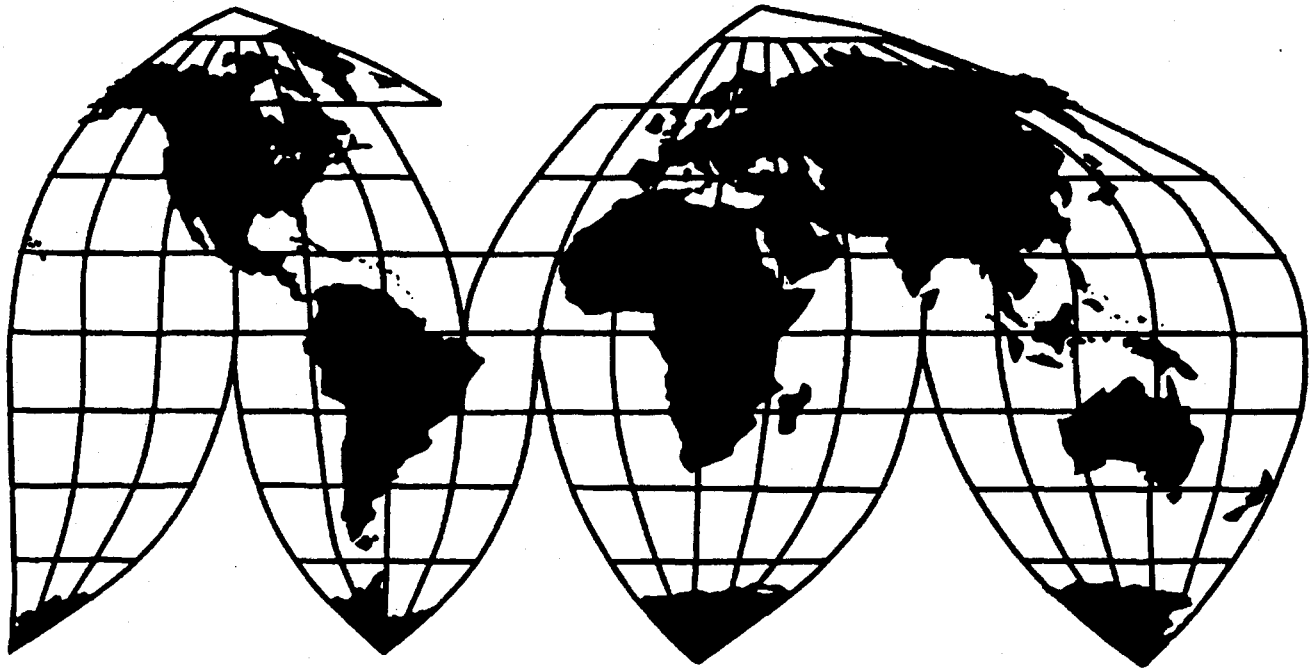
Ball Bearings From France, Germany, Italy, Japan, Singapore, and the United Kingdom

Investigations Nos. 731-TA-391-394, 396, and 399 (Review) (Remand)

Publication 3648 **December 2003**

U.S. International Trade Commission



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U.S. International Trade Commission

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VIEWS OF THE COMMISSION[1]

I. INTRODUCTION

By opinion and order dated September 3, 2003, the U.S. Court of International Trade (Court) remanded the Commission's determinations regarding subject imports of ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom.[2] Upon consideration of the remand order, we determine that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

II. PROCEDURAL HISTORY

On June 2, 2000, the Commission determined that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3] [4] On September 3, 2003, the Court remanded the determinations to the Commission, ordering the Commission to: 1) apply Judge Tsoucalas's finding as to the meaning of "likely" in determining whether to cumulate subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom; 2) apply Judge Tsoucalas's finding as to the meaning of "likely" in determining whether revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom would likely lead to a continuation or recurrence of material injury; 3) reconcile an error alleged regarding imports by a domestic producer ***

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[1] Chairman Okun and Commissioners Lane and Pearson did not participate in these remand reviews.

[2] NMB Singapore Ltd. et al v. United States, Slip Op. 03-115 (Ct. Int'l Trade Sep. 3, 2003) (Slip Op.).

[3] Certain Bearings from China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, Inv. Nos. AA1921-143, 731-TA-341, 343-345, 391-397, and 399 (Review), USITC Pub. 3309 (June 2000), Vol. 1 at 3. The confidential version of the Commission's review determinations is hereinafter referred to as Conf. Op. and is Conf. Doc. 939 in the Administrative Record.

[4] Vice Chairman Hillman dissented with regards to Singapore in her initial review determinations. Conf. Op. at 3 n.4.

if the Commission utilizes that domestic producer in its cumulation determination; and 4) explain how commodity-like the Commission deems the other antifriction bearings industries to be.[5]

We have considered the record as a whole in light of instructions in the Court's opinion. Because the Court did not remand the issue of the domestic like product, and expressly affirmed the Commission's like product findings, we adopt our prior views regarding these issues. Similarly, the Court did not remand the issue of the domestic industry, and we adopt our prior views regarding this issue, again defining the domestic industry as composed of the domestic producers of ball bearings.

III. RELATED PARTIES

In our original review determinations, we found *** and also noted that *** had imported subject merchandise during the period of review.[6] This latter finding was in error, as *** did not import subject imports during the period of review.

The Court has directed the Commission to reconcile this error. We note that ***. However, we also note that, in our original review determinations, we found that appropriate circumstances did not exist to exclude *** from the domestic industry.[7] Based on those same criteria, we find that ***, but we again find that appropriate circumstances do not exist to exclude it from the domestic industry, for the same reasons discussed in our original review determinations.[8] [9]

IV. CUMULATION

The Court remanded to the Commission with instructions to "apply this Court's finding as to the meaning of the term 'likely' in determining, pursuant to 19 U.S.C. § 1675(a)(7), whether to cumulate

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[5] Slip Op. at 109.

[6] Conf. Op. at 20-21.

[7] Conf. Op. at 22-24.

[8] Conf. Op. at 22-24.

[9] As in her original review determinations, Commissioner Miller agrees that appropriate circumstances do not exist to exclude *** from the domestic industry. See Conf. Op. at 22 n.101.

subject imports of ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom."[10] The Court found that "'likely' means 'likely'–that is, probable."[11] For purposes of the Commission's determinations on remand in these reviews, we apply the term "likely" consistent with the Court's instruction and with other recent decisions of the Court which address the meaning of "likely" as it is to be applied in five-year reviews, which were explicitly referenced by the Court in its opinion.[12] [13] [14] In particular, we apply the term "likely" as we did in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA-1921-197 (Remand), 701-TA-231, 319-320, 322, 325-328, 340, 342 and 348-350 (Remand), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Remand), USITC Pub. 3526 (July 2002), an application which was affirmed by Judge Restani.[15]

In these remand reviews, the statutory requirement that all ball bearing reviews be initiated on the same day is satisfied.[16] Based on the evidence on the record, and applying the Court's finding as to the meaning of the term "likely," we again find that subject imports from all six countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. We also find

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[10] Slip Op. at 109.

[11] Slip. Op. at 105, citing Usinor Industeel S.A. v. United States, Slip Op. 02-39 at 20 (Ct. Int'l Trade Apr. 29, 2002).

[12] Slip Op. at 105-106, citing Usinor Industeel S.A. v. United States, Slip Op. 02-39 (Ct. Int'l Trade Apr. 29, 2002); Nippon Steel Corp. v. United States, Slip Op. 02-153 (Ct. Int'l Trade Dec. 24, 2002); AG der Dillenger Huttenwerke v. United States, Sip Op. 02-107 (Ct. Int'l Trade Sept. 5, 2002); Usinor v. United States, Slip Op. 02-07 (Ct. Int'l Trade July 19, 2002). See also Usinor Industeel v. United States, Slip Op. 02-75 (Ct. Int'l Trade July 30, 2002); Usinor Industeel v. United States, Slip Op. 02-152 (Ct. Int'l Trade Dec. 20, 2002); Usinor Industeel v. United States, Slip Op. 03-118 (Ct. Int'l Trade Sept. 8, 2003).

[13] See also Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely" in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA-1921-197 (Remand), 701-TA-231, 319-320, 322, 325-328, 340, 342 and 348-350 (Remand), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Remand), USITC Pub. 3526 (July 2002).

[14] See also Dissenting Views of Commissioner Stephen Koplan Regarding the Interpretation of the Term "Likely", USITC Pub. 3526.

[15] Usinor Industeel v. United States, Slip Op. 02-152 (Ct. Int'l Trade Dec. 20, 2002)

[16] Conf. Op. at 52.

that a reasonable overlap of competition between the subject imports and the domestic like product is likely to exist if the orders were revoked. We again also do not find any significant differences in the conditions of competition among the subject countries. We therefore again exercise our discretion and cumulate subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom.

A. Likelihood of No Discernible Adverse Impact

In our original review determinations, we found that subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom had remained in the U.S. market since the orders were imposed, indicating that subject foreign producers maintained the contacts and distribution channels necessary to compete in the U.S. market.[17] We also found that the ball bearing industry in each country was export-oriented, the industry in each country had available, unused production capacity, and that four of the six countries were among the top five nations in the world for total bearing production.[18] For these same reasons, as explained in our initial review opinions, we again find that imports of ball bearings from each of the subject countries would likely have an adverse impact on the domestic industry.

B. Reasonable Overlap of Competition

As noted above, the staff report in the Commission's original review determinations mistakenly reported that *** imported subject ball bearings from Singapore. The Court directed the Commission to reconcile this error "if the Commission utilizes *** in the Commission's cumulation determination."

No Commissioner relied on this erroneous information in finding that a reasonable overlap of competition would be likely upon revocation.[19] In finding that a reasonable overlap of competition would be likely upon revocation, Commissioner Koplan instead relied upon the Commission's finding of a reasonable overlap in the original investigations, the commodity-like nature of the products, the reports of purchasers that subject imports from each of the six countries, including Singapore, were

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[17] Conf. Op. at 54-55 and Separate and Dissenting Views of Commissioner Marcia E. Miller at 14.

[18] Conf. Op. at 54.

[19] Conf. Op. at 55-56 and Separate and Dissenting Views of Commissioner Marcia E. Miller at 14-15.

interchangeable with the domestic like product, the presence of subject imports and the domestic like product in similar channels, and the continuing presence of subject imports throughout the U.S. market.[20] Commissioner Miller also cited the Commission's original finding of a reasonable overlap and relied on reports by purchasers of substitutability between subject imports and the domestic like product, including subject imports from Singapore, the commodity-like nature of ball bearings, the overlap in distribution channels, and price-competitiveness in the ball bearing market.[21] [22]

Nonetheless, in light of the error in the staff report, we opened the record and invited additional information. New factual information was proffered by Timken,[23] and comments were proffered by Timken and by NMB.

Upon reviewing the information and argument offered by the parties, we find no reason to alter our original findings, or to change the basis of those findings.[24] Rather, we again find that a reasonable overlap of competition is likely based on the evidence of purchasers regarding the degree of

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[20] Conf. Op. at 55-56.

[21] Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 14-15.

[22] Vice Chairman Hillman did not find a reasonable overlap of competition likely upon revocation and did not cumulate subject imports from Singapore with other subject imports in her initial review determinations. Conf. Op. at Separate and Dissenting Views of Commissioner Jennifer A. Hillman at 1-3 and n.3.

[23] Timken acquired Torrington in March 2003.

[24] Vice Chairman Hillman notes that, in her original determinations in these five-year reviews, she did not cumulate ball bearings from Singapore with ball bearings from France, Germany, Italy, Japan, and the United Kingdom. See Conf. Op. at Separate and Dissenting Views of Commissioner Jennifer A. Hillman, 1-3. Based on the information on the record at that time, she did not find that, upon revocation, there would likely be a sufficient overlap of competition between ball bearings from Singapore and ball bearings produced in the United States or ball bearings produced in the other countries at issue. While she found a likely overlap of competition with respect to simultaneous presence in the market, sales in the same geographic channels, and sales through similar channels of distribution, she found sufficient differences in fungibility to indicate a likely lack of competition between ball bearings from Singapore and domestic ball bearings, as well as limited competition between ball bearings from Singapore and other subject ball bearings. In so finding, she noted that "[t]he Singapore respondents have presented evidence that such commodity-grade small bearings are not produced domestically in any significant quantities, and the record contains no firm evidence to the contrary." Id. at 2. However, the record in these remand proceedings contains additional evidence of fungibility, including more detailed statements from two domestic producers, company-specific information for domestic producers of small bearings, and tables from domestic producers showing interchangeability between MPB's bearings and those from other manufacturers. In light of the additional information now on the record, and the arguments submitted by parties in these remand proceedings, she finds the evidence with respect to fungibility to be more mixed, and consequently finds that a reasonable overlap of competition is likely in the event of revocation; she joins in the reasoning of Commissioner Koplan on this issue as stated in the original review determinations and reiterated herein.

interchangeability between subject imports and the domestic like product and the presence of the domestic like product and subject imports in similar channels of distribution.[25] [26] In making this finding, we again do not rely on statements made by Donna Demerling regarding competition between MPB and subject imports from Singapore.[27]

In its comments in these remand proceedings, NMB renewed its arguments that subject imports from Singapore are not interchangeable with the domestic like product and do not move in the same channels of distribution.[28] NMB's arguments regarding channels of distribution are another way of stating its arguments regarding interchangeability, namely, that subject imports from Singapore are smaller and "low-value, mass produced items."[29] These arguments overlook the record evidence that we found most convincing in our original review determinations and upon which we rely in these remand determinations, including the reports of purchasers that subject imports from Singapore are interchangeable with the domestic like product.[30] [31]

C. Other Considerations

We have also reconsidered our findings regarding the conditions of competition facing subject imports from each of the six countries, and we again do not find that any of the conditions of competition

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[25] The Court specifically directed the Commission to reconcile its error regarding imports by *** "if the Commission utilizes that domestic producer in its cumulation determination." Slip Op. at 109. Our finding of a likely reasonable overlap of competition is no way based on any presumption regarding imports by ***, but we have considered the domestic industry as a whole, including *** in reaching our decision to cumulate. We have already determined that appropriate circumstances do not exist to exclude *** from the domestic industry. See Section III. supra and Conf. Op. at 20-24.

[26] Commissioner Miller also notes that official import statistics indicate that subject imports from France, Germany, Italy, Japan, and the United Kingdom included ball bearings under 26 mm in outer diameter, as did subject imports from Singapore.

[27] Tr. at 205 (Ms. Demerling), Pub. Doc. 710.

[28] NMB Comments at 3-4.

[29] NMB Comments at 4.

[30] NMB does concede in its comments that subject imports from "several of the import sources" include smaller, commodity-grade bearings such as those imported from Singapore, indicating an overlap of competition between subject imports from Singapore and at least some of the other subject imports. NMB Comments at 3.

[31] Vice Chairman Hillman also relies on the additional information now on the record regarding overlap in product sizes and types between ball bearings from Singapore and ball bearings from domestic producers as well as between ball bearings from Singapore and ball bearings from the other countries at issue.

differ significantly among the six countries. We therefore cumulate subject imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom.

V. CONDITIONS OF COMPETITION

We adopt our findings regarding the likely conditions of competition as in our initial review determinations.[32] [33] [34] We note that the Court affirmed our findings regarding the fragmentation of the industry and the weakness of demand.[35] We again find that demand for bearings was relatively flat in the later portion of the period under review; the automotive industry is a prime consumer of ball bearings, followed by computer and other manufacturing applications; domestic shipments grew significantly between 1987 and 1998 and sluggishly thereafter; subject imports remained a significant presence in the domestic market after the orders were imposed; ball bearings are typically sold either to OEMs or aftermarket distributors; certification processes do not pose significant obstacles to major international bearings producers; ball bearings are more like a commodity product than are other antifriction bearings, with a significant degree of perceived substitutability between imports and the domestic like product, and price cited as an important factor in purchasing decisions; the domestic industry includes many smaller producers and no single dominant producer; the industry includes many producers owned by or affiliated with large multinational bearings producers; the domestic industry must operate at high levels of capacity utilization to be profitable; and bearings producers cannot easily shift from the production of one type of bearing to another.[36]

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[32] Conf. Op. at 57-61.

[33] Vice Chairman Hillman notes that inclusion of Singapore with the other cumulated countries does not alter her analysis of likely conditions of competition for the cumulated countries as set out in the original determinations in these reviews.

[34] Commissioner Miller joins in the findings of the Commission in these remand reviews and also adopts her findings regarding the likely conditions of competition as in her initial review determinations. Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 15-16.

[35] Slip Op. at 62-64.

[36] Conf. Op. at 57-61.

In the initial review determinations, the following exchange, which occurred at the hearing on March 21, 2000, was cited to support the statement that ball bearings are more like a commodity product than are other types of antifriction bearings:

> CHAIRMAN BRAGG: Mr. Malstrom, you probably won't like how I frame this question. But as far as between the various types of bearings, would you -- and Mr. Malashevich, you could comment on this, as well -- consider ball bearings to be the most commodity-like?...
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> MR. MALSTROM: Well, I don't know what analysis you would like to draw. But my assessment is that, yes, the ball bearing, and especially the deep groove ball bearing, because there are a lot of types of ball bearings -- the deep groove ball bearing is probably the most commoditized bearing type in the industry.
>
> The second is probably tapers. I don't know if our colleagues from Timken would agree with that. But that's my assessment.[37]

The opinion then expanded on this discussion of ball bearings as "commodity-like," finding a "significant degree of perceived substitutability" and also finding that price was an important factor in the purchasing decision.[38] Regardless of any findings about other antifriction bearings, therefore, the original review determinations explained the importance of the Commission's finding that ball bearings were "commodity-like," if not true commodities, in the context of its discussion of the conditions of competition in the market for ball bearings.

The Court directed the Commission to "explain how commodity-like the Commission deems the other antifriction bearings."[39] The extent to which other antifriction bearings were like commodities was considered in the context of each of those sections of the Commission's original review determinations.

Tapered roller bearings (TRBs). The Commission noted that TRBs consist of thousands of part numbers, and within those part numbers, specialization or customization occurs; the Commission also noted that producers seek to expand their offerings of specialized bearings; that other factors, such as quality, availability, existence of pre-arranged contracts, and service were as important in purchasing

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[37] Conf. Op. at 59, citing Hearing Transcript of March 21, 2000, at 344-345 (Mr. Malstrom, President and CEO, SKF USA, speaking in favor of revocation of the orders). The hearing transcript is Pub. Doc. 710.

[38] Conf. Op. at 59 and Separate and Dissenting Views of Commissioner Marcia E. Miller at 15.

[39] Slip Op. at 109.

decisions, although TRBs of similar size and configuration were generally interchangeable. Finally, the Commission found that sales to original equipment manufacturers (OEMs) typically require certification, and OEMs rarely change suppliers on the basis of price alone.[40] Commissioner Miller found that "a substantial number of TRBs" are sold as "customized products," though she also found that "a more significant share of the U.S. market is comprised of standard types and sizes, with competition for sales largely based on price."[41] As we noted above, Mr. Malstrom, a party testifying in favor of revocation, indicated that TRBs are less commoditized than ball bearings and more commoditized than other antifriction bearings.[42]

Cylindrical roller bearings (CRBs). The Commission found that a significant portion of CRBs sold to OEMs were customized to some extent, and also found that the shift by automotive producers to buying more subassemblies increased demand for customized CRBs.[43] The Commission cited arguments by parties favoring revocation that *** CRBs used in the aerospace, agricultural, and *** industries, as well as *** of those used by truck and *** OEMs, were customized.[44] The Commission found that the frequency of customization limited price-based competition, and also found that OEM sales were more important in the CRB market, both factors which made CRBs less "commoditized" than ball bearings.[45] Commissioner Miller found that CRBs, "on the whole," are "a category of antifriction bearings characterized by greater customization than TRBs or ball bearings," though she also noted the importance of worldwide standards in promoting interchangeability.[46]

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[40] Conf. Op. at 38-39 and Separate and Dissenting Views of Commissioner Marcia E. Miller at 3-4.

[41] Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 9.

[42] Tr. at 344-345.

[43] Conf. Op. at 74.

[44] Conf. Op. at 74 and Separate and Dissenting Views of Commissioner Lynn M. Bragg at 10.

[45] Conf. Op. at 77-78.

[46] Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 24.

Spherical plain bearings (SPBs). Commissioner Koplan found that SPBs were generally specialized products, and the demand for customized SPBs was both important and growing. Commissioner Koplan found that customized SPBs were important not just for OEMs but for aftermarket sales as well.[47] Vice Chairman Hillman found that SPBs were the least "commodity-like" of the four antifriction bearings and noted that demand for customized bearings was "important and growing" and significant in both the OEM and aftermarket channels.[48] Commissioner Bragg also noted the increasing importance of customization in the SPB market.[49] Commissioner Miller noted that SPBs were "considered to be less a commodity-type product than ball bearings," though she also noted the importance of price as an important factor in the purchasing decision for SPBs.[50]

We cannot, of course, quantify the degree of commoditization present in each industry. But the findings cited above indicate the degree to which the Commission considered this issue in the context of each antifriction bearing industry, at the time of the Commission's initial review determinations. No Commissioner found any antifriction bearing like product to consist entirely of true commodity items, i.e., homogeneous products sold exclusively on the basis of price. As these findings indicate, the market for each type of antifriction bearing included demand for products that were more customized and demand for products that were more interchangeable. The record evidence indicated that the market for ball bearings included a somewhat larger share of products that were less customized, more interchangeable, and more likely to be sold on price.

We again find that these conditions are likely to prevail in the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

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[47] Conf. Op. at Separate Views of Chairman Stephen Koplan in Spherical Plain Bearings from France, Germany, and Japan at 7-8.

[48] Conf. Op. at Separate and Dissenting Views of Commissioner Jennifer A. Hillman at 10.

[49] Conf. Op. at Separate and Dissenting Views of Commissioner Lynn M. Bragg at 16.

[50] Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 34.

VI. REVOCATION OF THE ORDERS ON BALL BEARINGS FROM FRANCE, GERMANY, ITALY, JAPAN, SINGAPORE, AND THE UNITED KINGDOM IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME[51]

The Court remanded to the Commission with instructions to "apply this Court's finding as to the meaning of the term 'likely' in determining whether revocation of antidumping duty orders on ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom would likely lead to continuation or recurrence of material injury."[52] The Court found that "'likely' means 'likely'–that is, probable."[53] As stated earlier in our discussion of cumulation, for purposes of the Commission's determinations on remand in these reviews, we apply the term "likely" consistent with the Court's instruction and with other recent decisions of the Court which address the meaning of "likely" as it is to be applied in five-year reviews, which were explicitly referenced by the Court in its opinion.[54] [55] [56] In particular, we apply the term "likely" as we did in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and The United Kingdom, Inv. Nos. AA-1921-197 (Remand), 701-TA-231, 319-320, 322, 325-328, 340, 342 and 348-350 (Remand), and 731-TA-573-576, 578, 582-587,

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[51] Vice Chairman Hillman notes that inclusion of Singapore with the other cumulated countries does not alter her analysis of likely volume, price effects, and impact for the cumulated countries as set out in the original review determinations in these reviews.

[52] Slip Op. at 109.

[53] Slip. Op. at 105, citing Usinor Industeel S.A. v. United States, Slip Op. 02-39 at 20 (Ct. Int'l Trade Apr. 29, 2002).

[54] Slip Op. at 105-106, citing Usinor Industeel S.A. v. United States, Slip Op. 02-39 (Ct. Int'l Trade Apr. 29, 2002); Nippon Steel Corp. v. United States, Slip Op. 02-153 (Ct. Int'l Trade Dec. 24, 2002); AG der Dillenger Huttenwerke v. United States, Sip Op. 02-107 (Ct. Int'l Trade Sept. 5, 2002); Usinor v. United States, Slip Op. 02-07 (Ct. Int'l Trade July 19, 2002). See also Usinor Industeel v. United States, Slip Op. 02-75 (Ct. Int'l Trade July 30, 2002); Usinor Industeel v. United States, Slip Op. 02-152 (Ct. Int'l Trade Dec. 20, 2002); Usinor Industeel v. United States, Slip Op. 03-118 (Ct. Int'l Trade Sept. 8, 2003).

[55] See also Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely", USITC Pub. 3526 (July 2002).

[56] See also Dissenting Views of Commissioner Stephen Koplan Regarding the Interpretation of the Term "Likely", USITC Pub. 3526.

604, 607-608, 612, and 614-618 (Remand), USITC Pub. 3526 (July 2002) an application which was affirmed by Judge Restani.[57]

A. Likely Volume of Subject Imports

We adopt our findings in our initial review determinations and find in these remand reviews that the volume of cumulated subject imports would likely be significant within a reasonably foreseeable time if the orders were revoked.[58] [59] In particular, we find that, although some factors indicate that significant additional import volumes upon revocation would be unlikely, we again find that a relatively small increase in the volume of subject imports would be significant. We find that subject imports are entrenched in the highest volume portion of the market, with significant OEM sales, and, with demand for ball bearings weak, an increase in subject imports upon revocation would not spur increased demand for ball bearings, but rather would be likely to cause negative price effects. We thus again find that the volume of subject imports upon revocation of the order is likely to be significant in the context of the particular conditions in this industry and in light of likely price effects.

B. Likely Price Effects of Subject Imports

We adopt our findings in our initial review determinations and find in these remand reviews that the price effects of subject imports are likely to be significant upon revocation.[60] [61] In particular, we note again the findings of the Commission in the original investigations, namely, that demand for ball bearings is price inelastic and marked by a fair degree of price competition. We find that those same conditions still exist in the market for ball bearings, and the combination of slackening demand and significant substitutability between the domestic like product and the subject imports would be likely to result in

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[57] Usinor Industeel v. United States, Slip Op. 02-152 (Ct. Int'l Trade Dec. 20, 2002)

[58] Conf. Op. at 61-62.

[59] Commissioner Miller joins in the findings of the Commission in these remand reviews and also adopts her findings regarding the likely volume of subject imports as in her initial review determinations. Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 17-19.

[60] Conf. Op. at 62-64.

[61] Commissioner Miller joins in the findings of the Commission in these remand reviews and also adopts her findings regarding the likely price effects of subject imports as in her initial review determinations. Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 19-20.

price declines upon revocation. We find that the fragmented nature of the domestic industry, with many suppliers able to meet most purchases' non-price concerns, leaves price as the primary area for competition. We acknowledge the pricing data collected in the investigations do not give evidence of clear patterns of underselling, though the data do show underselling in most transactions. Nonetheless, we again find that the conditions of competition indicate that the price effects of revocation would likely be significant, and we find it likely that even modest additional volumes of subject imports would have a significant price suppressing and depressing effect within a reasonably foreseeable time.

C. Likely Impact of Subject Imports

We adopt our findings in our initial determinations regarding the likely impact of subject imports upon revocation.[62] [63] In particular, we again find that, in the original investigations, the Commission found that the volume and price effects of subject imports were significant and had an adverse impact on the domestic industry. We again do not find the domestic industry to be suffering from material injury, or that the industry is vulnerable. We do find that, given the particular conditions of competition, in light of likely volume and price effects, revocation would likely have a significant adverse impact on the domestic industry.

We again find that the domestic industry's position is somewhat similar to that in the original investigations, in that the domestic industry accounts for a smaller share of domestic consumption, capacity utilization was lower at the end of the period of review than during the original investigations, operating income was lower, and capital expenditures declined at the end of the period of review. We again note that a majority of domestic producers oppose continuation of the orders, but we again find the views of these domestic producers cannot be dispositive for the reasons discussed in our initial review

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[62] Conf. Op. at 64-67.

[63] Commissioner Miller joins in the findings of the Commission in these remand reviews and also adopts her findings regarding the likely impact of subject imports as in her initial review determinations. Conf. Op. at Separate and Dissenting Views of Commissioner Marcia E. Miller at 20-21.

determinations.[64] [65] We again find, given the fragmented nature of the industry and the conditions of competition in the market, that domestic producers, especially those related to subject foreign producers, would have an incentive to supplement domestic production with imported ball bearings, and the collective effect of so many individual producers complementing domestic product with subject imports likely would be injurious to the industry as a whole. We therefore again find it likely that increased imports from France, Germany, Italy, Japan, Singapore, and the United Kingdom would have significant adverse price effects so as to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the orders were revoked.

CONCLUSION

Accordingly, based on the record in these reviews and pursuant to the Court's instructions upon remanding the review determinations to the Commission, we conclude that revocation of the antidumping duty orders on subject imports of ball bearings from France, Germany, Italy, Japan, Singapore, and the United Kingdom would likely lead to continuation or recurrence of material injury to an industry within the United States within a reasonably foreseeable time.

[64] Conf. Op. at 65-67.

[65] Commissioner Miller did not find this issue dispositive in her determinations.