.

[15] This is based on Airpax's written submission of May 5, 2003 and its questionnaire responses.

[16] Airpax produces domestically *** for its U.S.-produced HMCBs (***).

[17] ***.

[18] ***.

[19] *See*, testimony of Steven McDonald, Airpax, conference transcript, p. 33.

[20] ***.

[21] ***.

[22] ***.

*Industry capacity*

Data reported by Airpax indicated that there was excess capacity with which the U.S. producer could expand production in the event of price changes. Domestic capacity utilization for HMCBs declined steadily (based on units) during the period, from *** percent in 2000 to *** percent in 2001 and to *** percent in 2002. Data for interim periods also show a decline in capacity utilization from *** percent in January-March 2002 to *** percent during the same period in 2003.[23] Airpax reported that fixed costs are about *** percent of total U.S. HMCB production costs while variable costs are about *** percent. The relative importance of fixed costs suggests that low output levels would lead to significantly increased unit costs.

Airpax also provided data in its questionnaire responses on the time and cost of adding new U.S. capacity either through the construction of a new facility or increasing HMCB production capacity at current facilities. Airpax estimated that it would cost $*** and take *** months to construct a greenfield plant with an annual capacity to produce *** HMCBs. Given Airpax's current low U.S. capacity utilization rate, it would cost the firm $*** HMCBs, or 100 percent capacity utilization of its existing facilities. Therefore, because the short time lags and, for additional production at its current U.S. facility, modest costs in adding new HMCB production capability, the ability of Airpax to increase capacity beyond current levels enhances the supply response of Airpax. The *** for Airpax to expand HMCB production in ***.

*Inventory levels*

Airpax's questionnaire responses indicate that ***. These data indicate that Airpax effectively has no ability to use this inventory as a means of increasing shipments of HMCBs to the U.S. market.

*Export markets*

During the period for which data were collected, exports of U.S.-produced HMCBs averaged *** of Airpax's total quantity (in units) of HMCB shipments of U.S.-produced HMCBs during January 2000-March 2003. In addition, Airpax reported in its questionnaire response that it was ***. This suggests that Airpax had an ability to divert shipments of HMCBs to or from alternate markets in response to changes in the price of HMCBs.

*Production alternatives*

Airpax reported in its questionnaire response that it was ***. On the other hand, Airpax reported that it had a ***.[24]

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[23] Airpax's capacity utilization averaged *** percent during January 2000-March 2003. This figure would rise to *** percent if all HMCBs imported from South Africa during this period had been produced instead by Airpax in its U.S. facility.

[24] This latter ability is important, especially if demand shifts among the various HMCB products.

**Subject Imports–South Africa**

Based on available information, the lone South African producer of HMCBs, CBI,[25] has the ability to respond to changes in the price of HMCBs with moderate to large changes in the quantity of shipments of South African HMCBs to the U.S. market. The main factor contributing to this degree of responsiveness is ***.

***Industry capacity***

Available data for CBI indicate that capacity utilization rates generally remained *** during 2000-2002,[26] falling from *** percent in 2000 to *** percent in 2001 and then rising to *** percent in 2002. Interim data for January-March 2002 and 2003 show that capacity utilization fell from *** percent to *** percent.[27] These data indicate that there was limited unused capacity for CBI to expand production of HMCBs in South Africa during 2000-2002 for sale in the U.S. market.

***Inventory levels***

Available data indicate that combined U.S. end-of-period inventories of CBI and ETA of their imported South African HMCBs averaged annually about *** units of HMCBs during January 2000-March 2003.[28] This figure is *** percent of the average annual quantity of U.S. shipments of imported South African HMCBs and *** percent of the average annual quantity of U.S. apparent consumption of HMCBs during this period. These data indicate that ETA had some ability to use its U.S. inventory of South African HMCBs as a means of increasing shipments of HMCBs in the U.S. market during January 2000-March 2003.

CBI reported in its questionnaire response that its South African end-of-period inventories of its HMCBs averaged annually about *** units of HMCBs during October 2000-March 2003. CBI asserted that *** percent, or about *** HMCBs, of the total units was suitable for the U.S. market.[29] Based on these figures, CBI had a limited ability to use this South African inventory as a means of increasing shipments of HMCBs to the U.S. market during January 2000-March 2003.

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[25] CBI produces HMCBs only in South Africa.

[26] ***.

[27] This drop in South African HMCB capacity utilization was accompanied by a significant increase in South African HMCB production capacity from *** HMCBs during January-March 2002 to *** HMCBs during January-March 2003, or an increase of *** percent. About 95 percent of this capacity expansion reportedly was for *** of HMCB products that are not acceptable in the U.S. market because these products are not *** certified; the product mix of this new production capacity reportedly could not be easily changed without significant retooling and time (*See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 71; questionnaire response of CBI; and ***). CBI indicated in its questionnaire response that ***.

[28] CBI's U.S. inventories accounted for about *** HMCBs of this total figure, of which about *** units, or *** percent are reportedly presold and most of the rest consist of Q-frame HMCBs that reportedly do not compete with Airpax's U.S.-produced HMCBs (*see*, testimony of Helmuth Fischer, CBI, conference transcript, p. 71). ETA's U.S. inventories accounted for the remaining *** HMCBs of this total figure; ETA reported that ***.

[29] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 71.

*Alternate markets*

CBI sells its South African HMCBs principally in its home market and secondarily in the U.S. market and non-U.S. export markets (third-country markets). During the period examined, CBI's sales in its home market averaged *** percent of the total quantity of its HMCB shipments, exports to the U.S. market accounted for an average of *** percent,[30] and exports to third-country markets averaged ***; internal consumption and transfers accounted for the remaining *** percent. These data indicate that CBI may have had the flexibility to use alternate markets to increase or decrease shipments to the U.S. market in response to price changes in the U.S. market. This flexibility may be restrained to the extent that CBI's HMCBs sold in its home market and exported to third-country markets were not acceptable in the U.S. market because of a lack of proper certifications and/or appropriate product features.[31] CBI reported in its questionnaire response that ***. In addition, any long-term contracts with customers in its home market and third-country markets would also reduce CBI's ability to shift HMCB sales between the home and third-country markets and the U.S. market.

**Nonsubject Imports**

Based on available information, U.S. imports from Mexico appear to account for most of the nonsubject imports of HMCBs during January 2000-March 2003. All of the nonsubject HMCB imports are accounted for by Airpax (*** percent), Carling (*** percent), Eaton (*** percent), and Mitsubishi (*** percent). U.S. shipments of nonsubject HMCB imports averaged *** percent of the total quantity (in units) of U.S. apparent consumption of HMCBs during January 2000-March 2003. The significant decline in U.S. nonsubject imports of HMCBs from *** units in 2000 to *** units in 2002, or by *** percent, suggest that the U.S. importers could have increased nonsubject HMCB shipments to the U.S. market significantly, or by at least *** units.[32] This latter figure represents about *** percent of average annual U.S. HMCB apparent consumption during 2000-2002.

Available data indicate that U.S. end-of-period inventories of nonsubject HMCB imports averaged annually about *** units of HMCBs during January 2000-March 2003.[33] Both *** indicated in their questionnaire responses that ***. This suggests that *** effectively had no ability to use their U.S. inventories of their imported HMCBs from nonsubject countries to increase shipments of HMCBs in the U.S. market during January 2000-March 2003.

## U.S. Demand

The overall U.S. demand for HMCBs is primarily affected by general economic activity and reportedly has recently been severely impacted by the downturn in investment in the U.S. telecom sector.[34] Demand for HMCBs, as measured by apparent consumption, fell continuously during the period for which data were collected. Apparent HMCB consumption fell from *** units in 2000 to *** units in

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[30] U.S. shipments of imported South African HMCBs averaged *** percent of the quantity (in units) of U.S. apparent consumption of HMCBs during January 2000-March 2003.

[31] ***.

[32] The significant drop in U.S. imports of nonsubject HMCBs reportedly resulted from a drop in U.S. HMCB demand, particularly demand in the U.S. telecom sector, during January 2000-March 2003.

[33] ***.

[34] Petition, pp. 29-30 and *see*, testimony of Steven McDonald, Airpax, and William Silverman, counsel to respondents, conference transcript, pp. 20 and 57, respectively.

2002, or by *** percent. Interim data show a continuing decline of *** percent in January-March 2003 from the level in January-March 2002.

During this period, real U.S. gross domestic product (GDP) growth was sluggish, but rose from $9,191.4 billion in 2000 to $9,439.9 billion in 2002, or by a total of 2.7 percent. Real U.S. GDP increased somewhat during January-March 2003, by 0.4 percent from the level during October-December 2002.[35] Real U.S. GDP is forecast to continue to grow slowly, increasing by 1.1 percent during April-September 2003.[36]

On the other hand, investment in the U.S. telecom sector has fallen dramatically since 2000; U.S. capital expenditures for 100 large U.S. telecom companies fell from $118.2 billion in 2000 to $65 billion in 2002, or by 44.5 percent.[37] A recovery in the U.S. telecom sector reportedly is based on its ability to reduce excess capacity and resolve the large debt overhanging the sector.[38] The U.S. telecom sector reportedly amassed total debts of about $1 trillion,[39] and in two years lost 500,000 jobs (it took two decades for the auto industry to shrink by a comparable amount).[40] In an optimistic view about the future, the Telecommunications Industry Association in Arlington, VA, predicts a healthy rebound of the telecom industry beginning in 2003.[41]

Based on available information, U.S. aggregate demand for HMCBs is also likely to respond moderately to changes in HMCB prices. The main factor contributing to this degree of price sensitivity is the degree of substitution among HMCBs, TCBs, and TMCBs as their relative prices change.

In the United States, HMCBs are used to protect industrial and commercial electrical equipment from damaging surges in electrical current and sometimes in voltage,[42] whereas TCBs and TMCBs typically protect only the circuit wiring from such electrical surges. The chief distinguishing feature of HMCBs is their ability to provide for a precise, customized response time to an overcurrent condition. Both TCBs and TMCBs reportedly have less sensitive mechanisms for sensing overcurrent conditions and hence are reportedly more susceptible to nuisance tripping associated with ambient air temperature and/or moderate overload currents. HMCBs also offer amperage ratings in increments of 0.1 amps, whereas TCBs and TMCBs offer amperage ratings in 5 amp or 10 amp increments. HMCBs' handles have much lower force ranges than handles of TCBs and TMCBs, allowing the HMCBs also to be used

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[35] U.S. real GDP is in billions of chained 1996 dollars and quarterly data are at seasonally adjusted annual rates (*Economic Report of the President*, U.S. Government Printing Office, 2003, p. 278; and *BEA News*, Bureau of Economic Analysis, U.S. DOC, www.bea.gov, released April 25, 2003, Table 3).

[36] U.S. real GDP is in billions of chained 1996 dollars and monthly data are at seasonally adjusted annual rates (*Financial Forecast Center*, www.forecasts.org/gnp.htm, updated April, 21, 2003). The chief economist for The Conference Board, Kenneth Goldstien, also forecasts sluggish U.S. economic growth for at least a few more months ("Economic Postwar Bounce Not Seen," *http://msnbc.com/news/915418*, May 19, 2003).

[37] Respondent's postconference brief, exhibit A, p. 5 and exhibit T.

[38] *Economist.com*, "The telecoms crisis: Too many debts; too few calls," July 18, 2002–reported in respondent's postconference brief, exhibit U.

[39] *Economist.com*, "Telecoms: The great telecoms crash," July 18, 2002–reported in respondent's post conference brief, exhibit U.

[40] *Business Communications Review*, "Understanding the Telecom Crash," September 9, 2002–reported in respondent's postconference brief, exhibit U.

[41] *2003 Telecommunications Market Review and Forecast*, Telecommunications Industry Association, October 2001–reported in the petitioner's postconference brief, exhibit 6, (unmarked) p. 4.

[42] Specific types of equipment using HMCBs include power equipment, base transceiver stations, uninterruptible power supply (UPS) systems, datacom/server equipment, heating, ventilation, and air conditioning (HVAC) systems, railway equipment, marine panels, power generators, and lighting equipment (petitioner's postconference brief, p. 4).

as switches.[43] Petitioner also cited additional physical characteristics and performance differences among HMCBs, TCBs, and TMCBs.[44]

Airpax, CBI, and ETA reported in their questionnaire responses different assessments of substitution between HMCBs and other products. Airpax and ETA reported that any substitution between HMCBs and other products occurs only ***. Airpax asserted that there was a *** price sensitivity of substitution between HMCBs on the one hand and TMCBs, fuses, and switches on the other hand. Airpax reported that TMCBs are generally *** percent less expensive than HMCBs, while fuses and switches are *** percent less expensive. Airpax reported that any such substitution would require the OEM ***. On the other hand, CBI asserted that only about *** percent of the HMCBs are purchased for the unique features of this product and, therefore, do not substitute with any other products,[45] whereas the remaining *** percent can be substituted with thermal-type circuit breakers.[46] CBI characterized substitution between HMCBs and thermal-type circuit breakers as moderate to weak, and it noted that substitution very seldomly occurs in the middle of a project. A representative of CBI testified at the Commission conference that they are selling their Q-frame HMCB in the United States in competition with D-frame HMCBs and as a substitute for TMCBs. CBI explained that its DIN rail-mounted Q-frame HMCB is smaller than Airpax's Q-frame HMCB and,[47] therefore, is uniquely capable of substituting for the TMCBs; CBI asserted that many of the TMCBs are imported into the United States. The company further asserted that such substitution using its Q-frame HMCB is their basis for expecting further sales into the U.S. market.[48]

## SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported HMCBs depends upon such factors as relative prices, quality, breadth of products, types of customers, and conditions of sale. Based on available data in this preliminary phase of the investigation staff believes that there is a low degree of substitution between domestic HMCBs and imports from South Africa.

### Factors Affecting Sales

When asked in the questionnaires whether any differences between U.S. and subject imported HMCBs (other than price) were a factor in sales of the product, *** and *** reported that they were sometimes a factor, while *** reported that they were never a factor. Airpax noted that ***. CBI noted

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[43] Petitioner's postconference brief, pp. 3 and 4.

[44] *See*, testimony of Steven McDonald, Airpax, conference transcript, pp. 14-15.

[45] CBI asserted that substitution does not occur only in cases where temperature fluctuations and highly accurate tripping characteristics are needed.

[46] CBI indicated that in South Africa HMCBs are used for many applications that TCBs and TMCBs are used for in the United States, such as HMCBs for protection of home wiring circuits. In addition, CBI reportedly produces HMCBs and TMCBs in the same plant (*see*, testimony of Helmuth Fischer, CBI, conference transcript, pp. 60 and 70).

[47] DIN stands for "Deutsche Industrie Norm," which is a German industrial standard (*see*, testimony of Helmuth Fischer, CBI, conference transcript, p. 87).

[48] *See*, testimony of Helmuth Fischer and Chris Oliver, CBI, and William Silverman, counsel to respondents, conference transcript, pp. 93-100.

that ***,[49] ***,[50] ***,[51] and ***[52] play a role in HMCB sales. The reported comments of CBI and ETA also applied to the U.S.-produced HMCBs and the subject imported HMCBs vis-a-vis imported HMCBs from nonsubject countries; Airpax did not comment for nonsubject HMCB imports.

Airpax and the subject importers were asked in their questionnaires to indicate whether or not HMCBs from the U.S. producer and imported from South Africa were "always", "frequently", "sometimes", or "never" used interchangeably (i.e., physically possible to be used in the same applications). ***.[53] ***.

## Comparison of Domestic and Imported HMCBs

Both the U.S.-produced HMCBs and the imported HMCBs from South Africa are sold in similar channels of distribution and, as discussed in detail in Part V, discount schedules, payment terms, and the method of quoting prices are *** for the two sources of HMCBs.

Differences were reported between the U.S.-produced and subject imported HMCBs that suggest competition between these two sources of HMCBs appear limited. As noted earlier in Part II, Airpax offers substantially more configurations of HMCBs than do CBI and ETA, the two importers of the South African HMCBs.[54] In addition, the Q-frame HMCB imported from South Africa is smaller than the domestic version and, as a result, may be a unique substitute for TMCBs;[55] CBI's Q-frame HMCB likely does not compete with Airpax's U.S.-produced Q-frame HMCB in such a use.

Airpax and the two importers typically sell significant quantities of their HMCBs in different U.S. purchasing sectors from each other. Airpax reported ***,[56] and ***[57] (in descending order) as its four largest sales sectors for its domestic HMCBs during January 2000-March 2003. The *** accounted for *** percent of the quantity (in units) of its total U.S. shipments of its domestic HMCBs during this period, *** accounted for *** percent, *** accounted for *** percent, and *** accounted for *** percent.[58] CBI reported ***[59] and *** (in descending order) as its two largest U.S. sales sectors for its imported HMCBs from South Africa during January 2000-March 2003. The *** sector accounted for *** percent of the quantity (in units) of its total U.S. shipments of its imported HMCBs from South Africa during this period, and the *** sector accounted for *** percent.[60]

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[49] CBI explained that ***.

[50] CBI emphasized that ***.

[51] CBI noted further that ***.

[52] CBI asserted that ***.

[53] These responses, however, do not indicate to what degree the domestic and imported South African HMCBs compete with each other. For instance, Airpax's U.S. military contract sales of HMCBs do not compete with the imported South African HMCBs, and it is not clear whether CBI even makes HMCBs that could physically be used in the U.S. military applications.

[54] CBI reported in its questionnaire response that ***.

[55] *See*, testimony of Helmuth Fischer, CBI, and William Silverman, counsel to respondents, conference transcript, pp. 65 and 109, respectively.

[56] Industrial uses for HMCBs include motors and generators for heavy industrial and commercial equipment.

[57] Power distribution uses for HMCBs include equipment for electricity generation and distribution.

[58] ***.

[59] ***.

[60] Respondent's postconference brief, exhibit R.

*** of Airpax's U.S. sales of HMCBs were sourced from its imported Mexican HMCBs, which it indicated were used to supply its large-volume accounts.[61] Airpax asserted that ***.[62] Airpax reported that about *** percent of the HMCBs that Airpax ships to its large-volume customers are produced domestically and the remaining *** percent are produced in Airpax's Mexican HMCB production facilities and imported into the United States by Airpax for shipment to these customers. In addition, Airpax also sells its HMCBs to the U.S. military under an exclusive supply contract, the majority of which are sourced from its U.S. production facilities.[63] It would appear, therefore, that the imported HMCBs from South Africa competed to a greater degree with imported Mexican HMCBs, which account for over *** percent of the quantity (in units) of U.S. HMCB consumption, than they do with the domestic products, which account in total for less than *** percent of the U.S. market for HMCBs.

With regard to lead times for delivery, Airpax, CBI, and ETA provided information in their questionnaire responses that indicated additional differences between U.S.-produced and imported South African HMCBs. Airpax reported that it shipped within *** from its U.S. production, but did not sell from inventory (only produced to order). CBI and ETA reported that they shipped from *** from their U.S. inventories, but when shipping directly from South Africa, they shipped *** from the order. CBI reported that it imported a majority of its HMCBs from South Africa to fill orders for existing sales contracts.

Based on questionnaire responses, U.S.-produced HMCBs are sold most importantly on a *** contract basis and secondarily on ***, whereas the imported HMCBs from South Africa are sold *** on a *** basis and *** on a *** contract basis, but *** sales on a *** contract basis.[64] The shares of U.S.-produced and subject imported HMCB sales by type of sales contract/agreement are discussed in detail in Part V, *Pricing and Related Information.*

Airpax asserted that it offered just-in-time (JIT) delivery and that this was an advantage in competing for sales in the U.S. market. Q-Tran, an end user of HMCBs in its U.S. production of power supply centers for the lighting sector, reported at the Commission conference that in 2000, Airpax put the firm on a minimum 50 week delivery lead time. Q-Tran emphasized that reliable delivery of HMCBs was crucial to its production operations.[65] ***.[66]

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[61] ***.

[62] ***.

[63] Airpax reported that its sales quantity (enumerated only in number of poles) of U.S.-produced HMCBs shipped under this exclusive contract to customers producing hardware for the U.S. military accounted for about *** percent of the total quantity of poles in its U.S.-produced HMCBs shipped to U.S. customers during January 2000-March 2003 (petitioner's postconference brief, exhibit 2).

[64] Spot sales are usually one-time delivery, within 30 days of the purchase agreement; short-term contracts are for multiple deliveries for up to 12 months after the purchase agreement; and long-term contracts are for multiple deliveries for more than 12 months after the purchase agreement.

[65] *See*, testimony of John Tremaine, Q-Tran, conference testimony, pp. 73-74.

[66] ***.

# PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

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 one firm that accounted for all known U.S. commercial production of HMCBs during 2002.

## U.S. PRODUCER

Although producer questionnaires were sent to eight firms, only Airpax Corporation qualified as a U.S. producer. Its Cambridge, MD facility produces for the U.S. military market and small (mostly less than 10 breakers) runs. Tables III-1 through III-4 present data concerning Airpax's U.S. production of HCMBs. The other firms that were contacted do not produce HCMBs in the United States and in some cases not at all. Along with Airpax, Carling and Eaton account for the majority of the production of HMCBs in Mexico where the majority of the HCMBs used in the United States are produced. On its website Airpax describes itself as follows:

> "A global supplier of "designed-in" components for OEMs in high-volume manufacturing industries, Airpax Corporation evolved from the pioneering efforts of several electronics-related industries, including A.W. Haydon, Philips North America, Price Electric, Sessions Clock, and Airpax Electronics. Through its history of change and adaptability, Airpax has emerged a leader in the design and manufacture of magnetic circuit breakers and thermal protective devices. A privately-held company, Airpax has headquarters in Frederick, Maryland, and a facility near the Chesapeake Bay in Cambridge, Maryland. It also has a facility in Matamoros, Mexico, and a joint venture, Sanken-Airpax Co., with Sanken Electric in Japan."[1]

**Table III-1**
**HMCBs: U.S. producer's capacity, production, and capacity utilization, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

**Table III-2**
**HMCBs: U.S. producers' shipments, by types, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

**Table III-3**
**HMCBs: U.S. producer's end-of-period inventories, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

[1] From Airpax website, *www.airpax.net*, retrieved on May 12, 2003.

**Table III-4**
**HMCBs: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

# PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

## U.S. IMPORTERS

Importers of HCMBs are located throughout the United States. The Commission sent questionnaires to 70 firms as identified by the petition and a review of Customs data.[1] The Commission received usable data on imports of HMCBs from six companies (one U.S. producer) that account for all the subject imports and a majority of all other HCMB imports. Table IV-1 presents information on the importing firms that responded to the Commission's importers' questionnaire.

**Table IV-1**
**HMCBs: Selected importer questionnaire respondents, their sources of imports, and their parent companies**

| Firm | Source | Parent company | Percent owner-ship |
|---|---|---|---|
| Airpax Corporation, LLC [1] | Japan and Mexico | None | N/A |
| Carling Technologies, Inc.[2] | Mexico | None | N/A |
| Circuit Breakers Industries, Inc. | South Africa | CBI, Ltd. | 100 |
| Eaton Corporation [3] | Mexico | None | N/A |
| E-T-A Circuit Breakers | South Africa | E-T-A Elektrotechnische Apparate Gmbh | 100 |
| Mitsubishi Electrical Power Products, Inc.[4] | Japan | Mitsubishi Electric US Holdings, Inc. | *** |

1 ***.
2 ***.
3 ***.
4 ***.

Source: Compiled from information submitted in response to Commission questionnaires.

[1] It should be noted that the HTS categories subject to this investigation contain, in addition to subject product, product not covered by this investigation.

## U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

Data in this section regarding the quantity and value of U.S. imports of HMCBs are based on questionnaire responses.

**Table IV-2**
**HMCBs: U.S. imports, by sources, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

During the 12-month period from April 2002 to March 2003, imports from South Africa were *** units (4.7 percent of total imports) or *** poles (2.9 percent of total imports) valued at $*** and imports from all other sources were *** million units or *** million poles valued at $*** million (total imports for this period were *** million units or *** million poles valued at $*** million).

Table IV-3 presents U.S. producer's U.S. shipments, U.S. shipments of imports, and apparent U.S. consumption and table IV-4 presents data on U.S. apparent consumption and market shares.

**Table IV-3**
**HMCBs: U.S. producer's U.S. shipments, by types, U.S. shipments of imports, by sources, and total U.S. consumption, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

**Table IV-4**
**HMCBs: Apparent U.S. consumption and market shares, 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

# PART V: PRICING AND RELATED INFORMATION[1]

## FACTORS AFFECTING PRICING

HMCB prices can fluctuate based on demand factors such as the business cycle, sectoral demand fluctuations (e.g., the telecommunications sector), and the size of an order. Prices of HMCBs also differ by a number of product features, including, but not restricted to, the voltage and ampere ratings, the frame size, and the number of poles.[2]

HMCBs are used primarily to protect industrial and commercial electrical equipment from damaging fluctuations in electric current and sometimes in voltage. TMCBs and TCBs can substitute for HMCBs in some electrical equipment, typically where less demanding response times to the electrical overcharge are permissible and ambient temperatures are stable. On the other hand, HMCBs can substitute for TMCBs and TCBs in many uses as long as price differences are small.[3] Changes in relative prices of HMCBs vis-a-vis TMCBs and TCBs may induce changes in relative demand for these products. Part II discusses in detail substitution among these types of circuit breakers.

### Raw Material Costs, Tariff Rates, and Transportation Costs to the U.S. Market

The principal raw material inputs are plastic for injection molding, steel strip-metal stock, and the silicone delay fluid to produce HMCBs and are included in the materials purchased by Airpax to produce HMCBs in the United States; entire material costs accounted for about *** percent of Airpax's total costs to produce HMCBs in the United States during January 2000-March 2003.[4] The U.S. normal trade relations *ad valorem* import duty rate was 2.7 percent for imports of HMCBs under HTS subheading 8536.20.00 during January 2000-March 2003; imports of HMCBs from South Africa, however, generally were entered under the GSP program (zero duty rate) during this period.[5] In addition, under the NAFTA Canada/Mexico Preference, HMCBs under the above HTS subheading qualifying for North American treatment were accorded a zero duty rate during January 2000-March 2003. Transportation charges for imports of HMCBs from South Africa to the U.S. ports of entry, as a share of U.S. official customs values, averaged 6.0 percent during January 2000-March 2003.

### U.S. Inland Transportation Costs

Airpax, CBI, and ETA reported that U.S.-inland freight costs were negligible. HMCB products are typically delivered by truck in the United States, although *** reported shipping about *** percent of its U.S.-produced HMCBs by *** and the remainder by ***. Airpax reported that during January 2000-March 2003 it shipped *** percent of its domestic sales of its U.S.-produced HMCBs to U.S. customers

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[1] Except where noted, information contained in Part V is based on questionnaire responses of Airpax, the lone U.S. HMCB producer, and CBI and ETA, the two responding U.S. importers of the South African HMCBs. These three firms collectively are believed to account for all U.S.-produced and imported South African HMCBs during January 2000-March 2003.

[2] According to ***, the B and D frame sizes are the largest volume HMCBs in the U.S. market, while the C and E frame sizes involve smaller quantities. In addition, single-pole HMCBs predominate all HMCB frame sizes sold in the United States. ***.

[3] *See*, testimony of Steven McDonald, Airpax, conference transcript, pp. 45-46, and petition, pp. 13-14.

[4] ***.

[5] Total U.S. import duties paid on imports of HMCBs from South Africa during January 2000-March 2003 averaged only 0.5 percent of the total customs value of such imports during this period.

located within 100 miles of its U.S. plant/warehouse facilities; *** percent between 100 and 500 miles; and *** percent over 500 miles. CBI and ETA reported that during January 2000-March 2003 about *** percent of their imported HMCBs from South Africa was shipped to U.S. customers within 100 miles from their U.S. shipping locations; *** percent was shipped between 100 and 500 miles; and *** percent was shipped over 500 miles.

## Exchange Rates

Figure V-1 shows quarterly nominal and real exchange rate indices (the latter are nominal exchange rates adjusted for relative rates of inflation)[6] of the currency of South Africa relative to the U.S. dollar. Producer/wholesale price indices for South Africa were available only through December 2002. As a result, quarterly real exchange rate data for South Africa could be calculated only for the period January 2000-December 2002.[7]

Because of generally higher inflation in South Africa compared to that in the United States, the nominal value of the exchange rate tended to depreciate faster than the real value of the exchange rate of the South African rand vis-a-vis the U.S. dollar.[8] The nominal value of the South African rand generally depreciated on a quarterly basis against the U.S. dollar during January 2000-March 2003, falling by 35.3 percent during January 2000-December 2002, but then appreciating by 14.7 percent during January-March 2003 (figure V-1). The real value of the rand depreciated on a quarterly basis against the U.S. dollar, by 16.8 percent during January 2000-December 2002.

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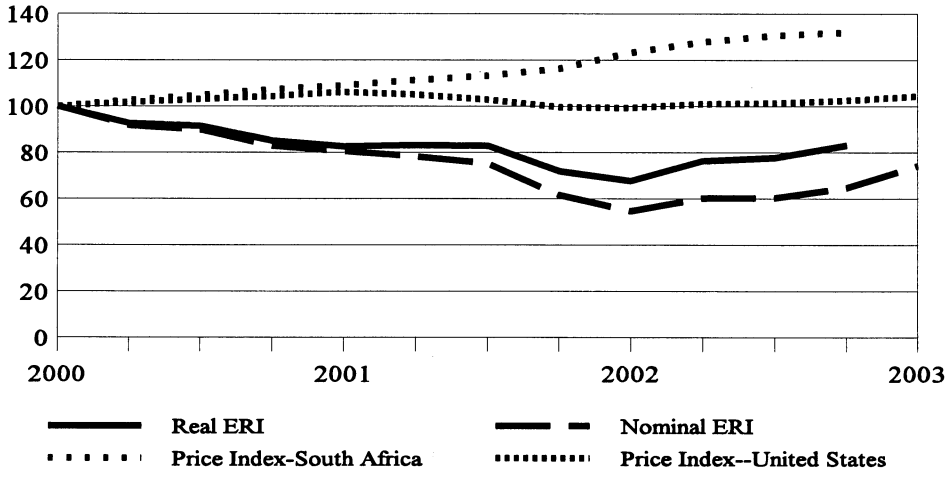
[6] The quarterly nominal and real exchange rate indices were calculated from quarterly-average nominal exchange rates and producer price indices reported by the IMF for each country. The exchange rate indices were based on exchange rates expressed in U.S. dollars per unit of the foreign currency, such that index numbers below 100 represent depreciation and numbers above 100 represent appreciation of the foreign currency vis-a-vis the U.S. dollar. See app. D for a discussion of the relationships among nominal exchange rates, real exchange rates, and producer prices, and the impact of changes in their values on prices of exports and imports. See also G. Benedick and P. Pogany, *Exchange Rates: Definitions and Applications*, USITC Office of Economics Working Paper No. 2000-01-A, January 2000.

[7] The quarterly real exchange rate indices were calculated from nominal exchange rates, producer/wholesale price indices in the subject countries, and the producer price index in the United States. Producer selling prices of the subject product in each country are expected to follow the trend in that country's overall producer-price level; if subject product prices in the specified country do not follow the trend in the general price level, the calculated real exchange rate (which is based on this general price level) would over- or under-estimate the impact of the effect of the actual changes in domestic prices and exchange rates on U.S. dollar-denominated prices of exports of the subject product.

[8] Central bank changes in the nominal exchange rates, as well as government changes in allowable bands of fluctuations around the official exchange rate, constitute devaluations when these actions reduce the exchange-rate value of the local currency. Depreciation occurs when market forces alone reduce the exchange-rate value of the local currency. Because devaluation and depreciation frequently occur simultaneously, the term depreciation is generally used.

**Figure V-1**
**Real and nominal exchange rate indices of the South African rand relative to the U.S. dollar, and producer/wholesale price indices in South Africa and the United States, by quarters, January 2000-March 2003**




Note: Index (Jan.-Mar. 2000=100). Exchange rates are in U.S. dollars per South African rand.

Source: International Monetary Fund, *International Financial Statistics*, April 2003.

CBI reported in its questionnaire responses that the rand has depreciated sharply against the U.S. dollar in recent years, imparting some price advantage, but this was offset somewhat by the higher risk of exchange rate volatility. On the other hand, ETA reported that fluctuations in the rand/U.S. dollar exchange rate did not affect their U.S. dollar purchase prices of the subject imported HMCBs, because prices were quoted in U.S. dollars.

## PRICING PRACTICES

Airpax, CBI, and ETA quoted prices of their domestically produced and imported South African HMCBs primarily on a U.S. f.o.b. plant/warehouse basis during January 2000-March 2003. When selling on an f.o.b. basis, Airpax and CBI usually ***, whereas ETA ***. When selling on a delivered basis or otherwise arranging freight, ***. Airpax reported that *** during January 2000-March 2003.[9] The two importers of the South African HMCBs reported that ***.

Airpax reported that *** percent of its total f.o.b. sales value of its U.S.-produced HMCBs sold to U.S. customers during January 2000-March 2003 was on a spot basis, *** percent was on a short-term contract basis, and *** percent was on a long-term contract basis.[10] CBI and ETA reported that *** percent of their total U.S. f.o.b. sales value of their HMCBs imported from South Africa sold to U.S. customers during January 2000-March 2003 was on a spot basis, and *** percent was on a short-term

[9] ***.

[10] Spot sales are usually one-time delivery, within 30 days of the purchase agreement; short-term contracts are for multiple deliveries for up to 12 months after the purchase agreement; and long-term contracts are for multiple deliveries for more than 12 months after the purchase agreement.

contract basis; the importers reported ***.[11] Airpax reported that its long-term contracts for its HMCBs are typically for *** months. Airpax and CBI reported that their short-term contracts for their U.S.-produced and imported South African HMCBs, respectively, are typically for ***.

Airpax and the subject importers sold their HMCBs primarily to original equipment manufacturers (OEMs) and sold the remaining HMCBs to distributors during January 2000-March 2003. Airpax sold *** percent of the total quantity (units) of its U.S. commercial shipments of its U.S.-produced HMCBs during January 2000-March 2003 to OEMs and the remaining *** percent to distributors. The two U.S. importers sold *** percent of the total quantity (units) of their U.S. commercial shipments of their imported South African HMCBs during this period to OEMs and the remaining *** percent to distributors.

Airpax, CBI, and ETA reported using price lists in selling their HMCBs in the U.S. market.[12] Airpax and the two importers reported offering payment terms that were typically net 30 days, i.e., without early-payment price discounts, but these firms offered significant quantity-based price discounts. The U.S. producer and CBI submitted their most recent HMCB price lists, which contained their quantity price discount schedules,[13] while ETA reported its HMCB quantity price discount schedule in its questionnaire response.[14] HMCB quantity price discounts to OEMs offered by the U.S. producer and CBI begin at *** units and discounts offered by ETA begin at *** units. Although each of the firms have somewhat different quantity categories for price discounts, at *** units, the U.S. producer offers a *** percent discount to OEMs for its U.S.-produced and imported Mexican HMCBs, while CBI offers about a *** percent discount to OEMs and ETA offers a *** percent discount to OEMs for their imported South African HMCBs. At *** units, the U.S. producer offers a *** percent discount to OEMs for its U.S.-produced and imported Mexican HMCBs, while CBI offers about a *** percent discount to OEMs and ETA offers a *** percent discount to OEMs for their imported South African HMCBs.

## PRICE DATA

### Questionnaire Price Data

U.S. selling price and quantity data were requested for sales to U.S. OEMs for the following two broadly defined HMCB products 1 and 2 and the two more narrowly defined HMCB products 3 and 4 produced in the United States and imported from South Africa:[15]

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[11] ***.

[12] Airpax's price list contains a large number of optional add-on features for its U.S.-produced and imported Mexican HMCBs, whereas CBI's price list offers much less product diversity for the imported South African HMCBs. Airpax indicated at the conference that it produces 40,000 to 50,000 different HMCB configurations annually, with many of the different configurations each going to a single customer (*see*, testimony of Steven McDonald, Airpax, conference transcript, p. 33). On the other hand, CBI indicated that it offers *** HMCB configurations to the U.S. market (staff interview with Richard Ferrin, counsel to respondents, May 19, 2003). ETA indicated that ***.

[13] ***.

[14] ***.

[15] These products were suggested by Airpax as representative of the volumes of U.S.-produced and subject imported HMCBs that competed in the U.S. market during January 2000-March 2003; Airpax noted that D and B frames, in descending order, were by far the largest volume categories of HMCBs sold in the United States. In addition, Airpax stated that OEMs were the predominant type of customer to whom both the U.S. producers and

(continued...)

*Product 1.*–All single pole, B-frame size hydraulic magnetic circuit breakers.

*Product 2.*–All single pole, D-frame size hydraulic magnetic circuit breakers.

*Product 3.*–Single pole, B-frame size hydraulic magnetic circuit breakers, single coil, 25-ampere capacity, 240 vAC.

*Product 4.*–Single pole, D-frame size hydraulic magnetic circuit breakers, single coil, 100-ampere capacity, 240 vAC.[16]

Products 1 and 2 likely involve product aggregation distortions, and products 3 and 4 may also involve such distortions.[17] The petitioner was concerned that defining HMCB products too narrowly would risk not capturing significant quantities for the selling price data.[18] Price data were requested from U.S. producers and importers for their quarterly shipments of the specified HMCB products during January 2000-March 2003 that were produced in the United States and imported from South Africa. The requested price data were based on net U.S. f.o.b. selling prices.

Airpax, the lone U.S. producer of HMCBs, and CBI and ETA, the two U.S. importers of HMCBs from South Africa, provided the requested price information, but not necessarily for all products or periods requested. Airpax reported sales quantities of U.S.-produced HMCBs for pricing purposes that amounted to *** HMCBs during January 2000-March 2003; such reported quantities accounted for *** percent of its total reported U.S. commercial shipment quantity of U.S.-produced HMCBs during this period.[19] The two U.S. importers combined reported sales quantities for pricing purposes during January 2000-March 2003 that amounted to *** HMCBs from South Africa, or *** percent of their total reported U.S. shipment quantity of the imported HMCBs from South Africa during this period. The total sales quantities of domestic and imported South African HMCBs for pricing purposes were based on reported pricing data for the broadly defined products 1 and 2 and the unit of quantity was the number of circuit breakers.[20]

ETA reported that U.S. selling prices of its imported South African HMCBs are likely *** than selling prices of most other HMCBs in the U.S. market.[21] The reported *** selling prices of imported South African HMCB products discussed later are those of ETA. *** selling prices of South African

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[15] (...continued)
subject importers sold their HMCBs during this period. ***.

[16] ***.

[17] Product aggregation distortions occur with products that are too broadly defined, such that changes in the composition of the defined product over time lead to changes in the weighted-average price of the defined product over time. The weighted-average price of the defined product (average of all products within the defined product) may change from quarter-to-quarter due to changes in relative quantity shares of each of the products encompassed by the product definition. Such "aggregation-induced" changes in the weighted-average price of the defined product may mask actual trends in the weighted-average price due solely to price changes. In addition, product aggregation differences between the domestic and subject imported products may result in misleading price comparisons between the domestic and South African products.

[18] Prices and specifications of individual HMCBs can differ due to a variety of product features offered, including some HMCBs that are custom-built to suit unique requirements of individual customers.

[19] Petitioner explained that ***.

[20] More narrowly defined products 3 and 4 were subsets of products 1 and 2, respectively; quantities of products 3 and 4 were not included here to avoid double counting.

[21] ***.

HMCBs result mainly due to ***. Most of the circuit breakers *** sells in the U.S. market are *** and it *** to be able to supply its U.S. customers *** with ***.[22]

Price *trends* of the domestic and imported South African HMCB products are based on reported quarterly net U.S. f.o.b. selling price data for sales of the broadly defined products 1 and 2, whereas price *comparisons* between the domestic and subject imported products are based on reported quarterly net U.S. f.o.b. selling price data for sales of the more narrowly specified products 3 and 4.

**Price Trends**

Price trend data are shown for the U.S.-produced HMCB products 1 and 2 in table V-1 and figure V-2, and for the imported South African HMCB products 1 and 2 in table V-2 and in figure V-2. It may be difficult to determine true price and quantity trends of the domestic and subject imported HMCB products due to the product aggregation difficulties noted earlier and the importance of quantity discounts in HMCB selling prices of Airpax, CBI, and ETA. In addition, it may be difficult to determine the nature of HMCB price data trends for Airpax, because it competes primarily with imported Mexican HMCBs imported by Carling and Eaton, and Airpax had been shifting over time from its U.S. production facilities to its Mexican production facilities for the source of a majority of its U.S. HMCB sales. The impact of any such shifting may lead Airpax to ship fewer U.S.-produced circuit breakers than otherwise and may lead Airpax to lower its U.S. selling prices of the same domestic HMCBs that it also imports from Mexico as it competes in the U.S. market with imported Mexican HMCBs of other suppliers.

**Table V-1**
**HMCBs: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced products 1 and 2 sold to OEMs, by quarters, January 2000-March 2003**

* * * * * * *

**Table V-2**
**HMCBs: U.S. weighted-average net f.o.b. selling prices and quantities of products 1 and 2 imported from South Africa and sold to U.S. OEMs, by quarters, January 2000-March 2003**

* * * * * * *

**Figure V-2**
**HMCBs: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced and subject imported products 1 and 2 sold to OEMs, by specified products and by quarters, January 2000-March 2003**

* * * * * * *

A significant downturn in the U.S. telecom sector in 2001 and a generally sluggish economy during January 2000–March 2003 reportedly led to a marked decrease in U.S. demand for and prices of HMCBs during 2001-02 and January-March 2003.[23] Airpax's HMCB sales were concentrated in the ***

[22] ***.

[23] Petition, pp. 29-30 and *see*, testimony of Steven McDonald, Airpax, William Silverman, counsel to respondents, and Helmut Fischer, CBI, conference transcript, pp. 44, 57, and 61-64, respectively.

sector and,[24] therefore, may have been affected to a much greater extent by the *** downturn than some other HMCB suppliers, such as CBI and ETA, whose U.S. sales of their imported South African HMCBs reportedly were less concentrated in this sector. CBI reported in its questionnaire responses and at the Commission conference that its HMCB sales in the U.S. market were concentrated in the U.S. low-voltage lighting sector.[25]

Airpax's weighted-average quarterly net U.S. f.o.b. selling price of the U.S.-produced HMCB product 1 sold to U.S. OEMs rose from $*** per circuit breaker (unit) in January-March 2000 to $*** per unit by July-September 2000, then fell continuously to a period low of $*** per unit by July-September 2001,[26] jumped to a period high of $*** per unit in October-December 2001, and then generally fell to end the period at $*** per unit during January-March 2003 (table V-1 and figure V-2). Airpax's selling price of its domestically produced HMCB product 2 fluctuated but fell from $*** per unit in January-March 2000 to $*** per unit by October-December 2000, fluctuated but rose to a period high of $*** per unit by January-March 2002, then fell to a period low of $*** per unit by July-September 2002, and then rose continuously to end at $*** per unit during January-March 2003 (table V-1 and figure V-2). Airpax's quarterly shipment quantities of its U.S.-produced product 1 fluctuated without an apparent trend during January 2000-March 2003, while quarterly shipment quantities of its U.S.-produced product 2 tended to fall during this period.

The two U.S. importers' combined weighted-average quarterly net U.S. f.o.b. selling price of the imported South African product 1 sold to U.S. OEMs fell from a period high of $*** per unit in April-June 2000 (the first period data were available) to $*** per unit during July-September 2000 and then generally declined to end at a period low of $*** per unit during January-March 2003 (table V-2 and figure V-2). The importers' weighted-average selling price of the imported South African HMCB product 2 fluctuated but fell from a period high of $*** per unit in January-March 2000 to $*** per unit by October-December 2001, continued fluctuating and fell to a period low of $*** per unit by October-December 2002, and then rose to end the period at $*** per unit during January-March 2003. The two U.S. importers' combined quarterly shipment quantities of the imported South African product 1 tended to rise during January 2000-March 2003, while quarterly shipment quantities of the imported South African product 2 fluctuated but tended to fall during this period.

**Price Comparisons**

Reported quantities of the domestic, imported South African, and imported Mexican HMCB products 3 and 4 were significantly different from each other. In addition, volume discounts offered by Airpax, CBI, and ETA for their HMCBs sold in the United States have been significant. These two factors suggest that the quarterly price comparisons discussed below may not reflect direct competition among the domestic and imported HMCB products 3 and 4.

A total of five quarterly price comparisons were possible between the domestic and imported South African HMCB product 3 sold to U.S. OEMs on a U.S. f.o.b. price basis during January 2000-March 2003 (table V-3a).[27] Three of the five price comparisons showed that the imported South African product was priced less than the domestic product by margins ranging from *** percent to *** percent;

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[24] Petitioner's postconference brief, exhibit 3, and ***.

[25] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p. 64.

[26] ***. Also, see discussion of lost sales and lost revenue later in this Part for a full discussion of this U.S. customer.

[27] These five price comparisons involved a total of *** U.S.-produced HMCBs, or *** percent of total reported U.S. shipments of U.S.-produced HMCBs during January 2000-March 2003; and *** imported South African HMCBs, or *** percent of total reported U.S. shipments of imported South African HMCBs during this period.

the remaining two price comparisons showed that the imported South African product was priced higher than the domestic product by margins of *** percent and *** percent. The U.S. producer did not sell the HMBC product 4 from its U.S. production during January 2000-March 2003, although the two importers reported some sales of product 4 imported from South Africa (table V-3b).

***, a former U.S. producer of HMCBs and currently Airpax's *** in the U.S. HMCB market,[28] imports its Mexican produced HMCBs and reported price data for the imported Mexican HMCB products 3 and 4.[29] *** reported price data for its imported Mexican HMCBs are discussed here, but not shown in a table. Seven price comparisons were possible between the domestic and imported Mexican HMCB product 3 sold to U.S. OEMs on a U.S. f.o.b. price basis during January 2000-March 2003.[30] Five of the seven price comparisons showed that the imported Mexican product was priced less than the domestic product by margins ranging from *** percent to *** percent; the remaining two price comparisons showed that the imported Mexican product was priced higher than the domestic product by margins of *** percent and *** percent.

**Table V-3a**
**HMCBs: U.S. weighted-average net f.o.b. selling prices of domestic and subject imported HMCB product 3 and margins of underselling/(overselling), by quarters, January 2000-March 2003**

* * * * * * *

**Table V-3b**
**HMCBs: U.S. weighted-average net f.o.b. selling prices of domestic and subject imported HMCB product 4 and margins of underselling/(overselling), by quarters, January 2000-March 2003**

* * * * * * *

A total of 20 quarterly price comparisons were possible between the imported Mexican and South African products 3 and 4 sold to U.S. OEMs on a U.S. f.o.b. price basis during January 2000-March 2003.[31] Ten of the 20 price comparisons showed that the imported South African products were priced less than the imported Mexican products by margins ranging from *** percent to *** percent; and nine other price comparisons showed that the imported South African products were priced higher than the imported Mexican products by margins of *** percent to *** percent. The remaining price comparison showed that prices of the imported Mexican and South African product 4 were equal to each other.

## LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of HMCBs to report any instances of lost sales or revenues associated with their U.S.-produced HMCBs that they experienced due to competition from

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[28] ***.

[29] ***. See Part II for a full discussion of ***.

[30] These seven price comparisons involved a total of *** U.S.-produced HMCBs, or *** percent of total reported U.S. shipments of U.S.-produced HMCBs during January 2000-March 2003; and *** imported Mexican HMCBs, or *** percent of *** total reported U.S. shipments of its imported Mexican HMCBs during this period.

[31] These 20 price comparisons involved a total of *** imported Mexican HMCBs reported by ***, or *** percent of *** total reported U.S. shipments of its imported Mexican HMCBs during January 2000-March 2003; and *** imported South African HMCBs, or *** percent of total reported U.S. shipments of imported South African HMCBs during this period.

imports of HMCBs from South Africa since January 1, 2000. Airpax reported in its petition four specific instances of alleged lost sales and one instance of lost revenue; the firm did not report any instances of lost sales or lost revenue in its producer questionnaire response.[32] As noted, Airpax reported in its petition a total of 4 specific instances of alleged lost sales amounting to *** poles valued at $*** that involved imports from South Africa; however, ***. Airpax also reported in its petition a single specific instance where they allegedly reduced prices and/or rolled back announced price increases for their domestic HMCBs due to competition with the imported South African HMCBs; this allegation involved a total of *** poles and $*** in lost revenues.[33] Initially, Airpax asserted that all of its lost sales and lost revenue allegations involved ***.[34] Airpax has since reported in its postconference brief that ***.[35] Based on its initial understanding about the *** of the HMCBs in Airpax's lost sales/revenue allegations, the Commission staff attempted to contact the four customers cited. A summary of the information received and the extent to which the allegations involved U.S.-produced HMCBs follows.

***, an end user of HMCBs for lighting uses located in *** was cited by Airpax in a lost sales allegation involving *** poles for B frame HMCBs. Airpax asserted that during *** it quoted *** a price of $*** per pole and subsequently reduced its price to $*** per pole in competing with CBI but lost the sale to CBI. Airpax reported in its postconference brief that it sold a total value of $*** in HMCBs to *** during January 2000-March 2003; $***, or *** percent of the total, represented U.S.-produced HMCBs and the remaining $***, or *** percent of the total, involved Airpax's *** HMCBs.[36] *** has not responded to two faxed inquiries sent by the Commission staff.

***, an end user of HMCBs for lighting uses located in *** was cited by Airpax in two lost sales allegations involving *** poles for B frame HMCBs and *** poles for C frame HMCBs. Airpax asserted that during *** it quoted *** a price of $*** per pole for the B frame HMCBs and $*** per pole for the C frame HMCBs. Airpax also asserted that CBI got both sales as it quoted a price of $*** per pole for each HMCB.[37] Airpax reported in its postconference brief that it sold a total value of $*** in HMCBs to *** during ***; $***, or *** percent of the total, represented U.S.-produced HMCBs and the remaining $***, or *** percent of the total, involved Airpax's *** HMCBs.

*** responded to the Commission's inquiry regarding the alleged lost sales and also appeared at the Commission conference. The following discussion is largely taken from conference testimony of John Tremaine of Q-Tran.[38] According to Tremaine, Q-Tran purchased the CBI HMCBs because they physically fit their new lighting products and not because of price comparisons with the CBI and Airpax products. In addition, CBI designed a new HMCB with a special trip curve to meet the new UL 2108 standard, and it was willing to set up JIT delivery for Q-Tran. According to Tremaine, Airpax's HMCB would not fit their new lighting products and Airpax refused to consider a stock consignment arrangement,[39] instead suggesting that Q-Tran purchase from a distributor (at a higher cost to Q-Tran) or carry a larger inventory. Q-Tran also indicated that in 2000, Airpax put Q-Tran on a 50-week minimum order lead time. Q-Tran commented that until recently it has relied upon Airpax for most of its

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[32] ***.

[33] ***.

[34] ***.

[35] Petitioner's postconference brief, exhibit 1.

[36] ***.

[37] John Tremaine, founder and CEO of Q-Tran, reported that CBI's price, including the maximum discount due to the large order, was $*** per unit ***.

[38] *See*, testimony of John Tremaine, conference transcript, pp. 72-79.

[39] Airpax was not able to provide the smaller HMCB product (*see*, testimony of John Tremaine, conference transcript, p. 75).

HMCBs.[40] The firm noted that *** of its past purchases of Airpax's HMCBs were *** and based on the size of the orders in the lost sales allegations, Airpax's HMCB products also likely would have been ***.[41]

***, an industrial user of HMCBs located in ***, was cited by Airpax in a lost sales allegation involving *** poles for B frame HMCBs. Airpax asserted that during *** it quoted *** a price of $*** per pole and subsequently reduced its price to $*** per pole in competing with CBI but lost the sale to CBI. Airpax reported in its postconference brief that it sold a total value of $*** in HMCBs to *** during January 2000-March 2003; $***, or *** percent of the total, represented U.S.-produced HMCBs and the remaining $***, or *** percent of the total, involved Airpax's *** HMCBs. ***.[42] *** switched over from *** as its supplier of HMCBs during ***. *** then reportedly *** as a supplier and is reportedly now purchasing either ***.[43]

***, a *** end user of HMCBs located in ***, was cited by Airpax in a lost revenue allegation involving *** poles for D frame HMCBs. Airpax asserted that during *** it quoted *** a price of $*** per pole and subsequently reduced its price to $*** per pole in competing with CBI to win the sale. Airpax reported in its postconference brief that it sold a total value of $*** in HMCBs to *** during January 2000-March 2003; $***, or *** percent of the total, represented U.S.-produced HMCBs and the remaining $***, or *** percent of the total, involved Airpax's *** HMCBs.

***.

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[40] ***.

[41] The petitioner sources on average *** percent of its HMCBs from Mexico for its large U.S. customers and the remaining *** percent from its U.S. production ***. Petitioner indicated at the conference that 5,000 units would be considered a large order (*see*, testimony of Steven McDonald, Airpax, conference transcript, p. 48).

[42] ***.

[43] ***.

# PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCER

## BACKGROUND

One producer, Airpax, provided financial data on its U.S.-produced HMCBs. Financial performance was reported on a calendar-year basis using U.S. GAAP. There were no reported transfers or internal consumption of HMCBs.

## OPERATIONS ON HMCBs

Income-and-loss data for Airpax are presented in table VI-1 and on a per pole basis in table VI-2.[1] U.S.-produced HMCBs represented a decreasing percentage of Airpax's overall HMCB activity during the period examined.[2] The *** reduction in U.S.-produced HMCB sales in 2002 followed an *** reduction (on a percentage and absolute basis) in Airpax's *** in 2001.

**Table VI-1**
**U.S.-produced HMCBs: Financial results for calendar years 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

**Table VI-2**
**U.S.-produced HMCBs: Financial results (*per pole*) for calendar years 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

Profitability deteriorated to losses as revenue declined and costs (most notably ***), as a percentage of sales, increased.[3] The significance of the *** in Airpax's HMCB activity was reflected in 2001 ***. The 2001 *** charge is reflected in selling, general, and administrative (SG&A) expenses,[4] while the *** was included in COGS. Both were allocated between U.S. and Mexican-produced HMCBs.

For interim 2003, lower revenue and the absence of a corresponding decline in costs resulted in the widening of gross and operating losses compared to the previous period. As indicated in footnote 1, changes in average unit revenue were, in part, due to differences in product mix from period to period.

## CAPITAL EXPENDITURES AND INVESTMENT IN PRODUCTIVE FACILITIES

Airpax's data on capital expenditures and property, plant, and equipment (related to U.S.-produced HMCB operations) are shown in table VI-3.

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[1] Changes in Airpax's average per pole revenue, raw material, and direct labor, as reflected in table VI-2, were in part due to differences in product mix. According to Airpax, ***. Airpax, May 12, 2003 response to request for supplemental information. Because there was a shift in product mix during the period, a variance analysis of U.S.-produced HMCB financial results is not presented in this section of the report.

[2] ***.

[3] ***.

[4] Airpax's SG&A expenses include research and development (R&D) expenses. ***.

**Table VI-3**
**U.S.-produced HMCBs: Capital expenditures and overall value of property, plant, and equipment, fiscal years 2000-2002, January-March 2002, and January-March 2003**

* * * * * * *

## CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of HMCBs from South Africa 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).

### Actual Negative Effects

Airpax — Actual negative effects: ***.

### Anticipated Negative Effects

Airpax — Anticipated negative effects: ***.

# 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 imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

## THE INDUSTRY IN SOUTH AFRICA

The only reported/known producer of HMCBs in South Africa is CBI and as such table VII-1 (units) and table VII-2 (poles) are solely derived from CBI's questionnaire response.[1] The increase in reported capacity was for expansion of product types that CBI cannot sell into the United States.[2]

**Table VII-1**
**HMCBs: South African production capacity, production, shipments, and inventories (by units), 2000-2002, January-March 2002, January-March 2003, and projected 2003-2004**

* * * * * * *

**Table VII-2**
**HMCBs: South African production capacity, production, shipments, and inventories (by poles), 2000-2002, January-March 2002, January-March 2003, and projected 2003-2004**

* * * * * * *

## U.S. IMPORTERS' INVENTORIES

Table VII-3 presents data on U.S. importers' end-of-period inventories of imported complete HMCBs from South Africa and all other sources.

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[1] CBI, located near Johannesburg, South Africa, is a major manufacturer of electrical distribution and protection components for low voltage electrical distribution systems.

The foundations of CBI were established in 1949 as a joint venture with the Heinemann Electric Company in Trenton, New Jersey, USA. During 1986 Fuchs Electrical Industries was acquired and merged into a new company called Circuit Breaker Industries, Ltd. (CBI). CBI is a wholly owned company of Reunert Limited. Reunert focuses primarily on the fields of electronic and electrical engineering and is a privately owned company listed on the Johannesburg Stock Exchange.

According to its web site, CBI "has prospered for more than five decades to become a leader in the design and manufacture of circuit breakers for equipment (hydraulic-magnetic), miniature circuit breakers (hydraulic-magnetic), residual current devices (RCD's), moulded case circuit breakers (thermal-magnetic) and metering products for electrical applications in supply authorities / utilities, mining, original equipment manufacturers, industrial sectors and millions of households." From CBI's website, *http://www.cbi.co.za/whoweare.asp?menu=first#who*, retrieved on May 12, 2003.

[2] *See*, testimony of Helmuth Fischer, CBI, conference transcript, p.71.

**Table VII-3**
**HMCBs: U.S. importers' end-of-period inventories of imports from South Africa and all other sources, 2000-2002, January-March 2002, and January-March 2003**

## U.S. IMPORTERS' CURRENT ORDERS

Two firms reported imports of subject product from South Africa scheduled for delivery after March 31, 2003. CBI reported *** worth of HMCBs scheduled for delivery between ***. *** reported it has purchase orders for delivery between *** of ***.

## ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known antidumping duty orders on HCMBs from South Africa in third-country markets.

# APPENDIX A

# *FEDERAL REGISTER* NOTICES

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1033 (Preliminary)]**

### Hydraulic Magnetic Circuit Breakers From South Africa

**AGENCY:** International Trade Commission.

**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1033 (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 hydraulic magnetic circuit breakers from South Africa, provided for in subheadings 8535.21.00, 8535.29.00, and 8536.20.00 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 reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 29, 2003. The Commission's views are due at Commerce within five business days thereafter, or by June 5, 2003.

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:** April 14, 2003.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202–205–3187), 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*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—This investigation is being instituted in response to a petition filed on April 14, 2003, by Airpax Corp., Cambridge, MD.

*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**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. 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 investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation 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 5, 2003, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than May 1, 2003, 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 May 8, 2003, 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. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

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:** This 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.

By order of the Commission.

Issued: April 16, 2003.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03–9850 Filed 4–21–03; 8:45 am]

**BILLING CODE 7020–02–P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-791–817]**

## Initiation of Antidumping Duty Investigation: Hydraulic Magnetic Circuit Breakers from South Africa

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

**EFFECTIVE DATE:** May 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Fred W. Aziz, Thomas Schauer, or Richard Rimlinger, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4023, (202) 482–0410 or (202) 482–4477, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On April 14, 2003, the Department of Commerce ("the Department") received a petition on imports of hydraulic magnetic circuit breakers ("HMCBs") from South Africa filed in proper form by Airpax Corporation, LLC (referred to hereafter as "the petitioner"). On April 22, 2003, the Department requested additional information and clarification of certain areas of the petition. The petitioner filed a supplement to the petition on April 25, 2003.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), the petitioner alleges that imports of HMCBs from South Africa 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 and threaten to injure an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(c) of the Act. Furthermore, with respect to the antidumping duty investigation the petitioner is requesting the Department to initiate, it has demonstrated sufficient industry support (see "Determination of Industry Support for the Petition" below).

**Scope of Investigation**

This investigation covers all hydraulic magnetic circuit breakers (sometimes referred to as magnetic hydraulic) circuit breakers ("HMCBs"), incorporating a tripping means of a magnetic coil surrounding a tube and plunger, restrained by air, liquid or spring, whether or not sealed, whether or not of molded case, of any voltage less than 72.5 kilovolts, of any amperage rating, with single or multiple poles, of any mounting or connection means and of any terminal type, whether or not having a magnetic latch, and excluding thermal and thermal magnetic circuit breakers. The subject merchandise is classified under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 8535.21.00 and 8536.20.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

**Determination of Industry Support for the Petition**

Section 732(b)(1) of the Act requires that a petition must be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) 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.

Section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("the ITC"), which is responsible for determining whether "the domestic industry" has been materially injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to time and information limitations. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

Section 771(10) of the Act defines the 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 under this title." Thus, the reference point from which the domestic-like-product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In its April 14th petition, petitioner claims it has industry support. The petitioner states that it compromises virtually all U.S. production of HMCBs. However, the petition identifies three additional U.S. entities engaged in the sale of HMCBs in the domestic market. According to the petition, none of the three maintain commercial production in the United States. The petitioner asserts that virtually all of those firms' manufacturing is done in other countries and that any domestic manufacturing is limited to samples in non-commercial quantities. Based on all available information, we agree that the petitioner compromises virtually all domestic commercial production of HMCBs.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioner has established industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product

[1] See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On April 30, 2003, Circuit Breaker Industries, Ltd. ("CBI"), a South African producer of the subject merchandise, challenged industry support for the petition pursuant to sections 732(b)(3) and 732(c)(4)(D) of the Act. On May 1, 2003, the petitioner filed its reply to CBI's challenge.

Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, hydraulic magnetic circuit breakers, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of this domestic like product. For more information on our analysis and the data upon which we relied, see Import Administration Antidumping Investigation Initiation Checklist ("Initiation Checklist"), Industry Support section and Appendix 1, dated May 5, 2003, on file in the CRU of the main Department of Commerce building.

**Period of Investigation**

The anticipated period of investigation is April 1, 2002, through March 31, 2003.

**Constructed Export Price and Normal Value**

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the Initiation Checklist dated May 5, 2003. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

**Constructed Export Price**

The petitioner identified CBI and its affiliate CBI, Inc. (hereinafter "CBI USA") as the primary producer and importer, respectively, of the subject merchandise. As the sole South African producer of HMCBs, CBI accounts for all exports of HMCBs to the United States from South Africa. Therefore, the petitioner established U.S. price based on constructed exported price ("CEP"). According to the petitioner, CBI's sales in the United States are sold by CBI's subsidiary, CBI USA, which holds inventory in its U.S. warehouse prior to shipment to unaffiliated buyers. In order to obtain ex-factory prices, the petitioner deducted international transportation (by sea) and estimated profit and expense mark-up. Because the petitioner did not provide adequate support for its profit and expense figure, we recalculated the CEPs to not deduct this expense. With this exception, we reviewed the information provided regarding CEP and have determined that it is adequate and accurate and represents information reasonably available to the petitioner (see Initiation Checklist, Re: Less-Than-Fair-Value Allegation).

Because the petitioner provided price quotes for actual products and we determine that these price quotes are sufficient for initiation purposes, we did not use the ITC Dataweb values that petitioner provided to estimate dumping margins. To the extent necessary, we will consider the appropriateness of the petitioner's alternative during the course of this proceeding.

**Normal Value**

With respect to normal value, the petitioner provided home-market prices at which the foreign like product is offered for sale for consumption in the exporting country, adjusted as required by the statute. These home market prices were obtained directly from CBI, the sole South African producer of the subject merchandise.

In calculating its estimated margins, the petitioner compared prices for single pole B, C, D, and E frame HMCBs sold in the home market with similar products offered for sale in the United States by CBI USA. For purposes of initiation, however, we made an adjustment to the estimated margin calculated for D frame HMCBs. Specifically, the petitioner, in its April 14th petition, compared a home market price for D-frame HMCBs with an amperage rating between 61 and 100 amperes to a U.S. price for D frame HMCBs with an amperage rating between 10 and 50 amperes. Because the petitioner presented the Department with several different home market prices for D frame HMCBs, we have recalculated the estimated margin using the home-market price for D-frame HMCBs with a comparable amperage rating (i.e., between 5 and 60 amperes). See Initiation Checklist, Re: Normal Value.

With this exception, we determined that the information the petitioner used for the calculation of home-market price is adequate and accurate and represents information reasonably available to it.

**Fair-Value Comparison**

Based on the data provided by the petitioner, there is reason to believe that imports of HMCBs from South Africa are being, or are likely to be, sold in the United States at less than fair value. As a result of the comparison of CEP to normal value, we recalculated estimated dumping margins for imports of HMCBs from South Africa that range from 129.43 percent to 721.95 percent.

**Allegations and Evidence of Material Injury and Causation**

The petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioner contends that its injured condition is evidenced by declining trends in market share, pricing, production levels, profits, sales, and utilization of capacity. Furthermore, the petitioner contends that injury and threat of injury is evidenced by negative effects on its cash flow, ability to raise capital, and growth. These allegations are supported by relevant evidence including import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Initiation Checklist dated May 5, 2003, Re: Material Injury).

**Initiation of Antidumping Investigation**

Based upon our examination of the petition on HMCBs from South Africa and other information reasonably available to the Department, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of HMCBs from South Africa are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

**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 South Africa. We will attempt to provide a copy of the public version of the petition to each producer named in the petition, as appropriate.

**International Trade Commission Notification**

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

**Preliminary Determination by the ITC**

The ITC will preliminarily determine, no later than May 29, 2003, whether there is a reasonable indication that imports of HMCBs are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: May 5, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretaryfor Import Administration.*

[FR Doc. 03–11745 Filed 5–9–03; 8:45 am]

BILLING CODE 3510–DS–S

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1033 (Preliminary)]**

### Hydraulic Magnetic Circuit Breakers From South Africa

**Determination**

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from South Africa of hydraulic magnetic circuit breakers, provided for in subheadings 8535.21.00 and 8536.20.00 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 April 14, 2003, a petition was filed with the Commission and Department of Commerce (Commerce) by Airpax Corp., Cambridge, MD, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of hydraulic magnetic circuit breakers from South Africa. Accordingly, effective April 14, 2003, the Commission instituted antidumping duty investigation No. 731–TA–1033 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 22, 2003 (68 FR 19849). The conference was held in Washington, DC, on May 5, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 29, 2003. The views of the Commission are contained in USITC Publication 3600 (June 2003), entitled *Hydraulic Magnetic Circuit Breakers from South Africa: Investigation No. 731–TA–1033 (Preliminary).*

Issued: May 30, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03–14040 Filed 6–3–03; 8:45 am]

BILLING CODE 7020–02–P

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

# APPENDIX B

# CONFERENCE WITNESSES

## CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigation:

**HYDRAULIC MAGNETIC CIRCUIT BREAKERS FROM SOUTH AFRICA**

**Investigation No. 731-TA-1033 (Preliminary)**

**May 5, 2003 - 9:30 am**

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

**IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES:**

Katten, Muchin, Zavis, Rosenman
Washington, D.C.
on behalf of

Airpax Corporation

**Michael V. Rabasca**, Vice President and Chief Financial Officer, Airpax Corporation
**Steven A. McDonald**, Executive Vice President and General Manager, Airpax Corporation

**Mark S. Zolno** )
**John P. Smirnow** )– OF COUNSEL
**Myron Paul Barlow** )

**IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES:**

Hunton & Williams
Washington, D.C.
on behalf of

CBI, Inc.

**Helmuth H. Fischer**, Managing Director, CBI, Inc.
**Chris Oliver**, Sales and Marketing Manager, CBI, Inc.
**John M. Tremaine**, Chief Executive Officer, Q-Tran, Inc.
**Bruce Malashevich**, Economist, Economic Consulting Services, LLC

**William Silverman** )
**Richard P. Ferrin** ) – OF COUNSEL
**James R. Simoes** )

# APPENDIX C

# SUMMARY DATA

**Table C-1**
**HMCBs: Summary data concerning the U.S. market (in units), 2000-2002, January-March 2002, and January-March 2003**

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**Table C-2**
**HMCBs: Summary data concerning the U.S. market (in poles), 2000-2002, January-March 2002, and January-March 2003**

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# APPENDIX D

# THE RELATIONSHIPS AMONG NOMINAL EXCHANGE RATES, REAL EXCHANGE RATES, AND PRODUCER PRICE TRENDS, AND THE IMPACT OF CHANGES IN THEIR VALUES ON PRICES OF EXPORTS AND IMPORTS

An exchange rate is the price of one currency in terms of another currency. Hence, an exchange-rate index is a price index. The exchange rate indices discussed in this report were based on exchange rates expressed in U.S. dollars per unit of the foreign currency (i.e., price of the foreign currency). An exchange-rate index number below 100 indicates that the foreign currency has depreciated (become cheaper) vis-a-vis the U.S. dollar; e.g., it requires fewer U.S. dollars to buy one unit of the foreign currency compared to the number of U.S. dollars required during the base period,[1] which has an index number of 100. On the other hand, an exchange-rate index number above 100 indicates that the foreign currency has appreciated (become more expensive) vis-a-vis the U.S. dollar; e.g., it requires more U.S. dollars to buy one unit of the foreign currency.[2] For instance, depreciation of the South African rand tends to make *South African exports **less** **expensive** in U.S. dollars and South African imports **more** **expensive** in rand.* On the other hand, appreciation of the South African rand tends to make *South African exports **more** **expensive** in U.S. dollars* and *South African imports **less** **expensive** in rand.*[3]

The producer or wholesale price indices measure inflation or deflation at the producer selling price level in each subject country and in the United States. Adjusting nominal exchange rates by relative inflation or deflation in the subject country vis-a-vis the United States yields a real exchange rate, which accounts for relative changes in prices in the subject country as well as changes in nominal exchange rates.[4] As a result, the *nominal* exchange rate in each period has a counterpart *real* exchange rate for that period. Indices of the two counterpart exchange rates may actually show opposing changes in the value of the currency, with one index representing the *nominal* value of the currency and the other the *real* value of the currency. For instance, the *nominal* exchange rate index may indicate that depreciation of the currency *in nominal terms* had occurred in a particular period but, because of sometimes large differences in inflation/deflation between countries, the counterpart *real* exchange rate index may actually indicate that appreciation of the currency *in real terms* had occurred in that period. In such an instance, changes in the nominal exchange rate would show an opposite (and incorrect) impact on export and import prices than that indicated by changes in the real exchange rate.

In considering real exchange rates it is important to understand the relationship between relative price changes and nominal exchange rates *at a given point in time*. Relatively *more inflation* in the subject country vis-a-vis the United States will ***undercut** nominal depreciation* of the subject country's currency vis-a-vis the United States, but will ***reinforce** nominal appreciation* of the subject country's currency.[5] Relatively *less inflation*, on the other hand, will ***reinforce** nominal depreciation* of the subject country's currency and ***undercut** nominal appreciation* of the subject country's exchange rate.[6] As an

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[1] Depreciation of a currency also indicates that more of that currency is required to buy one U.S. dollar.

[2] Appreciation of a currency also indicates that less of that currency is required to buy one U.S. dollar.

[3] Currency depreciation/appreciation can affect prices of exports and imports, or allow/force the importer or exporter to earn a higher/lower profit with the price level unchanged. Alternatively, some combination of changes in both prices and profits can occur.

[4] The real exchange rate is a better indicator (than the nominal exchange rate) of the impact of exchange rates on export and import prices.

[5] When looking at the impact of relative inflation rates on the nominal exchange rate *over time*, however, relatively more inflation in the subject country will tend *over time* to depreciate its nominal currency value as foreign demand shifts away from its products toward lower-priced products from other countries. The shift in demand away from the subject country's products will reduce demand for its currency and, thereby, put downward pressure on the exchange rate (price of the currency).

[6] When looking at the impact of relative inflation rates on the nominal exchange rate *over time*, however, relatively less inflation in the subject country will tend *over time* to appreciate its nominal currency value as foreign demand increases for its products and away from higher-priced products from other countries. The shift in demand

(continued...)

example, the first of these relationships is seen with the South African rand in this investigation. During January 2000-March 2003, the South African rand depreciated on a quarterly basis by 27.5 percent in nominal terms against the U.S. dollar, but higher inflation in South African compared to that in the United States during this period (32.3 percent inflation versus 2.7 percent inflation) led the South African rand to depreciate by only 16.6 percent in real terms against the U.S. dollar. (While nominal depreciation of the rand tended to make South African exports less expensive in U.S. dollars, the inflation in South Africa compared to that in the United States tended to raise the dollar-converted prices of its exports. The net effect, as indicated by the real exchange rate, would be pressure to decrease the dollar prices of South African exports somewhat less than the decrease suggested by the nominal depreciation of the rand.)

[6] (...continued)
toward the subject country's products will increase demand for its currency and, thereby, put upward pressure on the exchange rate (price of the currency).