Welded Stainless Steel Pressure Pipe From China

Investigation Nos. 701-TA-454 and 731-TA-1144 (Preliminary)

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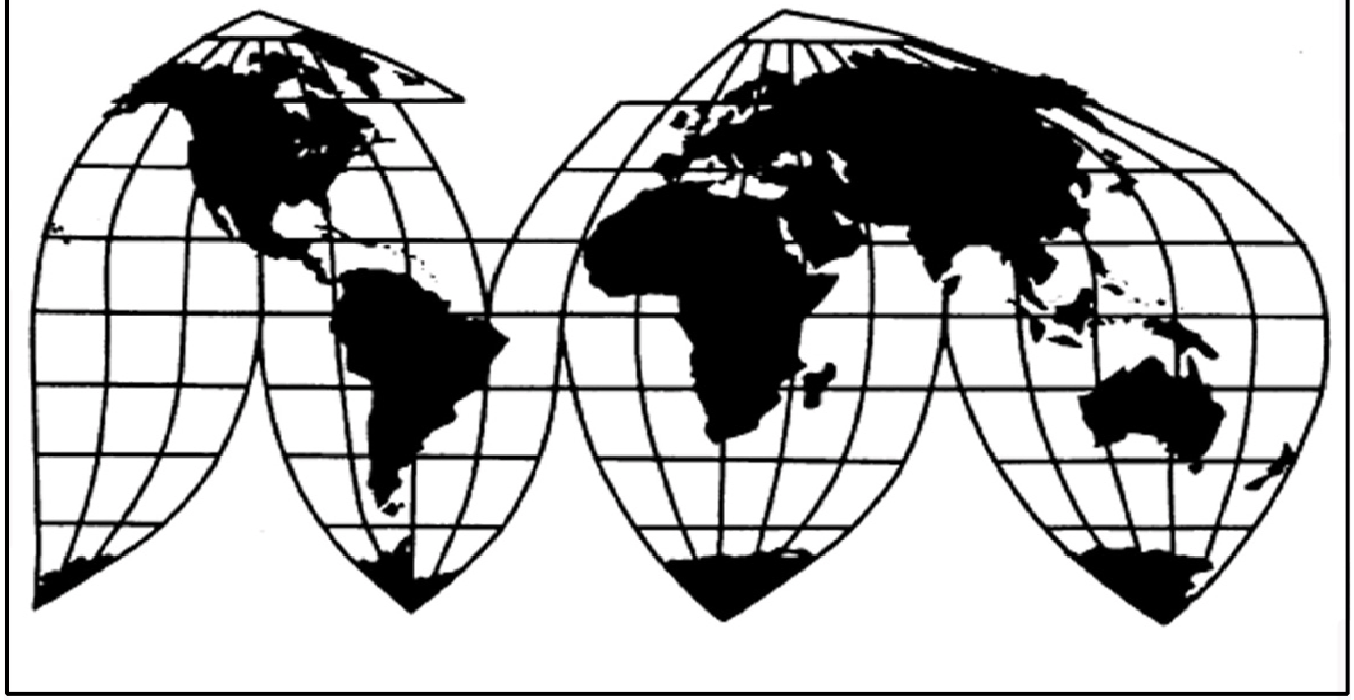
U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-454 and 731-TA-1144 (Preliminary)

WELDED STAINLESS STEEL PRESSURE PIPE FROM CHINA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured,[2] or threatened with material injury,[3] by reason of imports from China of welded stainless steel pressure pipe, provided for in subheading 7306.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV).

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in these investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. 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 and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On January 30, 2008, a petition was filed with the Commission and Commerce by Bristol Metals (Bristol, TN), Felker Brothers Corp. (Marshfield, WI), Marcegaglia USA Inc. (Munhall, PA), Outoukumpu Stainless Pipe, Inc. (Schaumburg, IL), and the United Steel Workers of America (Pittsburgh, PA), alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of welded stainless steel pressure pipe from China. Accordingly, effective January 30, 2008, the Commission instituted countervailing duty investigation No. 701-TA-454 (Preliminary) and antidumping duty investigation No. 731-TA-1144 (Preliminary).

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

[2] Commissioner Charlotte R. Lane, Commissioner Irving A. Williamson, and Commissioner Dean A. Pinkert determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of welded stainless steel pressure pipe from China.

[3] Chairman Daniel R. Pearson, Vice Chairman Shara L. Aranoff, and Commissioner Deanna Tanner Okun determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of welded stainless steel pressure pipe from China.

Notice of the institution of the Commission's investigations 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 February 5, 2008 (73 FR 6741). The conference was held in Washington, DC, on February 21, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find a reasonable indication that an industry in the United States is materially injured,[1] or threatened with material injury,[2] by reason of imports of certain welded stainless steel pressure pipe from China that are allegedly subsidized and sold at less than fair value in the United States.

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 of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[3] 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."[4]

II. BACKGROUND

On January 30, 2008, four domestic producers (Bristol Metals of Bristol, TN ("Bristol Metals"); Felker Brothers Corp. of Marshfield, WI and Glasgow, KY ("Felker Brothers"); Marcegaglia USA, Inc. of Munhall, PA ("Marcegaglia"); and Outokumpu Stainless Pipe, Inc. of Schaumburg, IL ("Outokumpu")) and the United Steel Workers of Pittsburgh, PA ("USW") filed antidumping and countervailing duty petitions regarding allegedly unfairly traded imports of certain welded stainless steel pressure pipe from China.[5] Representatives from each petitioning entity appeared at the staff conference accompanied by joint counsel, and they filed a joint postconference brief. A representative from Silbo Industries of Montvale, NJ ("Silbo"), an importer of subject merchandise from China, also appeared at the staff conference accompanied by counsel, but Silbo did not file a postconference brief. No other producer, exporter, or importer of the subject merchandise from China appeared at the conference or submitted a postconference brief.

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[1] Commissioner Charlotte R. Lane, Commissioner Irving A. Williamson, and Commissioner Dean A. Pinkert find a reasonable indication that an industry in the United States is materially injured by reason of subject imports from the People's Republic of China ("China"). Except as otherwise noted, they join sections I to VI of this opinion.

[2] Chairman Daniel R. Pearson, Vice Chairman Shara L. Aranoff, and Commissioner Deanna Tanner Okun find a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports from China. Except as otherwise noted, they join sections I to V and VII of this opinion.

[3] 19 U.S.C. §§ 1671b(a), 1673b(a); see, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

[5] See, e.g., Petitions at Exh. I-1; Confidential Staff Report, Mem. INV-FF-022 at I-1 (Mar. 10, 2008) ("CR"); Public Staff Report, USITC Pub. 3986 at I-1 (Mar. 2008) ("PR").

III. DOMESTIC LIKE PRODUCT

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."[6] 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."[7] 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."[8]

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.[9] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[10] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[11] Although the Commission must accept the determination of Commerce as to the scope of the allegedly unfairly traded imported merchandise,[12] the Commission determines what domestic product is like the imported articles Commerce has identified.[13] The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior

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[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(10).

[9] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 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 (Ct. Int'l Trade 1996).

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

[11] Nippon, 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.")

[12] See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421at 9 (Fed. Cir. April 25, 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

[13] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.[14]

B. Product Description

In its notices of initiation, Commerce defined the imported merchandise within the scope of these investigations as circular welded austenitic stainless pressure pipe

> not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.
>
> Excluded from the scope are: (1) welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A-269, ASTM A-270 or comparable domestic or foreign specifications.[15]

Austenitic stainless steels comprise over 70 percent of total global stainless steel production and contain a maximum of 0.15 percent carbon and a minimum of 16 percent chromium, as well as nickel and manganese. Austenitic stainless steel products are distinguished from ferritic and martensitic stainless steels by their microstructure.[16]

C. Background on Previous Investigations and Reviews Involving Similar Scopes

The Commission has conducted several investigations of stainless steel hollow products, a term that encompasses "pipes," "tubes," and "tubing."[17] Two antidumping duty orders are currently in effect regarding certain welded stainless steel pressure pipe imports from Korea and Taiwan, but the scope of

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[14] Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

[15] 73 Fed. Reg. 9994, 9994 (Feb. 25, 2008) (initiation of countervailing duty investigation); 73 Fed. Reg. 10221, 10221 (Feb. 26, 2008) (initiation of antidumping duty investigation). As Commerce explained, "The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States ("HTSUS"). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive." 73 Fed. Reg. at 9994; 73 Fed. Reg. at 10221.

[16] See, e.g., CR at I-9 n.18; PR at I-7 n.18. Ferritic stainless steels (containing a minimum of 11.5 percent chromium) are highly corrosion-resistant but much less durable than austenitic grades and cannot be hardened by heat treatment. Martensitic stainless steels (containing a minimum of 11.5 percent chromium) are not as corrosion-resistant as the other two grades but are extremely durable, highly machinable, and can be hardened by heat treatment. Id.

[17] See, e.g., CR at I-7; PR at I-7.

those orders differs somewhat from the scope of the current investigations.[18] The scope of those orders includes circular welded austenitic stainless steel pressure pipe made to ASTM A-312 specifications regardless of the outside diameter, whereas the scope of the current investigations includes both ASTM A-312 and ASTM A-778 products, but does not include products with an outside diameter greater than 14 inches.[19]

The scope of the current investigations does not include mechanical, boiler, or related welded tubing products.[20] None of the parties has asked the Commission to define the domestic like product more broadly to include tubing products, and we do not do so based on the current record.[21] [22]

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[18] See, e.g., Certain Welded Stainless Steel Pipe from Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Second Review), USITC Pub. 3877 (Aug. 2006); Certain Welded Stainless Steel Pipe from Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Review), USITC Pub. 3351 (Sept. 2000); Certain Welded Stainless Steel Pipe from Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Final), USITC Pub. 2585 (Dec. 1992). There were also two earlier investigations of welded stainless steel pipes. In Welded Stainless Steel Pipe and Tube from Japan, Inv. No. AA1921-180, USITC Pub. 899 (Jul. 1978), the Commission made a negative determination. In Stainless Steel Pipes and Tubes from Sweden, the Commission made negative final determinations regarding welded stainless steel products in both the countervailing duty investigation, Inv. No. 701-TA-281 (Final), USITC Pub. 1966 (Apr. 1987), and in the companion antidumping duty investigation, Inv. No. 731-TA-354 (Final), USITC Pub. 2033 (Nov. 1987).

[19] See, e.g., Confer. Tr. at 52-53 (Schagrin). The scope of the orders on certain welded stainless steel pipe from Korea and Taiwan and the scope of the current investigations exclude certain welded stainless mechanical tubing products, certain boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing as well as specialized tubing meeting ASTM A-269, ASTM A-279 or comparable specifications. Id. at 53 (Schagrin); CR at I-1; PR at I-1.

[20] See, e.g., Confer. Tr. at 53 (Schagrin).

[21] Petitioners and Silbo agree with the Commission's decision in the second five-year reviews of the antidumping duty orders on certain stainless steel welded pipe from Korea and Taiwan not to define a domestic like product more broadly than the scope of those reviews to include stainless steel tubing products. They agree that there has been no significant change in the relevant facts relied upon by the Commission in those reviews. See, e.g., Confer. Tr. at 55-56 (Schagrin), 92-93 (Cornelius for Marcegaglia), 109-10 (Jakob for Silbo). In the second five-year reviews of the antidumping duty orders on imports of stainless steel welded pipe made to ASTM A-312 specifications, the Commission defined a domestic like product that included stainless steel welded pipes made to ASTM A-312 and ASTM A-778 specifications but that did not include tubing products. The Commission agreed with the domestic industry that tubular products were made to more stringent requirements and in a broader range of size and wall thicknesses, were generally not interchangeable with pipes made to ASTM A-312 and ASTM A-778 specifications, were often sold to end users rather than to the distributors that purchased ASTM A-312 and ASTM A-778 products, were often produced on different production lines using separate equipment, were perceived as different products by customers and producers, and were priced differently. See, e.g., USITC Pub. 3877 at 5-11. In the original investigations of imports of ASTM A-312 welded stainless steel pipes from Korea and Taiwan, the Commission defined a domestic like product that also included other tubular products, and therefore was broader than the scope. See, e.g., USITC Pub. 2585 at 7-17. In the first reviews of the corresponding antidumping duty orders, the Commission retained the broader definition of the domestic like product, but noted that due to the lateness of the argument by domestic interested parties that only A-312 and A-778 pipes should be in the domestic like product, there was only limited information on the record as to differences between the various welded stainless steel tubular pipes. See, e.g., USITC Pub. 3351 at 4-5 & n.19.

[22] The scope of the current investigations is limited to welded products and does not include seamless products. No party has asked the Commission to define the domestic like product to include seamless products, and we do not do so based on the current record. Whereas the welded stainless steel products in these investigations are made from stainless steel coils of sheet, strip, or plate, petitioners explained that seamless products are made from bars or billets. Seamless products are made by different producers and serve different end uses than welded products. Seamless products are used in critical applications where pressure or temperature are an issue or for post-bending applications where the use of a welded seam would concern the engineer. See, e.g., Confer. Tr. at 51-52 (Henke for

D. Analysis and Conclusion

The scope of these investigations includes ASTM A-312 and A-778 pipes but only if the outside diameters are not greater than 14 inches ("small-diameter pipes" or "WSS pressure pipe"). Petitioners ask the Commission to define a single domestic like product that is coextensive with the scope of these investigations.[23] Silbo asks the Commission to define a domestic like product that also includes circular welded austenitic stainless pressure pipes made to ASTM specifications A-312 and A-778 that are greater than 14 inches in outside diameter ("large-diameter pipes"). Silbo alleges that no prior trade cases distinguished between small- and large-diameter pipes. Silbo asserts that petitioners' proposed domestic like product overlooks the most profitable area of the pipe business and the domestic industry's large exports of large-diameter pipe.[24]

No party urged the Commission to distinguish between small-diameter and large-diameter pipes in any of the previous investigations or reviews involving stainless steel hollow products, and this appears to be the first instance in which the scope differentiated between small- and large-diameter welded stainless pressure pipes. For purposes of the preliminary phase of these investigations, and based on the factors normally considered, we define the domestic like product as WSS pressure pipe, coextensive with the scope of these investigations.

Physical Characteristics and Uses. Both small- and large-diameter pipes are made to specific ASTM specifications such as ASTM A-312 and ASTM A-778, although some evidence suggests that larger sizes may be made more often to ASTM A-358 specifications. Petitioners assert that small-diameter pipes are made to more exacting physical specifications, such as specific ASTM specification gauge schedules, whereas larger sizes are made to meet a specific customer's gauge requirements. Because small-diameter pipes generally are made from stainless steel coils of sheet, strip, or plate and large-diameter pipes are made from stainless steel cut-to-length plate or cut-to-length sheet, the record suggests that there may be important differences in the characteristics of small- and large-diameter pipes that are associated with differences in welding processes, as discussed below.[25]

According to petitioners, small-diameter pipes are generally used as conduits for liquids or gases, and their major applications include, but are not limited to: digestor lines; blow lines; pharmaceutical lines; petrochemical lines; stock lines; brewery process and transport lines; general food processing lines; automotive paint lines; and paper process machines.[26] Petitioners argue that large-diameter pipes are sold for different end uses and/or for specific projects to end-users such as liquid natural gas terminals, other major natural gas distributors, and waste-water treatment plants.[27]

Interchangeability. According to petitioners, obvious size differences affect interchangeability between small- and large-diameter pipes. Moreover, a much larger percentage of large-diameter pipe is produced to ASTM A-358 specifications.[28] The record in the preliminary phase of these investigations also suggests that differences in tolerances and seams related to differences in manufacturing processes

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Felker Brothers), 52 (Schagrin); see also, e.g., Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 1966 and USITC Pub. 2033 (in the companion antidumping and countervailing duty investigations defining seamless and welded products as different domestic like products); cf., e.g., Circular Seamless Stainless Steel Hollow Products from Japan, Inv. No. 731-TA-859 (Final), USITC Pub. 3344 (Aug. 2000) (defining domestic like product as seamless products).

[23] See, e.g., Petitions, Vol. I at 4; Confer. Tr. at 30-31 (Schagrin).

[24] See, e.g., Confer. Tr. at 96-98, 109-10 (Jakob for Silbo).

[25] See, e.g., Confer. Tr. at 96-97 (Jakob for Silbo), 123 (Schagrin); Petitioners' Postconf. Br. at 8-9; CR at I-14 to I-15, I-17; PR at I-11 to I-12.

[26] See, e.g., Petitions, Vol. I at 3-4; Petitioners' Postconf. Br. at 8-9; CR at I-3; PR at I-3.

[27] See, e.g., Confer. Tr. at 123 (Schagrin); Petitioners' Postconf. Br. at 8-9; CR at I-15; PR at I-11.

[28] See, e.g., Petitioners' Postconf. Br. at 8-9; CR at I-15, I-17 to I-18; PR at I-11 to I-12.

limit interchangeability. Small-diameter pressure pipes are produced to different tolerances than large-diameter pipes.[29] In addition, there are differences in terms of whether the seams have been cold worked, ironed, and/or planished (i.e., made smooth by rolling or hammering).[30] Supplemental requirements and testing (i.e., x-ray, eddy current, dye penetrant, and corrosion testing) are common for large- but not for small-diameter pipes.[31]

Channels of Distribution. Although Silbo argues that small- and large-diameter pipes are both sold to distributors, the record suggests that small-diameter pipes are typically sold on the spot market through distributors that maintain inventories, whereas the majority of the large-diameter pipes are custom-made for projects for specific uses, such as for engineering or construction companies for use in capital projects or by end users in the gas business. Some master distributors do inventory small quantities of 16", 18", 20", 24", and 30" large-diameter pipes, but even then, these larger pipes appear destined for specific customers for specific projects.[32]

Common Manufacturing Facilities, Production Processes, and Production Employees. Small- and large-diameter pipes are usually made on entirely different equipment using different production processes.[33] In general, to produce small-diameter pipes, coiled stainless steel flat-rolled products (sheet, strip, or plate of a width essentially equal to the outside diameter of the pipe to be produced) are put into an uncoiler and fed into a series of paired forming rolls.[34] As product progresses through the rolls, its cross-sectional profile is formed into a tubular shape with the butted edges welded along the seam.[35] After welding, the pipe proceeds through an in-line annealing furnace,[36] is then straightened, and is finally cut to length.[37] In contrast, large-diameter pipes generally are made one at a time in 10' or 20' lengths on press-brake equipment in a much slower process that welds at a rate of inches per minute instead of thousands of inches per minute in the case of small-diameter pipes.[38] The press-brake process begins with a cut-to-length sheet (or cut-to-length plate) of a width essentially equal to the outside diameter and a length equal to the length of the piece of pipe to be produced. A press gradually bends the cut-to-length sheet into a cylindrical shape, and each length of pipe is individually welded then annealed in a separate

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[29] See, e.g., *** Supplemental Questionnaire response.

[30] See, e.g., *** Supplemental Questionnaire response.

[31] See, e.g., CR at I-17 to I-18; PR at I-12 to I-13.

[32] See, e.g., Confer. Tr. at 12 (Boling for Bristol Metals), 112-13 (Jakob for Silbo); 122-23 (Schagrin); Petitioners' Postconf. Br. at 9-10; CR at I-17 to I-18; PR at I-12; CR/PR at Table I-4.

[33] Silbo admits that it does not have any knowledge of the production processes used in the United States. See, e.g., Confer. Tr. at 110-11 (Jakob for Silbo).

[34] See, e.g., CR at I-12; PR at I-9.

[35] See, e.g., CR at I-12; PR at I-9. Welding is accomplished using the tungsten inert gas ("TIG") process, the plasma process, or the laser welding process. These methods allow welding without filler material, complete fusion of butted edges, and shielding of the weld area with inert gas to prevent oxidation. See, e.g., CR at I-12; PR at I-9.

[36] ASTM A-778 pipes do not require annealing. See, e.g., CR at I-15; PR at I-11.

[37] See, e.g., Petitioners' Postconf. Br. at 7 (citing USITC Pub. 3877 at I-16 to I-17); CR at I-9, I-11 to I-13; PR at I-7, I-9 to I-10.

[38] See, e.g., CR at I-9 to I-10, I-11 to I-12; PR at I-7 to I-8, I-9 to I-10; Petitioners' Postconf. Br. at 7-8; Confer. Tr. at 31 (Schagrin). In some instances, a spiral welding process may be used wherein a steel strip is spiraled and welded along the spiral to produce pipes of any diameter. The looped weld running throughout the product rather than along a single straight line reportedly is a disadvantage in terms of weld refinement and potential end use. In addition, the spiral weld process cannot be used for welded A-312 products because the ASTM specification requires straight-seam welding. The spiral-weld process is used only for large-diameter pipes and requires a separate non-inline annealing step because of the non-linear weld. See, e.g., CR at I-10, I-11 n.27; PR at I-8, I-9 n.27; Feb. 5, 2008, Supplement to Petitions at 1.

operation and subsequently pickled in acid.[39] According to petitioners, although the start-to-finish manufacturing process for small-diameter pipes may take *** days on a continuous welding line, the process to produce large-diameter pipes may take ***.[40] In a press-brake process, semi-automatic welding is utilized, requiring constant operator intervention.[41]

Petitioners report that different employees generally are used to produce small- and large-diameter pipes, additional training is needed before employees can be moved between the production processes, and production of large-diameter pipes is more labor-intensive.[42] Petitioners also argue that there are some differences in terms of producers, with Swepco making large-diameter but not small-diameter pipes and Marcegaglia making small-diameter but not large-diameter pipes.[43] Although domestic producers tend to specialize in certain size ranges, the record indicates that *** does produce ***.[44]

Producer/Customer Perceptions. Silbo argues that in all the years the company has been in business, it was not aware of any distinction between small- and large-diameter pipes above and below 14 inches in outside diameter.[45] Petitioners argue that, because of differences in manufacturing processes, producers view small- and large-diameter pipes as different products. They assert that customers also view the products differently because the large-diameter pipes are typically made for a specific customer and have correspondingly longer wait times, whereas small-diameter pipes made on a continuous process are stockpiled and sold by distributors from inventory.[46]

Price. Petitioners argue that differences in the machines and the machine and labor time used to produce small- and large-diameter pipes contribute to higher per-unit costs and prices for large-diameter than small-diameter pipes.[47] The record indicates that large-diameter pipes are priced higher than small-diameter pipes and that small-diameter pipes are sold based on price lists from which discounts may be taken. For large-diameter pipes, industry price lists are not used and price discounts are less common.[48]

Conclusion: Most of the factual information in the record relevant to the domestic like product has been submitted by petitioners and not rebutted by Silbo or any subject producers. Based on this limited record, we find that there are some similarities between small- and large-diameter pipes to the extent that they are made to the same ASTM specifications, but that differences in manufacturing processes affecting the tolerances, seams, and other features limit interchangeability between the products. There is also limited overlap between the products in terms of manufacturers, manufacturing equipment, and employees, consisting of ***. Small-diameter pipes are generally sold to distributors and inventoried, whereas large-diameter pipes are generally sold directly for distinct end uses to end users and/or for specific projects. Prices and pricing practices also differ between small- and large-diameter pipe products. In light of these facts, based on the current record and for purposes of the preliminary phase of these investigations we define one domestic like product that is coextensive with the scope and

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[39] See, e.g., Feb. 5, 2008, Supplement to the Petitions at Quest. 8; Confer. Tr. at 31, 122 (Schagrin); Petitioners' Postconf. Br. at 7 (citing USITC Pub. 3877 at I-16 to I-17); CR at I-9, I-11 to I-12; PR at I-7, I-9.

[40] See, e.g., Petitioners' Postconf. Br. at 8; CR at I-16; PR at I-12.

[41] See, e.g., CR at I-16 to I-17; PR at I-12.

[42] See, e.g., Confer. Tr. at 122 (Schagrin); Petitioners' Postconf. Br. at 7-8 (citing USITC Pub. 3877 at I-16 to I-17).

[43] See, e.g., Confer. Tr. at 122 (Schagrin).

[44] See, e.g., CR at I-12, I-16; PR at I-9, I-12; see also, e.g., CR/PR at Table III-4 (showing ***).

[45] See, e.g., Confer. Tr. at 110 (Jakob for Silbo). We invite the parties to provide information at the time that they comment on the draft questionnaires about whether 14 inches in outside diameter is the appropriate cut-off between small- and large-diameter pipes.

[46] See, e.g., Petitioners' Postconf. Br. at 8, 9-10.

[47] See, e.g., Petitioners' Postconf. Br. at 8.

[48] See, e.g., CR at I-18 to I-19; PR at I-13.

consists of small-diameter welded pressure pipe. We intend to revisit this issue in any final phase investigations and urge the parties to provide any additional information at the time that comments on the draft questionnaires are submitted.[49]

IV. DOMESTIC INDUSTRY

The domestic industry is defined 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."[50] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[51]

Petitioners request that the Commission define the domestic industry as all U.S. producers of WSS pressure pipe.[52] Silbo does not argue otherwise. Consistent with our definition of the domestic like product, we define the domestic industry as including all domestic producers of WSS pressure pipe,[53] i.e., the *** for which we have reported data: ***.[54]

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[49] Chairman Pearson notes that in the original 1991-92 investigations involving welded stainless steel pipes from Korea and Taiwan (where the scope was limited to ASTM A-312 pipes regardless of outside diameter), the Commission concluded that the domestic like product was not limited to products within the scope but consisted of **all** welded stainless steel pipes and tubes, except for grade 409 tubes and mechanical tubing. The Commission reaffirmed this finding in the first five-year reviews of those orders. In the second five-year reviews, however, the Commission decided to limit the domestic like product definition to ASTM A-312 and ASTM A-778 pipes (again, regardless of outside diameter), and did not include tubing in the domestic like product. While Chairman Pearson concurs with his colleagues in determining that, for purposes of the preliminary phase of these investigations, the domestic like product should be defined coextensive with the scope, he notes that this will be the third different domestic like product definition that the Commission has applied to what is essentially the same imported product. Accordingly, in any final phase of these investigations, Chairman Pearson intends to revisit the issue of whether the domestic like product should be expanded beyond the scope to include not only welded stainless steel pressure pipes of greater than 14 inches in outside diameter but also welded stainless steel tubular products other than grade 409 tubes and mechanical tubing.

[50] 19 U.S.C. § 1677(4)(A).

[51] United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[52] See, e.g., Petitions, Vol. I at 2. The domestic industry captively consumes only limited quantities of WSS pressure pipe. See, e.g., Confer. Tr. at 61 (Boling, Henke, Cornelius, Avento, Schagrin); CR at III-5 n.7; PR at III-3 n.7.

[53] We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B), which allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. No party argues, and there is no evidence on the current record, that any domestic producer is related to any producer, exporter, or importer of subject merchandise in China or that any domestic producer imported or purchased any subject merchandise from China. See, e.g., CR at III-8; PR at III-4; CR/PR Table III-1; Confer. Tr. at 56-57 (Schagrin). Accordingly, we do not find any domestic producer to be a related party.

[54] See, e.g., CR/PR at Table III-1.

V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE[55]

Several conditions of competition inform our analysis in the preliminary phase of these investigations.

A. Demand Considerations

Demand for WSS pressure pipe is derived from the demand of the downstream industries that consume the product, such as the pharmaceutical, food, petrochemical, refinery, and energy industries.[56] During the period of investigation, demand, as measured by total apparent U.S. consumption (the sum of the domestic industry's U.S. shipments and imports from subject and non-subject countries of WSS pressure pipe) increased from *** short tons in 2005 to *** short tons in 2006 and *** short tons in 2007.[57] Petitioners assert that demand for WSS pressure pipe increased during the period of investigation as the chemical, refinery, petrochemical, energy, and ethanol industries either retrofitted or expanded in the midst of a strong U.S. economy, stronger exports due to a weak dollar, and a strong energy market, including rapid expansion of ethanol plants.[58] Silbo concurs that demand for stainless steel products in general and pipe in particular was strong throughout the period of investigation.[59] Questionnaire respondents generally agreed.[60] Evidence on the current record suggests that demand may have peaked

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[55] Pursuant to Section 771(24) of the Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 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. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i)(I). For purposes of determining negligibility and measuring the volume of imports and apparent U.S. consumption, we base imports into the United States on official import statistics from Commerce, as modified to exclude mechanical tubing, and as modified, based on questionnaire responses, to include WSS pressure pipe imported under broader HTSUS categories and to exclude both WSS pressure pipe over 14 inches in diameter. In computing total import volume, we did not include imports from Canada into the United States because the overwhelming majority of these imports consist of products that do not correspond to the scope of these investigations. See, e.g., CR at I-4 & n.5, IV-1 & n.5; PR at I-3 & n.5, IV-1 & n.5; Petitioners' Postconf. Br. at 10 n.1. For purposes of deciding negligibility, the Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels. 19 U.S.C. § 1677(24)(C); see also Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) ("SAA"). Subject imports from China were well above three percent of total imports for the most recent 12-month period preceding the filing of the petitions (calendar year 2007), and no party argues to the contrary. Based on the adjusted data, subject imports from China accounted for 51.1 percent of total imports of the merchandise into the United States, by quantity, in that period. See, e.g., CR at IV-1; PR at IV-1; CR/PR at Table IV-2. Consequently, we find that subject imports from China are not negligible.

[56] See, e.g., Confer. Tr. at 62-63 (Schagrin), 106 (Jakob for Silbo); CR at II-5; PR at II-4. Consistent with our finding that demand for WSS pressure pipe is derived from demand for its end-use applications, and in light of the wide variety of distinct industries in which WSS pressure pipe is used, we do not find that the WSS pressure pipe market is characterized by a regular and measurable business cycle. Although the various industries that use WSS pressure pipe may each be characterized by a specific business cycle, WSS pressure pipe producers respond to the individual business cycles of several different downstream industries.

[57] See, e.g., CR/PR at Table IV-5.

[58] See, e.g., Confer. Tr. at 6 (Schagrin), 16 (Cornelius for Marcegaglia).

[59] See, e.g., Confer. Tr. at 98 (Jakob for Silbo).

[60] When asked if demand for WSS pressure pipe had changed since January 1, 2005, three of the four responding U.S. producers reported that U.S. demand had increased from 2 to 5 percent per year and that this increase was driven by economic expansion and higher per capita consumption of stainless steel. One U.S. producer indicated that during the recent expansion cycle in the United States, all the growth in demand was captured by imports from

toward the end of the period of investigation.[61] In any final phase investigations, we intend to explore this issue further.

Whether domestically produced or imported into the U.S. market, the vast majority of WSS pressure pipe is sold to distributors.[62] There are approximately 12 major distributors in the U.S. market, many if not all of which stock Chinese as well as domestically produced products.[63]

B. Supply Considerations

There are three sources of supply in the U.S. market: imports of the subject merchandise from China, imports from non-subject countries, and domestic shipments.

1. Imports of Subject Merchandise from China

Petitioners identified nine potential producers/exporters of WSS pressure pipe in China.[64] The Commission sent foreign producer questionnaires to 24 firms, received one completed questionnaire, and received two responses from firms that reported they do not produce the subject merchandise. The responding foreign producer (Winner Stainless Steel Tube Co., Ltd. ("Winner Stainless")) estimated that it accounts for *** percent of total exports of WSS pressure pipe from China to the United States. U.S. importers identified the following Chinese producers as sources for their imports: ***.[65] The largest importer of WSS pressure pipe from China into the United States in 2007 was ***.[66]

2. Non-Subject Imports

Four countries (Korea, Malaysia, Taiwan, and Thailand) consistently accounted for the large majority of non-subject imports between 2005 and 2007.[67] Imports from Korea and Taiwan into the United States are subject to antidumping duty orders, except for imports from Taiwan producer Chang Tieh (now known as Chang Mien), which were excluded from the order on Taiwan during the original investigations, and imports from Taiwan producer Ta Chen.[68] The order was revoked by Commerce with respect to Ta Chen effective June 26, 2000, for merchandise entered after December 1998.[69] Imports of

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China. Another U.S. producer reported no change in demand. Six of ten responding importers reported that U.S. demand had increased, two reported that demand had fluctuated, and one reported that demand had decreased. Reasons given for the increase in demand were higher per-capita consumption and growing demand for renewable fuels (resulting in construction of ethanol and bio-diesel plants). High domestic prices for domestically produced WSS pressure pipe were given as the primary reason for declining U.S. demand. One importer reported that demand appeared to have declined over the last few months of 2007 and indicated that there had been an increase in demand in China and other developing countries. See, e.g., CR at II-6; PR at II-4.

[61] Petitioners argue that, since the end of 2007, demand has flattened or declined because of the downturn in the economy and because of the slowing pace of construction of ethanol plants. See, e.g., Confer. Tr. at 12 (Boling for Bristol Metals), 62-63 (Schagrin), 126 (Schagrin); see also, e.g., Confer. Tr. at 98, 104 (Jakob for Silbo).

[62] See, e.g., CR/PR at Table I-4.

[63] See, e.g., Confer. Tr. at 12 (Boling for Bristol Metals), 107 (Jakob for Silbo).

[64] See, e.g., Petitions at Exh. I-6.

[65] See, e.g., CR at VII-3 to VII-4; PR at VII-2 to VII-3.

[66] See, e.g., CR at IV-1; PR at IV-1; CR/PR at Table IV-1.

[67] See, e.g., CR at IV-4; PR at IV-1; CR/PR at Table IV-3.

[68] See, e.g., CR/PR at Table I-1 at nn.2-3.

[69] See, e.g., CR/PR at Table I-1 at n.3.

WSS pressure pipe from Taiwan increased throughout the period of investigation and by 2007 held *** percent of the U.S. market.[70]

3. Domestic Shipments

At least seven firms currently produce WSS pressure pipe in the United States: Bristol Metals, Felker Brothers, Marcegaglia, Outokumpu, RathGibson, Swepco, and Webco. The five producers that submitted questionnaire responses (all but ***) accounted for nearly *** percent of estimated U.S. production in 2007.[71]

C. Raw Material Costs

The primary material inputs used to produce WSS pressure pipe are stainless steel (American Iron and Steel Institute ("AISI") grade 304 and AISI grade 316), electricity, natural gas, and other gases such as argon, hydrogen, nitrogen, and helium.[72] During the period of investigation, stainless steel and its related surcharges accounted for the majority of the cost of production for WSS pressure pipes.[73] The nickel content in the stainless steel inputs varies, from 8 to 10 percent for grade 304 and from 10 to 14 percent for grade 316.[74] Grade 316 also contains between 2 and 3 percent molybdenum, which is not contained in grade 304 stainless steel.[75] Because of differences in alloying costs between types of stainless steel, international stainless steel producers add a non-negotiable alloy surcharge for elements such as nickel and molybdenum to the base stainless steel price. Petitioners assert, however, that producers in China do not use alloy surcharges.[76]

Since 2004, prices of raw materials and energy sources rose rapidly and substantially, and domestic flat-rolled stainless steel producers reinstated surcharges for their products.[77] During the period of investigation, petitioners report that average alloy surcharges for nickel per metric ton of stainless steel were approximately $3,026 for grade 304 and $3,782 for grade 316.[78] Likewise, during the period of investigation, average alloy surcharges for molybdenum per metric ton of stainless steel were $1,525.58 for grade 316.[79] As petitioners note, prices for these commodities traded daily on the London Metal

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[70] Derived from CR/PR at Tables IV-3 and IV-5.

[71] See, e.g., CR at I-3, III-1; PR at I-3, III-1; CR/PR at Table III-1.

[72] See, e.g., Petitions, Vol. I at 8.

[73] See, e.g., Petitions, Vol. I at 8; CR at V-1; PR at V-1.

[74] See, e.g., Petitions, Vol. I at 9, Exh. I-20.

[75] See, e.g., Petitions, Vol. I at 9, Exh. I-21. Nickel stabilizes the austenite structure of iron, making stainless steels non-magnetic and less brittle at low temperatures, whereas molybdenum prevents specific forms of corrosion. See, e.g., Petitions, Vol. I at Exh. I-19 at 3, 5.

[76] See, e.g., Petitions, Vol. I at 11; Confer. Tr. at 15 (Cornelius for Marcegaglia), 17 (Henke for Felker Brothers), 37-38 (Schagrin). Petitioners assert that 70 to 80 percent of the world's molybdenum is located in China and that the Government of China is imposing not only export taxes but also licensing quotas on exports of molybdenum, other ferroalloys, coking coal, coke, and iron ore. Petitioners claim that the effects of these measures are to ensure that the Chinese producers have first access to these materials at below market prices and to leave other potential buyers uncertain about whether they will get access to such raw materials. See, e.g., Confer. Tr. at 38-39 (Schagrin).

[77] See, e.g., CR at V-1; PR at V-1; Confer. Tr. at 98 (Jakob for Silbo). Petitioners testified that energy costs associated with natural gas and electricity, as well as health care costs, are significant and continue to escalate, but account for only a small percentage of actual costs. See, e.g., Confer. Tr. at 70-72 (Avento, Cornelius, Henke, Boling).

[78] See, e.g., Petitions, Vol. I at 11; CR/PR at Figures V-1 and V-2, Table V-1.

[79] See, e.g., Petitions, Vol. I at 11, Exhs. I-24 to I-25; CR at V-1; PR at V-1.

Exchange fluctuated widely during the period of investigation, with the price of nickel surging from $7 per pound in early 2004 to a peak of $24 per pound in mid-2007 before falling and rising again, and the price of molybdenum nearly quadrupling from $12 per pound in 2004 to $47 per pound before settling down in the range of $35 per pound.[80]

D. Interchangeability and Other Product Considerations

WSS pressure pipes can vary significantly depending on their ASTM specifications (generally A-312 or A-778), AISI steel grade (i.e., 304/304L or 316/316L), gauge (or thickness) range, and outside diameter.[81] Petitioners assert that WSS pressure pipe is a commodity product and that WSS pressure pipe from China is interchangeable with U.S.-produced WSS pressure pipe because both are made to identical ASTM specifications, are sold in the same channels of distribution, and are purchased based on specification and price.[82] According to questionnaire data, the four responding U.S. producers reporting knowledge of both Chinese and U.S.-produced WSS pressure pipe indicated that products from both sources were always interchangeable. Similarly, seven importers reporting knowledge of both Chinese and U.S.-produced WSS pressure pipe reported that Chinese and U.S.-produced products were always interchangeable.[83] We find subject imports and the domestic like product to be highly interchangeable with one another when they are made to the same ASTM specification, AISI steel grade, gauge, and outside diameter.

The cost share of WSS pressure pipe in the products in which it is used is not clear. Most responding domestic producers and importers of WSS pressure pipe are distributors or sell to distributors, and hence they were unable to provide useful information regarding the share of downstream product costs accounted for by WSS pressure pipe.[84]

There appear to be some products that may be substituted for WSS pressure pipe in some of its various end-use applications. Four of five responding domestic producers reported that there are direct substitutes for WSS pressure pipe, whereas the fifth domestic producer and the one responding importer reported no substitutes. The most frequently mentioned substitutes were coated carbon steel pipe, fiberglass reinforced plastics, high-density polyethylene, seamless stainless steel pressure pipe, and other nickel-chromium-based alloys. One domestic producer indicated that coated carbon steel pipe could be used as a substitute in energy and petrochemical applications, whereas another indicated that substitutes find their way into the market when prices for stainless steel are high. These substitutes reportedly have shorter installed lives; nonetheless, in recent years, they have replaced stainless steel pipe in waste-water treatment projects and in pulp and paper plants.[85]

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[80] See, e.g., Confer. Tr. at 7 (Schagrin), 15 (Cornelius for Marcegaglia), 72-78 (Henke, Schagrin, Cornelius for Petitioners). Petitioners report that alloy surcharges for grade 304 increased 223 percent between 2004 and 2007. See, e.g., id. at 17 (Henke for Felker Brothers); CR at V-1; PR at V-1.

[81] See, e.g., CR at V-6; PR at V-5 (description of pricing products).

[82] See, e.g., Petitions, Vol. I at 3, 14-15.

[83] See, e.g., CR at II-7 to II-8; PR at II-5; CR/PR at Table II-2.

[84] See, e.g., CR at II-7; PR at II-5.

[85] See, e.g., CR at II-6 to II-7; PR at II-4 to II-5.

VI. VIEWS OF COMMISSIONER LANE, COMMISSIONER WILLIAMSON, AND COMMISSIONER PINKERT FINDING A REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA

In the preliminary phase of antidumping or countervailing 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.[86] 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.[87] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[88] 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.[89] 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."[90] For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing WSS pressure pipe is materially injured by reason of subject imports from China that are allegedly subsidized and sold at less than fair value in the United States.

A. Volume of Subject Imports from China

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."[91] For purposes of the preliminary phase of these investigations, we find that the volume of subject imports and the increase in that volume are significant during the period of investigation both in absolute terms and relative to consumption and production in the United States.

In absolute terms, the volume of subject imports from China more than doubled over the period of investigation, increasing from 14,486 short tons in 2005 to 23,751 short tons in 2006 and 30,574 short tons in 2007.[92] By the end of the period of investigation, the volume of subject imports from China had surpassed the domestic industry's production level. The domestic industry's production increased from

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[86] 19 U.S.C. §§ 1671b(a), 1673b(a).

[87] 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 ... {and} explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[88] 19 U.S.C. § 1677(7)(A).

[89] 19 U.S.C. § 1677(7)(C)(iii).

[90] 19 U.S.C. § 1677(7)(C)(iii).

[91] 19 U.S.C. § 1677(7)(C)(i).

[92] See, e.g., CR/PR at Table C-1. Silbo argues that the annual data obscure a slowdown in subject imports from China in the second half of 2007. See, e.g., Confer. Tr. at 103-04 (Jakob for Silbo). On the other hand, petitioners point to recent U.S. licensing data for Chinese producers, which show an upturn of more than 50 percent between December 2007 and January 2008, as indicating that imports from China are increasing. See, e.g., Confer. Tr. at 126 (Schagrin); Petitioners' Postconf. Br. at Exh. 4. Even Silbo speculates that the apparent decline simply reflects inventory corrections made by overstocked U.S. distributors due to rather severe downturns in projects using pipes. See, e.g., Confer. Tr. at 103-04 (Jakob for Silbo).

*** short tons in 2005 to *** short tons in 2006 before declining to *** short tons in 2007, below its production level for 2005.[93]

The share of apparent U.S. consumption held by subject imports, by quantity, increased by *** percentage points from 2005 to 2007, rising from *** percent in 2005 to *** percent in 2006, before increasing further to *** percent in 2007.[94] Non-subject imports had a relatively stable market share in terms of quantity and value.[95] Non-subject imports' share of the U.S. market, by quantity, declined from *** percent in 2005 to *** percent in 2006, and then increased to *** percent in 2007.[96]

Consequently, the increase in subject import volume came almost entirely at the expense of the domestic industry. Although total apparent U.S. consumption increased by *** percent from 2005 to 2007, the overall volume shipped and the market share held by the domestic industry fell. The domestic industry's share of apparent U.S. consumption, by quantity, declined from *** percent in 2005 to *** percent in 2006 and *** percent in 2007, an overall decrease of *** percentage points.[97]

We find for purposes of the preliminary phase of these investigations that the volume of subject imports and the increase in that volume during a period of increasing apparent U.S. consumption are significant during the period of investigation, both in absolute terms and relative to consumption and production in the United States.

B. Price Effects of the Subject Imports from China

> Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.[98]

As we found above, when the products are made to the same ASTM specification, AISI steel grade, gauge, and outside diameter, there is a high degree of interchangeability between the domestic like product and subject imports from China. The vast majority of WSS pressure pipe sales in the U.S. market, whether of domestically produced or imported WSS pressure pipe, are made through spot sales, and the remainder are through short-term contracts.[99] According to the record in the preliminary phase of these investigations, price is a relatively important factor in purchasing decisions.[100]

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[93] See, e.g., CR/PR at Table C-1. Therefore, as a ratio to domestic production, subject imports from China increased from *** percent in 2005 to *** percent in 2006 and *** percent in 2007. See, e.g., CR/PR at Table IV-6.

[94] See, e.g., CR/PR at Table C-1.

[95] See, e.g., CR/PR at Table C-1.

[96] See, e.g., CR/PR at Table C-1.

[97] See, e.g., CR/PR at Table C-1.

[98] 19 U.S.C. § 1677(7)(C)(ii).

[99] See, e.g., CR at V-6; PR at V-5.

[100] When asked about non-price differences between U.S.- and Chinese-produced WSS pressure pipe, three of five domestic producers reported that they are never a factor, one reported that they are sometimes a factor, and one reported that non-price differences are always a factor. Of the eight responding importers, one reported that non-price differences are never a factor, two reported that they are sometimes a factor, two reported that they are frequently a factor, and three reported that they are always a factor. See, e.g., CR at II-9; PR at II-6; CR/PR at Table II-3. We intend to explore the importance of non-price factors in any final phase investigations.

Five domestic producers and six importers of subject merchandise provided quarterly net U.S. f.o.b. selling price data for five WSS pressure pipe products.[101] The pricing data collected in the preliminary phase of these investigations show pervasive underselling at large margins by subject imports from China throughout much of the period of investigation.[102] Thus, we find that there has been significant underselling of the domestic like product by subject imports from China. We also note that the record includes a number of confirmed instances where the domestic industry lost sales and revenues to low-priced imports.[103] Additionally, as discussed above, subject imports from China increased market share at the expense of the domestic industry during the period of investigation.

We acknowledge that there was some overselling of the domestic like product by subject imports from China toward the end of the period of investigation (the final two quarters of 2007 for products 1, 2, and 4; the final quarter of 2007 for product 3; and the final three quarters of 2007 for product 5).[104] In any final phase investigations, we intend to explore the extent to which this overselling may relate to differences in how the subject imports from China are priced relative to the domestic like product. Silbo, an importer that accounted for *** percent of subject imports from China in 2007, negotiates non-revocable contracts with Chinese suppliers that set prices for deliveries made five to six months later, and Silbo concurrently negotiates non-revocable contracts with purchasers in the United States for delivery five to six months later. In contrast, domestic producers reportedly sell their products at prices prevailing at the time of the sale, and these selling prices reflect any prevailing alloy surcharges.[105] Although nickel prices climbed between 2006 and the first half of 2007, they then fell dramatically before beginning to rise again at the end of 2007.[106] Thus, the observed price differentials might reflect the domestic industry's response at the time of shipment to trends in nickel and other alloy surcharges as compared to subject imports from China for which prices were established a number of months earlier. We intend to examine selling practices in the U.S. market in greater depth in any final phase investigations, particularly the extent to which there are differences in how imported products are priced relative to the domestic like product, and the impact of these practices in the U.S. market.

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[101] These products are: (1) ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40; (2) ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40; (3) ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10; (4) ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10; and (5) ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40. See, e.g., CR at V-7 to V-8; PR at V-6.

[102] See, e.g., CR/PR at Tables V-2 to V-6. Subject imports undersold the domestic like product in 10 of 12 comparisons for product 1, with the margins of underselling ranging from 7.4 percent to 30.2 percent. See, e.g., CR/PR at Table V-2. For product 2, subject imports undersold the domestic like product in 10 of 12 comparisons, with the margins of underselling ranging from 8.6 to 27.2 percent. See, e.g., CR/PR at Table V-3. For product 3, subject imports undersold the domestic like product in 11 of 12 comparisons, with the margins of underselling ranging from 10.4 to 45.9 percent. See, e.g., CR/PR at Table V-4. For product 4, subject imports undersold the domestic like product in 10 of 12 comparisons, with the margins of underselling ranging from *** to 23.7 percent. See, e.g., CR/PR at Table V-5. For product 5, subject imports undersold the domestic like product in 8 of 12 comparisons, with the margins of underselling ranging from 5.2 to 24.5 percent. See, e.g., CR/PR at Table V-6.

[103] The Commission confirmed each of the alleged lost sales allegations involving approximately $*** in lost sales and confirmed lost revenues of approximately $*** over the period of investigation. See, e.g., CR/PR at Tables V-8 to V-9.

[104] See, e.g., CR/PR at Tables V-2 to V-6.

[105] See, e.g., Confer. Tr. at 99-101, 115-16 (Jakob for Silbo).

[106] See, e.g., CR/PR at Figure V-2; Petitions at Exh. I-25.

We have also considered movements in WSS pressure pipe prices over the period of investigation.[107] Given the general increases in the domestic industry's prices over the period of investigation, we do not find for purposes of the preliminary phase of these investigations that subject imports from China significantly depressed prices of the domestic like product in the U.S. market.

Regarding possible suppression of prices, although prices increased during the period of investigation, the domestic industry's average unit cost of goods sold ("COGS") also increased from $*** per short ton in 2005 to $*** per short ton in 2006 and $*** per short ton in 2007, an increase of *** percent over the period of investigation or *** percent just between 2006 and 2007.[108] Nevertheless, the domestic industry's COGS as a share of net sales declined from *** percent in 2005 to *** percent in 2006 before increasing somewhat to *** percent in 2007.[109] Thus, notwithstanding the significant increase in COGS associated with dramatic increases in nickel and molybdenum costs, the domestic industry appears to have been able to raise prices as its costs increased, although this may have abated somewhat at the end of the period of investigation. It is not clear from the preliminary record whether U.S. prices were suppressed below the levels that the domestic industry would have attained in the absence of the subject imports from China, given the strong growth in demand during the period of investigation. The record, however, does reflect conditions of competition that would encourage price suppression, especially the interchangeability of the domestic like product and subject imports from China, the pervasive underselling of the domestic like product by subject imports from China at large margins, and the loss of domestic industry sales to subject imports from China. We intend to further explore the issue of price suppression in any final phase investigations.

For these reasons, for purposes of the preliminary phase of these investigations, we find that subject imports significantly undersold the domestic like product. We intend to seek further information on the price effects of the subject imports from China in any final phase investigations, including information regarding potential price depression or suppression.

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[107] Prices for U.S.-produced product 1 (ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40) increased by *** percent between the first quarter of 2005 and the second quarter of 2007 but then declined in each of the following two quarters. Prices of U.S. shipments of product 1 imported from China increased by 112.7 percent between the first quarter of 2005 and the third quarter of 2007 before declining in the final quarter of 2007. See, e.g., CR at V-16; PR at V-13; CR/PR at Table V-2. Prices for U.S.-produced product 2 (ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40) increased irregularly by 59.0 percent between the first quarter of 2005 and the last quarter of 2006 and then declined through the remainder of the period. Prices of U.S. shipments of product 2 imported from China increased irregularly by 72.1 percent from the first quarter of 2005 through the third quarter of 2007 before declining through the rest of the period. See, e.g., CR at V-16 to V-17; PR at V-13; CR/PR at Table V-3. Prices for U.S.-produced product 3 (ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10) increased by *** percent from the first quarter of 2005 to the second quarter of 2007 before declining through the remainder of 2007. Prices of U.S. shipments of product 3 imported from China increased by *** percent from 2005 to 2007. See, e.g., CR at V-16 to V-17; PR at V-13; CR/PR at Table V-4. Prices for U.S.-produced product 4 (ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10) increased by 67.7 percent from the first quarter of 2005 through the second quarter of 2007 before declining through the remainder of 2007. Prices of U.S. shipments of product 4 imported from China increased by *** percent from 2005 to 2007. See, e.g., CR at V-16 to V-17; PR at V-13; CR/PR at Table V-5. Prices for U.S.-produced product 5 (ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40) increased by 38.1 percent between the first quarter of 2005 and the last quarter of 2006 before declining through the remainder of the period. Prices of U.S. shipments of product 5 imported from China increased by 35.4 percent from the first quarter of 2005 to the third quarter of 2007 before declining through the rest of the period. See, e.g., CR at V-16 to V-17; PR at V-13; CR/PR at Table V-6.

[108] See, e.g., CR/PR at Table C-1.

[109] See, e.g., CR/PR at Table C-1.

C. Impact of the Subject Imports from China[110]

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."[111] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. 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."[112]

We have examined performance indicia for the domestic industry producing WSS pressure pipe. Overall, the record in the preliminary phase of these investigations indicates that production-related performance factors generally declined over the period of investigation despite high demand, whereas financial-related performance factors increased over the period of investigation but ***, as further explained below. Even those levels of profitability are largely attributable to domestic producers' earnings generated from surcharges related to escalating prices for major stainless steel inputs such as nickel and molybdenum.

The domestic industry's production of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006, but then declined to *** short tons in 2007 to a level lower than in 2005.[113] Its total U.S. shipments of WSS pressure pipe declined by *** percent from 2005 through 2007.[114]

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[110] In its notice of initiation, Commerce estimated the dumping margin for subject imports from China to range from 8.36 to 12.70 percent ad valorem, based on a comparison of export price and normal value. See, e.g., 73 Fed. Reg. at 10224. In its notice of initiation, Commerce indicated that it would investigate sixteen programs alleged in the petitions to have provided countervailable subsidies to producers of WSS pressure pipe in China: one preferential lending program (loans and export credits pursuant to the Northeast Revitalization Program), seven income tax programs (the "Two Free, Three Half" program; income tax reductions for export-oriented foreign investment enterprises ("FIEs"); reduced income tax rate for FIEs located in Economic and Technological Development Zones and other special economic zones; income tax credit or refund for reinvestment of FIE profits; provincial and local tax exemptions and reductions for productive FIEs; local income tax reductions in certain development zones; and preferential tax policies for research and development at FIEs), two indirect tax and import tariff programs (value-added tax refunds on purchases of domestically produced equipment by FIEs; and tax credits on purchases of domestically produced equipment by domestically owned companies), three provincial subsidy programs (Guangdong Province's "Outward Expansion" program; preferential loans pursuant to Liaoning Province's Five-Year Framework; and preferential tax policies for Town and Village Enterprises ("TVEs")), two programs involving the provision of goods or services for less than adequate remuneration (provision of stainless steel coil for less than adequate remuneration; and provision of land use rights for less than adequate remuneration); and one program involving government restraints on exports (export restraints on flat-rolled steel). See, e.g., 73 Fed. Reg. at 9996.

[111] 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 difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.")

[112] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[113] See, e.g., CR/PR at Table C-1. *** accounted for almost all of the decrease in production, with ***. See, e.g., CR at III-3; PR at III-1.

[114] The domestic industry's U.S. shipments of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1. Exports, which were a *** share of the domestic industry's total shipments, also declined by *** percent over this same period. U.S. export shipments of WSS pressure pipe declined from *** short tons in 2005 to *** short tons in 2006 and *** short

The domestic industry's end-of-period inventories of WSS pressure pipe decreased by *** percent from 2005 through 2007.[115] The domestic industry's average production capacity increased from *** short tons in 2005 to *** short tons in 2006 and *** short tons in 2007.[116] We intend to examine capacity utilization levels more closely in any final phase investigations, because reported capacity utilization levels for the domestic industry as a whole appear to be low. Moreover, there are large disparities among the capacity utilization levels reported by individual domestic producers, which raises questions as to the consistency of the methodology used to calculate capacity utilization.[117] As a result, for purposes of the preliminary phase of these investigations, we have placed more weight on capacity utilization trends than on capacity utilization levels. The domestic industry's capacity utilization increased from *** percent in 2005 to *** percent in 2006 and then declined to *** percent in 2007.[118] This decline of *** percentage points in capacity utilization between 2006 and 2007 is striking given the reportedly strong demand prevailing in the U.S. market at the time.[119]

The domestic industry's net sales declined by *** percent from 2005 to 2007 when measured by quantity, but increased by *** percent over the same period when measured by value.[120] As discussed previously, the domestic industry's average unit COGS increased from $*** per short ton in 2005 to $*** per short ton in 2006 and $*** per short ton in 2007, an increase of *** percent over the period of investigation or *** percent just between 2006 and 2007.[121] Nevertheless, the domestic industry's COGS

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tons in 2007. See, e.g., CR/PR at Table C-1.

[115] The domestic industry's end-of-period inventories of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006 but then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1.

[116] See, e.g., CR/PR at Table C-1. These data show an increase in production capacity of *** percent between 2005 and 2007. ***. See, e.g., CR at III-2 to III-3; PR at III-1.

[117] See, e.g., CR/PR at Table C-1. ***. See, e.g., CR at III-3; PR at III-1.

[118] See, e.g., CR/PR at Table C-1. For example, Bristol Metals indicated that in the last several months it has not utilized four of its eight continuous-welding mills or has only produced with limited shifts at those mills, because of declining orders due to increased imports of subject merchandise from China; as a result, the company has cut back on its employees' work hours and suffered financial difficulties associated with lower capacity utilization levels. See, e.g., Confer. Tr. at 10-11 (Boling for Bristol Metals). Although Mr. Boling testified that Bristol Metals has reduced production in facilities that produce between ½-inch and 10-inch ranges, he explained that the biggest impact from subject imports from China has been in the 6- to 8-inches and smaller ranges. See, e.g., Confer. Tr. at 64-65 (Boling for Bristol Metals). Mr. Avento testified that Outokumpu largely shut down its south plant where it produces 6-inch and smaller pipe due to subject imports from China, but it is still producing the larger sizes at its north plant. See, e.g., Confer. Tr. at 65-66 (Avento for Outokumpu). By contrast, Mr. Cornelius testified that Marcegaglia produces ½ -inch to 12-inch products but has seen subject imports from China competing with the company's entire range of products. See, e.g., Confer. Tr. at 66 (Cornelius for Marcegaglia). Likewise, Mr. Henke testified that Felker Brothers has seen competition from subject imports from China in the 2-inch to 12-inch dimensions, and his company has struggled to cross-train its employees to produce other sizes of pipe products in order to try to keep these workers. See, e.g., Confer. Tr. at 66-67 (Henke for Felker Brothers).

[119] The average number of production and related workers and the domestic industry's productivity increased between 2005 and 2006, but declined between 2006 and 2007, although wages declined between 2005 and 2006 then improved between 2006 and 2007. The average number of production and related workers increased from *** in 2005 to *** in 2006, before decreasing to *** in 2007. See, e.g., CR/PR at Table C-1. Productivity increased from *** tons/1,000 hours in 2005 to *** tons/1,000 hours in 2006, then declined to *** tons/1,000 hours in 2007. See, e.g., id. Hourly wages decreased from $*** in 2005 to $*** in 2006, before increasing to $*** in 2007. See, e.g., id.

[120] See, e.g., CR/PR at Table C-1. Net sales measured by quantity increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1. Net sales measured by value increased from $*** in 2005 to $*** in 2006, and $*** in 2007. See, e.g., CR/PR at Table C-1.

[121] See, e.g., CR/PR at Table C-1.

as a share of net sales declined from *** percent in 2005 to *** percent in 2006 before increasing somewhat to *** percent in 2007.[122] Thus, notwithstanding the significant increase in COGS due at least in part to dramatic increases in nickel and molybdenum costs, the domestic industry generally was able to raise prices as its costs increased, although to a lesser degree at the end of the period of investigation.[123] Again, the domestic industry's declining ability to keep pace with large cost increases at the end of the period in a time of strong demand warrants further examination in any final phase investigations.

On the surface, the domestic industry's financial indicators appeared to improve during the period of investigation. The domestic industry turned a $*** operating loss in 2005 into $*** in operating profits in 2006 before further improving to a positive $*** in 2007.[124] The domestic industry's ratio of operating income to sales increased by *** percentage points from 2005 to 2007. The domestic industry's operating income margin improved from a *** percent loss in 2005 to a *** percent profit in 2006 and a *** percent profit in 2007.[125] Capital expenditures were ***, an indication that the domestic industry ***.[126] *** research and development expenses.[127] Significantly, however, the domestic industry's ability to obtain even this level of profitability during a period of high demand depended on what petitioners term the "inventory gains" earned on the large price swings in the major cost components of stainless steel. The returns fortuitously earned on surcharges for these commodities mask domestic producers' otherwise poor profitability.[128]

In summary, the domestic industry suffered from lower U.S. shipments, lower capacity utilization levels, and lost sales and lost revenues due to increasing volumes of subject imports from China during a period in which apparent U.S. consumption increased by *** percent. The industry only showed positive financial performance as a result of the "inventory gains" afforded by the concurrent escalation in prices for commodity inputs. Given our finding of a significant volume and a significant increase in the volume of subject imports from China during a period of increasing apparent U.S. consumption, our finding of significant underselling by subject imports from China, our findings concerning the declines in the domestic industry's performance during the period of investigation, we find for purposes of our

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[122] See, e.g., CR/PR at Table C-1.

[123] See, e.g., CR at VI-3 to VI-4; PR at VI-1; CR/PR at Figures V-1 to V-2, Table VI-2.

[124] See, e.g., CR/PR at Table C-1.

[125] See, e.g., CR/PR at Table C-1.

[126] See, e.g., CR at VI-13; PR at VI-4; CR/PR at Tables VI-1, VI-5. The domestic industry's capital expenditures declined from $*** in 2005 to $*** in 2006, before increasing to $*** in 2007. See, e.g., CR/PR at Table C-1.

[127] See, e.g., CR/PR at Table VI-5.

[128] Petitioners argue that, during the period of investigation, they purchased coiled stainless steel and fortuitously booked the raw material costs (base price plus alloy surcharges for the coiled stainless steel) at the date they purchased the raw materials. Because of a slowdown of pipe orders due to competition with subject imports from China and a concurrent escalation in alloy surcharges for nickel and molybdenum, when domestic producers eventually did sell limited quantities of pipe products several months later, domestic producers benefitted from the then-prevailing high surcharges for nickel and molybdenum that they could pass along to their pipe customers. In other words, petitioners argue that even though domestic producers were not selling as much, due to "inventory gains" associated with increases in nickel and/or molybdenum costs, they made some profits. See, e.g., Confer. Tr. at 7-8, 72-78 (Schagrin). As described in the staff report, the data reported by the domestic industry are consistent with petitioners' argument that their profitability in 2006 and 2007 reflects their ability to pass along the generally increasing cost surcharges that prevailed during this period and that they benefitted from these increasing surcharges. See, e.g., CR at VI-3 to VI-7; PR at VI-1 to VI-2, VI-4; CR/PR at Figures V-1 to V-2; Tables VI-2, C-1.

preliminary determinations in these investigations that subject imports from China are having a significant adverse impact on the domestic WSS pressure pipe industry.[129]

D. Conclusion

For the reasons stated above, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly unfairly traded subject imports from China sold in the U.S. market.

VII. VIEWS OF CHAIRMAN PEARSON, VICE CHAIRMAN ARANOFF, AND COMMISSIONER OKUN FINDING A REASONABLE INDICATION OF A THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA

A. General Legal Standards

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry 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."[130] The Commission may not make such determinations "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determinations whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[131] In making our determinations, we consider all statutory threat factors that are relevant to these investigations.[132] Based on our evaluation of the record compiled in the preliminary phase of these investigations, we determine that there is a reasonable indication that the domestic WSS pressure pipe industry is threatened with material injury by reason of subject imports from China.

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[129] We note that there is limited information on the record regarding the role of non-subject imports of WSS pressure pipe in the U.S. market. In any final phase investigations, we will seek information on the role of non-subject imports of WSS pressure pipe in the U.S. market. We invite parties to comment in any final phase investigations on whether Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. We also invite parties to comment on what additional information the Commission should collect to address the issues raised by the Court, how that information should be collected, and which of the various non-subject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

[130] 19 U.S.C. § 1677(7)(F)(ii).

[131] 19 U.S.C. § 1677(7)(F)(ii).

[132] 19 U.S.C. § 1677(7)(F)(i).

B. Analysis of Statutory Threat Factors[133]

The volume and market penetration of subject imports from China increased during the period of investigation, indicating the likelihood of substantially increased imports from China into the U.S. market. In absolute terms, the volume of subject imports from China more than doubled over the period of investigation, increasing from 14,486 short tons in 2005 to 23,751 short tons in 2006 and 30,574 short tons in 2007.[134] By the end of the period of investigation, the volume of subject imports from China had surpassed the domestic industry's production level. The domestic industry's production increased from *** short tons in 2005 to *** short tons in 2006 before declining to *** short tons in 2007, below its production level for 2005.[135]

The share of apparent U.S. consumption held by subject imports, by quantity, increased by *** percentage points from 2005 to 2007, rising from *** percent in 2005 to *** percent in 2006, before increasing further to *** percent in 2007.[136] Non-subject imports had a relatively stable market share in terms of quantity and value.[137] Non-subject imports' share of the U.S. market, by quantity, declined from *** percent in 2005 to *** percent in 2006, and then increased to *** percent in 2007.[138]

Consequently, the increase in subject import volume came almost entirely at the expense of the domestic industry. Although total apparent U.S. consumption increased by *** percent from 2005 to

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[133] Statutory threat factor (VII) is inapplicable, as these investigations do not involve an agricultural product. 19 U.S.C. § 1677(7)(F)(i). Moreover, none of the parties has argued that statutory threat factor (VI) (product-shifting) applies in these investigations. We observe that in its notice of initiation, Commerce estimated the dumping margin for subject imports from China to range from 8.36 to 12.70 percent ad valorem, based on a comparison of export price and normal value. See, e.g., 73 Fed. Reg. 10221, 10224 (Feb. 26, 2008). In its notice of initiation, Commerce indicated that it would investigate sixteen programs alleged in the petitions to have provided countervailable subsidies to producers of WSS pressure pipe in China: one preferential lending program (loans and export credits pursuant to the Northeast Revitalization Program), seven income tax programs (the "Two Free, Three Half" program; income tax reductions for export-oriented foreign investment enterprises ("FIEs"); reduced income tax rate for FIEs located in Economic and Technological Development Zones and other special economic zones; income tax credit or refund for reinvestment of FIE profits; provincial and local tax exemptions and reductions for productive FIEs; local income tax reductions in certain development zones; and preferential tax policies for research and development at FIEs), two indirect tax and import tariff programs (value-added tax refunds on purchases of domestically produced equipment by FIEs; and tax credits on purchases of domestically produced equipment by domestically owned companies), three provincial subsidy programs (Guangdong Province's "Outward Expansion" program; preferential loans pursuant to Liaoning Province's Five-Year Framework; and preferential tax policies for Town and Village Enterprises ("TVEs")), two programs involving the provision of goods or services for less than adequate remuneration (provision of stainless steel coil for less than adequate remuneration; and provision of land use rights for less than adequate remuneration); and one program involving government restraints on exports (export restraints on flat-rolled steel). See, e.g., 73 Fed. Reg. 9994, 9996 (Feb. 25, 2008).

[134] See, e.g., CR/PR at Table C-1. Silbo argues that the annual data obscure a slowdown in subject imports from China in the second half of 2007. See, e.g., Confer. Tr. at 103-04 (Jakob for Silbo). On the other hand, petitioners point to recent U.S. licensing data for Chinese producers, which show an upturn of more than 50 percent between December 2007 and January 2008, as indicating that imports from China are increasing. See, e.g., Confer. Tr. at 126 (Schagrin); Petitioners' Postconf. Br. at Exh. 4. Even Silbo speculates that the apparent decline simply reflects inventory corrections made by overstocked U.S. distributors due to rather severe downturns in projects using pipes. See, e.g., Confer. Tr. at 103-04 (Jakob for Silbo).

[135] See, e.g., CR/PR at Table C-1. Therefore, as a ratio to domestic production, subject imports from China increased from *** percent in 2005 to *** percent in 2006 and *** percent in 2007. See, e.g., CR/PR at Table IV-6.

[136] See, e.g., CR/PR at Table C-1.

[137] See, e.g., CR/PR at Table C-1.

[138] See, e.g., CR/PR at Table C-1.

2007, the overall volume shipped and the market share held by the domestic industry fell. The domestic industry's share of apparent U.S. consumption, by quantity, declined from *** percent in 2005 to *** percent in 2006 and *** percent in 2007, an overall decrease of *** percentage points.[139]

Data on existing and projected capacity to produce WSS pressure pipe in China also indicate the likelihood of substantially increased imports from China in the imminent future. The Commission received a completed questionnaire response from only one subject producer of WSS pressure pipe in China, although the petitioners identified nine producers and/or exporters of WSS pressure pipe in China and responding importers of subject merchandise from China identified at least six possible foreign producers of subject merchandise in China.[140] The responding foreign producer, Winner Stainless, estimated that it accounts for *** percent of total exports of WSS pressure pipe from China to the United States.[141] ***,[142] other record evidence indicates that a number of new WSS production facilities opened in China and existing Chinese facilities added capacity during the period of investigation, and publicly available information suggests further capacity increases in China are likely in the imminent future.[143] Winner Stainless reported producing at *** percent capacity utilization in *** capacity available to export to the U.S. market.[144] Winner Stainless *** exported *** percent of its production to the United States during the period of investigation, made *** to the Chinese home market, and sold the remainder of its production ***.[145] Therefore, ***. Winner Stainless reported *** end-of-period inventories in China, and importers of the subject merchandise reported not insubstantial end-of-period inventories in the United States.[146] Based on the large increase in subject imports from China during the period of investigation, significant end-of-period inventory levels, evidence of existing orders for WSS pressure pipe from China for delivery into the United States in 2008, and evidence that the Chinese producers have the ability and incentive to ship substantially increased volumes of WSS pressure pipe to the United States,[147] we find, for purposes of the preliminary phase of these investigations, that substantially increased imports of subject merchandise from China are likely in the imminent future.[148]

We also considered pricing developments during the period of investigation as well as likely pricing developments in the imminent future. As we found above, when the products are made to the same ASTM specification, AISI steel grade, gauge, and outside diameter, there is a high degree of interchangeability between the domestic like product and subject imports from China. The vast majority of WSS pressure pipe sales in the U.S. market, whether of domestically produced or imported WSS

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[139] See, e.g., CR/PR at Table C-1.

[140] See, e.g., CR at VII-3 to VII-4; PR at VII-2 to VII-3.

[141] See, e.g., CR at VII-4; PR at VII-3.

[142] See, e.g., CR/PR at Table VII-1.

[143] See, e.g., Petitions at 18, Exh. I-40; Confer. Tr. at 13 (Boling for Bristol Metals), 32-33 (Schagrin); Petitioners' Postconf. Br. at 17-19, Exhs. 5, 6; CR at VII-3; PR at VII-3.

[144] See, e.g., CR/PR at Table VII-1.

[145] See, e.g., CR/PR at Table VII-1.

[146] See, e.g., CR/PR at Tables VII-1 and VII-3.

[147] We also note that Argentina and South Africa imposed antidumping duties in 2005 and 2007, respectively, on imports of austenitic stainless steel pipes and tubes from China. See, e.g., Petitions at 19; Petitioners' Postconf. Br. at 19-20; CR at VII-8; PR at VII-5.

[148] See, e.g., CR/PR at Table VII-2 (U.S. imports subsequent to December 31, 2007). In any final phase investigations, we intend to seek more information about production operations in China, the availability of other export markets to absorb any additional exports from China, and the effect of the recent export tax imposed by the Government of China on the level of exports of WSS pressure pipe from China to the United States. See, e.g., Petitions at 18-20; Confer. Tr. at 32-36 (Schagrin), 105 (Jakob for Silbo); Petitioners' Postconf. Br. at 16-21, Exhs. 4-6.

pressure pipe, are made through spot sales, and the remainder are through short-term contracts.[149] According to the record in the preliminary phase of these investigations, price is a relatively important factor in purchasing decisions.[150]

Five domestic producers and six importers of subject merchandise provided quarterly net U.S. f.o.b. selling price data for five WSS pressure pipe products.[151] The pricing data collected in the preliminary phase of these investigations show pervasive underselling at large margins by subject imports from China throughout much of the period of investigation.[152] We also note that the record includes a number of confirmed instances where the domestic industry lost sales and revenues to low-priced imports.[153] Additionally, as discussed above, subject imports from China increased market share at the expense of the domestic industry during the period of investigation.

We acknowledge that there was some overselling of the domestic like product by subject imports from China toward the end of the period of investigation (the final two quarters of 2007 for products 1, 2, and 4; the final quarter of 2007 for product 3; and the final three quarters of 2007 for product 5).[154] In any final phase investigations, we intend to explore the extent to which this overselling may relate to differences in how subject imports from China are priced relative to the domestic like product. Silbo, an importer that accounted for *** percent of subject imports from China in 2007, negotiates non-revocable contracts with Chinese suppliers that set prices for deliveries made five to six months later, and Silbo concurrently negotiates non-revocable contracts with purchasers in the United States for delivery five to six months later. In contrast, domestic producers reportedly sell their products at prices prevailing at the time of the sale, and these selling prices reflect any prevailing alloy surcharges.[155] Although nickel prices climbed between 2006 and the first half of 2007, they then fell dramatically before beginning to rise again at the end of 2007.[156] Thus, the observed price differentials might reflect the domestic industry's response at the time of shipment to trends in nickel and other alloy surcharges as compared to subject imports from

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[149] See, e.g., CR at V-6; PR at V-4.

[150] When asked about non-price differences between U.S.- and Chinese-produced WSS pressure pipe, three of five domestic producers reported that they are never a factor, one reported that they are sometimes a factor, and one reported that non-price differences are always a factor. Of the eight responding importers, one reported that non-price differences are never a factor, two reported that they are sometimes a factor, two reported that they are frequently a factor, and three reported that they are always a factor. See, e.g., CR at II-9; PR at II-6; CR/PR at Table II-3. We intend to explore the importance of non-price factors in any final phase investigations.

[151] These products are: (1) ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40; (2) ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40; (3) ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10; (4) ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10; and (5) ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40. See, e.g., CR at V-7 to V-8; PR at V-6.

[152] See, e.g., CR/PR at Tables V-2 to V-6. Subject imports undersold the domestic like product in 10 of 12 comparisons for product 1, with the margins of underselling ranging from 7.4 percent to 30.2 percent. See, e.g., CR/PR at Table V-7. For product 2, subject imports undersold the domestic like product in 10 of 12 comparisons, with the margins of underselling ranging from 8.6 to 27.2 percent. See, e.g., CR/PR at Table V-7. For product 3, subject imports undersold the domestic like product in 11 of 12 comparisons, with the margins of underselling ranging from 10.4 to 45.9 percent. See, e.g., CR/PR at Table V-7. For product 4, subject imports undersold the domestic like product in 10 of 12 comparisons, with the margins of underselling ranging from *** to 23.7 percent. See, e.g., CR/PR at Table V-7. For product 5, subject imports undersold the domestic like product in 8 of 12 comparisons, with the margins of underselling ranging from 5.2 to 24.5 percent. See, e.g., CR/PR at Table V-7.

[153] The Commission confirmed each of the alleged lost sales allegations involving approximately $*** in lost sales and confirmed lost revenues of approximately $*** over the period of investigation. See, e.g., CR/PR at Tables V-8 to V-9.

[154] See, e.g., CR/PR at Tables V-2 to V-6.

[155] See, e.g., Confer. Tr. at 99-101, 115-16 (Jakob for Silbo).

[156] See, e.g., CR/PR at Figure V-2; Petitions at I-25.

China for which prices were established a number of months earlier. We intend to examine selling practices in the U.S. market in greater depth in any final phase investigations, particularly the extent to which there are differences in how imported products are priced relative to the domestic like product, and the impact of these practices in the U.S. market.

In short, by pervasively underselling the domestic like product, subject imports gained market share at the expense of the domestic industry. One important factor that permitted prices to rise along with costs, even in the face of pervasive underselling, was rising demand. We have found that demand began to soften at the end of the period and is likely to continue to soften in the imminent future. Because we find that underselling is likely to continue despite weakening demand, we find it likely that the subject imports will enter the U.S. market at prices that are likely to have a significant depressing or suppressing effect on domestic prices and at prices that are likely to increase demand for further imports. In any final phase investigations, we also will examine changes in the prices of alloy surcharges and demand patterns over the period of investigation and in the imminent future.

Domestic industry performance indicators moved in divergent directions during the period of investigation, with production-related performance factors generally declining and financial-related performance factors improving over the period of investigation. The domestic industry's production of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006, but then declined to *** short tons in 2007 to a level lower than in 2005.[157] The domestic industry's total U.S. shipments of WSS pressure pipe declined by *** percent from 2005 through 2007.[158] Its end-of-period inventories of WSS pressure pipe decreased by *** percent from 2005 through 2007.[159]

The domestic industry's average production capacity increased from *** short tons in 2005 to *** short tons in 2006 and *** short tons in 2007.[160] We intend to examine capacity utilization levels more closely in any final phase investigations, because reported capacity utilization levels for the domestic industry as a whole appear to be low. Moreover, there are large disparities among the capacity utilization levels reported by individual domestic producers, which raises questions as to the consistency of the methodology used to calculate capacity utilization.[161] As a result, for purposes of the preliminary phase of these investigations, we have placed more weight on capacity utilization trends than on capacity

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[157] See, e.g., CR/PR at Table C-1. *** accounted for almost all of the decrease in production, with ***. See, e.g., CR at III-3; PR at III-1. The average number of production and related workers and the domestic industry's productivity increased between 2005 and 2006, but declined between 2006 and 2007, although wages declined between 2005 and 2006, then improved between 2006 and 2007. The average number of production and related workers increased from *** in 2005 to *** in 2006, before decreasing to *** in 2007. See, e.g., CR/PR at Table C-1. Productivity increased from *** tons/1,000 hours in 2005 to *** tons/1,000 hours in 2006 then declined to *** tons/1,000 hours in 2007. See, e.g., id. Hourly wages decreased from $*** in 2005 to $*** in 2006, before increasing to $*** in 2007. See, e.g., id.

[158] The domestic industry's U.S. shipments of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1. Exports, which were a *** share of the domestic industry's total shipments, also declined by *** percent over this same period. U.S. export shipments of WSS pressure pipe declined from *** short tons in 2005 to *** short tons in 2006 and *** short tons in 2007. See, e.g., CR/PR at Table C-1.

[159] The domestic industry's end-of-period inventories of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2006 but then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1.

[160] See, e.g., CR/PR at Table C-1. These data show an increase in production capacity of *** percent between 2005 and 2007. ***. See, e.g., CR at III-2 to III-3; PR at III-1.

[161] See, e.g., CR/PR at Table C-1. ***. See, e.g., CR at III-3; PR at III-1.

utilization levels. The domestic industry's capacity utilization increased from *** percent in 2005 to *** percent in 2006 and then declined to *** percent in 2007.[162]

The domestic industry's net sales declined by *** percent from 2005 to 2007 when measured by quantity, but increased by *** percent over the same period when measured by value.[163] The domestic industry's average unit COGS increased from $*** per short ton in 2005 to $*** per short ton in 2006 and $*** per short ton in 2007, an increase of *** percent over the period of investigation or *** percent just between 2006 and 2007.[164] Nevertheless, the domestic industry's COGS as a share of net sales declined from *** percent in 2005 to *** percent in 2006 before increasing somewhat to *** percent in 2007.[165] Thus, notwithstanding the significant increase in COGS due at least in part to dramatic increases in nickel and molybdenum costs, the domestic industry generally was able to raise prices as its costs increased, although to a lesser degree at the end of the period of investigation.[166]

The domestic industry's financial indicators improved during the period of investigation.[167] The domestic industry turned a $*** operating loss in 2005 into $*** in operating profits in 2006 before further improving to a positive $*** in 2007.[168] The domestic industry's ratio of operating income to sales increased by *** percentage points from 2005 to 2007. The domestic industry's operating income margin improved from a *** percent loss in 2005 to a *** percent profit in 2006 and a *** percent profit

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[162] See, e.g., CR/PR at Table C-1. For example, Bristol Metals indicated that in the last several months, it has not utilized four of its eight continuous-welding mills or has only produced with limited shifts at those mills, because of declining orders due to increased imports of subject merchandise from China; as a result, the company has cut back on its employees' work hours and suffered financial difficulties associated with lower capacity utilization levels. See, e.g., Confer. Tr. at 10-11 (Boling for Bristol Metals). Although Mr. Boling testified that Bristol Metals has reduced production in facilities that produce between ½-inch and 10-inch ranges, he explained that the biggest impact from subject imports from China has been in the 6- to 8-inches and smaller ranges. See, e.g., Confer. Tr. at 64-65 (Boling for Bristol Metals). Mr. Avento testified that Outokumpu largely shut down its south plant where it produces 6-inch and smaller pipe due to subject imports from China, but it is still producing the larger sizes at its north plant. See, e.g., Confer. Tr. at 65-66 (Avento for Outokumpu). By contrast, Mr. Cornelius testified that Marcegaglia produces ½-inch to 12-inch products but has seen subject imports from China competing with the company's entire range of products. See, e.g., Confer. Tr. at 66 (Cornelius for Marcegaglia). Likewise, Mr. Henke testified that Felker Brothers has seen competition from subject imports from China in the 2-inch to 12-inch dimensions, and his company has struggled to cross-train its employees to produce other sizes of pipe products in order to try to keep these workers. See, e.g., Confer. Tr. at 66-67 (Henke for Felker Brothers).

[163] See, e.g., CR/PR at Table C-1. Net sales measured by quantity increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. See, e.g., CR/PR at Table C-1. Net sales measured by value increased from $*** in 2005 to $*** in 2006, and $*** in 2007. See, e.g., CR/PR at Table C-1.

[164] See, e.g., CR/PR at Table C-1.

[165] See, e.g., CR/PR at Table C-1.

[166] See, e.g., CR at VI-3 to VI-4; PR at VI-1; CR/PR at Figures V-1 to V-2, Tables VI-2, C-1.

[167] Petitioners argue that coiled stainless steel purchased during the period of investigation was booked at the raw material costs (base price plus alloy surcharges for the coiled stainless steel) at the date domestic producers purchased the raw materials. Because of the concurrent escalation in alloy surcharges for nickel and molybdenum, when domestic producers sold WSS pressure pipe at a later time in the period, they benefitted from the then-prevailing high raw material surcharges for nickel and molybdenum. Thus, petitioners argue that even though domestic shipments were lower allegedly due to the increased volume of subject imports, the change in the value of their inventory associated with the raw material surcharges resulted in positive financial returns for the industry. See, e.g., Confer. Tr. at 7-8, 72-78 (Schagrin). In accounting, there is no distinction between revenues earned through surcharges or base prices, and there is no distinction between costs incurred through surcharges or base prices. See, e.g., CR at VI-3 to VI-7; PR at VI-1 to VI-3; CR/PR at Figures V-1 to V-2; Tables VI-2, C-1.

[168] See, e.g., CR/PR at Table C-1.

in 2007.[169] Capital expenditures were ***, an indication that the domestic industry ***.[170] *** research and development expenses.[171] Several U.S. producers also indicated that the subject imports had actual and potential negative effects on their companies' development and production efforts.[172]

In light of evidence suggesting that demand may be flattening or declining, some evidence of the domestic industry's declining ability to raise prices as its costs increased at the end of the period, and evidence of declines in a number of domestic industry performance indicators, we find the domestic industry is vulnerable. Thus, for purposes of the preliminary phase of these investigations, we find a reasonable indication that the increased subject imports from China at low prices will likely result in material injury to the domestic industry unless antidumping duty and countervailing duty orders are issued.[173] [174]

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[169] See, e.g., CR/PR at Table C-1.

[170] See, e.g., CR at VI-3; PR at VI-1; CR/PR at Tables VI-1, VI-5. The domestic industry's capital expenditures declined from $*** in 2005 to $*** in 2006, before increasing to $*** in 2007. See, e.g., CR/PR at Table C-1.

[171] See, e.g., CR/PR at Table VI-5.

[172] See, e.g., CR at VI-15; PR at VI-5; CR/PR at Appendix E.

[173] Chairman Pearson and Commissioner Okun note that petitioners concede that WSS pressure pipe is a commodity product. See, e.g., Petitions, Vol. I at 3. Importer Silbo does not argue otherwise. Given our finding on interchangeability, for purposes of the preliminary phase of these investigations we assume that WSS pressure pipe is a commodity product, and, therefore, one of the predicates of the test provided for in Bratsk Aluminium Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is satisfied.

The second predicate of the Bratsk test requires that non-subject imports are price-competitive and a significant factor in the U.S. market. As to whether non-subject imports are a significant factor in the U.S. market, the record in the preliminary phase of these investigations suggests that they are. Collectively, non-subject imports' market share is comparable to that of the subject imports. Subject imports' market share by quantity was *** percent in 2005, *** percent in 2006, and *** percent in 2007. See, e.g., CR/PR at Table IV-5. The collective U.S. market share of non-subject imports declined from *** percent in 2005 to *** percent in 2006, and then increased to *** percent in 2007. See, e.g., CR/PR at Table IV-5. Non-subject imports are comprised of imports from several countries. The largest and growing share of apparent U.S. consumption among non-subject sources belonged to non-subject imports from Taiwan, which increased in market share from *** percent in 2005 to *** percent in 2006 and *** percent in 2007. Derived from CR/PR at Tables IV-3, IV-5.

With respect to whether non-subject imports are price-competitive, in its importers' questionnaires the Commission requested product-specific price data from non-subject countries. It received information about non-subject imports from Korea and Malaysia but not non-subject imports from Taiwan. See, e.g., CR at VII-9; PR at VII-6. These data on non-subject imports from Korea and Malaysia show predominant underselling of the domestic like product. In addition, the prices of non-subject imports from Korea and Malaysia showed some underselling compared with prices of subject imports, although there were more instances of overselling. See, e.g., CR/PR at Appendix D. As has increasingly become the case in recent proceedings involving stainless steel products from Taiwan, importers of the subject merchandise from Taiwan provided virtually no data regarding the prices of imports into the U.S. market from Taiwan. The virtual absence of pricing data on the largest share of non-subject imports into the U.S. market makes our assessment of the price-competitive nature of non-subject imports difficult. We note that Taiwan producers Chang Tieh Industry and Ta Chen are no longer subject to an antidumping duty order on ASTM A-312 pipe from Taiwan. For purposes of the preliminary phase of these investigations and based on the limited information available on this issue, we find that non-subject imports are price-competitive with the domestic like product. We intend to seek more information on this issue in any final phase investigations. Based on our finding that non-subject imports are a significant factor in the U.S. market and our finding concerning the price-competitive nature of non-subject imports with the domestic like product, for purposes of the preliminary phase of these investigations, we find the second Bratsk triggering factor is met.

Assuming that the Bratsk test is triggered for purposes of the preliminary phase of these investigations, we now consider whether non-subject imports are likely to replace subject imports from China and continue to cause injury to the domestic industry. One of the relevant factors we must examine in assessing this issue is the size of the

For the foregoing reasons, we find that there is a reasonable indication that the domestic industry producing WSS pressure pipe is threatened with material injury by reason of subject imports of WSS pressure pipe from China that are allegedly subsidized by the Government of China and sold in the United States at less than fair value.

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non-subject supplier industries and the amount of excess capacity in those industries. The Commission sought publicly available information regarding international suppliers of WSS pressure pipe since 2005 from national import and export statistics, from conference testimony, and from interviews with industry sources. The leading non-subject source of WSS pressure pipe is Taiwan; other major non-subject source countries include Korea and Malaysia, followed by Thailand. See, e.g., CR at VII-9; PR at VII-6. Information suggests that these countries have significant capacity to produce circular welded tubes, pipes, and hollow profiles of stainless steel, a category that encompasses many more products than those with the scope of these investigations (WSS pressure pipe). Statistics indicate that Korea, Malaysia, and Taiwan export significant quantities of circular welded tubes, pipes, and hollow profiles of stainless steel and that the U.S. market serves as their leading export market for those products. See, e.g., CR/PR at Tables VII-4 - VII-7; CR at VII-9 to VII-15; PR at VII-6 to VII-12. Based on this limited information, it appears as if non-subject imports may have sufficient capacity to replace subject imports from China if antidumping duty and countervailing duty orders were to be imposed on subject imports from China.

Trends in the U.S. market share for subject and non-subject imports relative to U.S. producers' market share during the period examined may provide some indication of the likely import pattern if subject imports were not in the U.S. market. Apparent U.S. consumption of WSS pressure pipe increased *** percent from 2005 to 2007. See, e.g., CR/PR at Table C-1. The market share held by domestic producers fell from *** percent in 2005 to *** percent in 2007. The market share of subject U.S. imports rose from *** percent in 2005 to *** percent in 2007. The market share of U.S. imports of non-subject WSS pressure pipe slightly increased from *** percent in 2005 to *** percent in 2007. See, e.g., CR/PR at Table C-1. Thus, the record indicates that both subject and non-subject imports were taking market share from the domestic industry during most of the period examined. In any final phase of these investigations, in order to complete our analysis under Bratsk, we will again attempt to seek information on production capacity of major non-subject producers of WSS pressure pipe. Given the size of the Taiwan industry and its volume of exports to the United States, the fact that we do not have any pricing data on those imports makes it difficult to draw conclusions concerning the ability of the Taiwan exporters to replace subject imports from China. Therefore, for purposes of the preliminary phase of these investigations, we cannot determine whether non-subject imports would negate a benefit to the domestic industry from the imposition of orders on subject imports from China.

For a complete statement of Chairman Pearson's and Commissioner Okun's interpretation of Bratsk in a preliminary phase investigation, see Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Prelim.), USITC Pub. 3912 at 19-25 (Apr. 2007).

[174] Vice Chairman Aranoff notes that there is limited information on the record regarding the role of non-subject imports of WSS pressure pipe in the U.S. market. In any final phase investigations, she will seek information on the role of non-subject imports of WSS pressure pipe in the U.S. market. She invites parties to comment in any final phase investigations on whether Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. She also invites parties to comment on what additional information the Commission should collect to address the issues raised by the Court, how that information should be collected, and which of the various non-subject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

CONCLUSION

For the foregoing reasons and based on the record in the preliminary phase of these investigations, the Commission finds a reasonable indication than an industry in the United States is materially injured,[175] or threatened with material injury,[176] by reason of imports of WSS pressure pipe from China that are allegedly subsidized and sold at less than fair value in the United States.

[175] Commissioner Lane, Commissioner Williamson, and Commissioner Pinkert find a reasonable indication that an industry in the United States is materially injured by reason of subject imports from China.

[176] Chairman Pearson, Vice Chairman Aranoff, and Commissioner Okun find a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports from China.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on January 30, 2008, by Bristol Metals (Bristol, TN), Felker Brothers Corp. (Marshfield, WI), Marcegaglia USA, Inc. (Munhall, PA), Outokumpu Stainless Pipe, Inc. (Schaumburg, IL), and The United Steel Workers (Pittsburgh, PA). The petition alleges that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of welded stainless steel pressure pipe ("WSS pressure pipe")[1] from China.[2] Information relating to the background of the investigations is provided below.[3]

Date	Action
January 30, 2008	Petition filed with Commerce and the Commission; institution of Commission investigations (73 FR 6741, February 5, 2008)
February 21, 2008	Commission's conference (a list of witnesses appearing at the conference is presented in appendix B)
February 25, 2008	Commerce's notice of initiation of countervailing investigation (73 FR 9994, February 25, 2008)
February 26, 2008	Commerce's notice of initiation of antidumping duty investigation, (73 FR 10221, February 26, 2008)
March 14, 2008	Commission's vote
March 17, 2008	Commission determinations transmitted to Commerce

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such*

[1] As discussed in greater detail in the section of this chapter entitled "The Subject Merchandise," for purposes of these investigations, the products covered are circular welded austenitic stainless steel pressure pipe not greater than 14 inches in outside diameter. These pipes meet the ASTM A-312 or A-778 specifications or comparable specifications. These stainless steel pipes are generally used as a conduit for liquids or gases. Excluded from the scope are: (1) non-circular welded stainless pipe; (2) welded stainless mechanical tubing, such as ASTM A-554; and (3) boiler, heat exchanger, superheater and condenser tubing, such as ASTM A-249, A-269, A-270, and A-688.

[2] Commerce initiated a countervailing duty investigation on six categories of subsidies. 73 FR 9994, February 25, 2008. Commerce calculated estimated dumping margins of 8.36 - 12.70 percent. 73 FR 10221, February 26, 2008.

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

merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, 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.
. . .
In evaluating the effect of imports of such merchandise on prices, 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.
. . .
In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to
. . .
(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) 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 (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of the Report

Part I of this report presents information on the subject merchandise, alleged subsidies and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury, and the judicial requirements and information obtained for use in the Commission's consideration of *Bratsk* issues.

U.S. WSS PRESSURE PIPE MARKET SUMMARY

Trade for WSS pressure pipe pipe totaled approximately $*** (nearly *** short tons) in the U.S. market in 2007. Currently, at least seven firms produce WSS pressure pipe in the United States. Five of the producers – Bristol, Felker, Marcegaglia, Outokumpu, and Webco – accounted for nearly *** percent of estimated U.S. production in 2007. At least eight firms have imported WSS pressure pipe from China since 2005. The three largest importers – ***, ***, and *** – accounted for almost *** percent of reported U.S. imports from China in 2007. There is one large confirmed Chinese producer of WSS pressure pipe, Winner. The petition estimates there are eight other producers in China.

WSS pressure pipe is generally used as a conduit for liquids or gases, with applications including digestor lines, blow lines, pharmaceutical lines, petrochemical lines, stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. The quantity of apparent U.S. consumption of WSS pressure pipe increased by nearly *** between 2005 and 2007, reflecting the growth in ethanol facilities. The value of apparent U.S. consumption ***, reflecting both rising demand and rapid increases in stainless steel prices generally. U.S. producers' U.S. shipments of WSS pressure pipe totaled *** short tons in 2007, and accounted for *** percent of apparent U.S. consumption by quantity. U.S. imports from China totaled 30,574 short tons in 2007, and accounted for *** percent of apparent U.S. consumption by quantity, while U.S. imports from all other sources combined totaled 29,314 short tons in 2007, and accounted for *** percent of apparent U.S. consumption by quantity. The largest sources of imported WSS pressure pipe are China and Taiwan.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C, tables C-1 and C-2.[4] Except as noted, U.S. industry data are based on questionnaire responses of five firms that accounted for nearly *** percent of U.S. production of WSS pressure pipe during 2007. U.S. imports are based on official import statistics of Commerce, as modified to include WSS pressure pipe imported under basket HTS categories (based on questionnaire responses) and to exclude both WSS pressure pipe over 14 inches in diameter (based on questionnaire responses) and mechanical tubing.[5] Data regarding the Chinese industry are based on one foreign producer questionnaire response, while information with respect to other foreign industries is drawn from published sources.

PREVIOUS AND RELATED TITLE VII INVESTIGATIONS

The Commission has conducted several previous import relief investigations and two reviews on ASTM A-312 pipe, a subset of WSS pressure pipe. Table I-1 presents data on previous and related title VII investigations.

[4] Table C-2 is based on an expanded domestic like product that includes pressure pipe greater than 14 inches in diameter.

[5] As discussed in detail in Part IV, import data for Canada are not being used because the overwhelming majority consists of nonsubject product (mechanical tubing).

Table I-1
WSS pressure pipe: Previous and related Title VII investigations

Product	Inv. No.	Year of petition	Country	Original determination	Current status
Welded stainless pipe	AA1921-180	1978	Japan	Negative	([1])
Stainless steel pipe	701-TA-281	1986	Sweden	Negative	([1])
	731-TA-354	1986	Sweden	Negative	([1])
ASTM A-312 pipe	731-TA-540[2]	1991	Korea	Affirmative	Order in place.
	731-TA-541[2]	1991	Taiwan	Affirmative	Order in place.[3]

[1] Not applicable.
[2] On July 1, 1999, the Commission instituted the first five-year review of the antidumping duty orders, and on September 22, 2000, the Commission made an affirmative determination. On September 1, 2005, the Commission instituted the second five-year review of the antidumping duty orders, and on August 16, 2006, the Commission made an affirmative determination.
[3] Chang Tieh (later Chang Mien) was excluded from the original investigations, and the order for Ta Chen was revoked effective June 26, 2000, on merchandise entered after December 1998.

Source: *Welded Stainless Steel Pipe & Tube from Japan, Inv. No. AA1921-180*, USITC Publication 899, July 1978, pp 1-2. *Stainless Steel Pipes and Tubes from Sweden, Inv. Nos. 701-TA-281 and 731-TA-354,* USITC Publication 1966, April 1987, pp1-2. *Certain Welded Stainless Steel Pipe from Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review)*, USITC Publication 3877, August 2006, pp. I-1 - I-3.

PREVIOUS AND RELATED SAFEGUARD INVESTIGATIONS

Following receipt of a request from the Office of the United States Trade Representative ("USTR") on June 22, 2001, the Commission instituted investigation No. TA-201-73, *Steel*, under section 202 of the Trade Act of 1974[6] to determine whether certain steel products, including stainless steel welded tubular products,[7] were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported article.[8] On July 26, 2001, the Commission received a resolution adopted by the Committee on Finance of the U.S. Senate ("Senate Finance Committee" or "Committee") requesting that the Commission investigate certain steel imports under section 201 of the Trade Act of 1974.[9] Consistent with the Senate Finance Committee's resolution, the Commission consolidated the investigation requested by the Committee with the Commission's previously instituted investigation No. TA-201-73.[10] On December 20, 2001, the Commission issued its determinations and remedy recommendations. The Commission made a unanimous negative determination with respect to stainless steel welded tubular products.[11]

[6] 19 U.S.C. § 2252.
[7] Stainless steel welded tubular products were found to be a single 'like or directly competitive' product. *Steel, Inv. No. TA-201-73, Volume I: Determinations and Views of Commissioners,* USITC Publication 3479, December 2001, p. 16.
[8] *Institution and Scheduling of an Investigation under Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) (the Act)*, 66 FR 35267, July 3, 2001.
[9] 19 U.S.C. § 2251.
[10] *Consolidation of Senate Finance Committee Resolution Requesting a Section 201 Investigation with the Investigation Requested by the United States Trade Representative on June 22, 2001*, 66 FR 44158, August 22, 2001.
[11] *Steel; Import Investigations*, 66 FR 67304, December 28, 2001.

NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

Commerce initiated on the following types of subsidies: preferential lending to the WSS pressure pipe industry, income tax programs, indirect tax and import tariff programs, provincial subsidy programs, provision of goods and services for less than adequate remuneration, and government restraints on exports.[12] The LTFV margins alleged in the petition upon which Commerce based its decision to initiate its investigations, as adjusted by Commerce, are presented in table I-2.

Table I-2
WSS pressure pipe: Allegations of LTFV imports

Country	Basis of comparison	Estimated dumping margin (*in percent*)
China	Based on a comparison of export price to normal value.	8.36 - 12.70
Source: 73 FR 10221, February 26, 2008.		

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the imported merchandise subject to these investigations as:

> circular welded austenitic stainless pressure pipe (''CWASPP'') not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials (''ASTM'') A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. Excluded from the scope are: (1) welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.[13]

Tariff Treatment

The subject imports are normally included under Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085.[14] They may also be imported under HTSUS statistical reporting numbers 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090.[15] As shown in table I-3, U.S. imports of WSS pressure pipe are free of duty under the general duty column.

[12] 73 FR 9994, February 25, 2008.
[13] 73 FR 10221, February 26, 2008.
[14] These statistical reporting numbers are believed to include primarily subject products but also include modest quantities of nonsubject products.
[15] 73 FR 10221, February 26, 2008. Only one U.S. importer reported importing *** of subject imports under these HTS statistical reporting numbers.

Table I-3
WSS pressure pipe: Tariff treatment, 2008

HTS provision	Stat Suffix	Article description	General[1]	Column 2[2]
			Rates *(percent ad valorem)*	
7306		Other tubes, pipes, and hollow profiles (for example, open seamed or welded, riveted or similarly closed), of iron or steel:		
7306.40		Other, welded, of circular cross section, of stainless steel:		
7306.40.10		Having a wall thickness of less than 1.65 mm.	Free	36%
	10	Containing more than 0.5 percent by weight of nickel		
		Containing more than 1.5 percent but less than 5 percent by weight of molybdenum		
	15	Other		
	90	Other		
7306.40.50		Having a wall thickness of 1.65 mm or more.	Free	11%
	05	Of high-nickel alloy steel		
		Other:		
	15	Suitable for use in boilers, superheaters, heat-exchangers condensers, refining furnaces and feedwater heaters, whether or not cold- drawn		
		Other, cold-drawn or cold-rolled (cold-reduced):		
	40	Containing more than 0.5 percent but less than 24 percent by weight of nickel		
		Other:		
	42	Containing less than 15 percent by weight of chromium		
	44	Other		
		Other:		
		With an outside diameter not exceeding 114.3 mm:		
		Containing more than 0.5 percent but less than 24 percent by weight of nickel:		
	62	Containing more than 1.5 percent but less than 5 percent by weight of molybdenum		
	64	Other		
	80	Other		
		With an outside diameter exceeding 114.3 mm but not exceeding 406.4 mm:		
	85	Containing more than 0.5 percent but less than 24 percent by weight of nickel		
	90	Other		

[1] Normal trade relations, formerly known as the most-favored-nation duty rate applicable to imports from China.
[2] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2008).

THE DOMESTIC LIKE PRODUCT

Description and Applications[16]

"Pipes," "tubes," and "tubing" are terms that designate hollow forms that are used for conveying gases, liquids and solids, and for a diversity of mechanical and structural purposes. In general, steel pipes are produced in various grades of carbon, alloy, or stainless steel and are distinguished by end uses as defined by the American Iron and Steel Institute ("AISI"). Most directly relevant in these investigations is pressure pipe, which is used to convey fluids at high temperatures or pressures, or both, and are suitable for heat applications.[17] Pressure pipe is typically produced to exact outside diameters and decimal wall thicknesses, usually to specifications such as those of the American Society for Testing and Materials ("ASTM").

AISI defines stainless steel as a general class of steels that contains more than 10 percent of chromium (Cr) by weight. Chromium gives stainless steel excellent resistance to corrosion and good strength at high temperatures and pressure. For these reasons, it is used in corrosive environments, high temperature and pressure conditions, or when cleanliness and ease of maintenance are strictly required. Stainless steel equipment is widely used in automotive, food processing, medical and health equipment products, as well as in the petrochemical industry and the power production industry. Other alloys, including nickel (Ni) and molybdenum (Mo), are also added to obtain additional desirable characteristics for various types of stainless steels. Depending on their microstructures and chemical compositions, stainless steels can be generally classified into three main types, namely austenitic, ferritic, and martensitic stainless steels.[18]

Both ASTM A-312 and A-778 pipes are made of austenitic stainless steel grade, which is the most popular type of stainless steel, accounting for approximately 70 percent of all stainless steel

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[16] Information in this section is drawn to a large degree from *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review)*, USITC Publication 3877, August 2006, pp. I-17 to I-23.

[17] Other important types of tubes and pipes which are defined by the AISI include standard pipe, line pipe, structural pipe and tubing, mechanical tubing, and oil country tubular goods. All are designed for specific applications and must meet appropriate engineering standards for those end uses.

[18] These types have different microstructures. *Austenitic* stainless steels comprise over 70 percent of total stainless steel production. They contain a maximum of 0.15 percent carbon, a minimum of 16 percent chromium together with nickel, and manganese. *Ferritic* stainless steels (containing at minimum 11.5 percent chromium) are highly corrosion resistant, but much less durable than austenitic grades and cannot be hardened by heat treatment. *Martensitic* stainless steels (containing at minimum 11.5 percent chromium) are not as corrosion resistant as the other two grades, but are extremely durable as well as highly machinable, and can be hardened by heat treatment. A smaller sub-group of stainless steels is called duplex stainless steels. This group has a combined microstructure of austenite and ferrite. Duplex stainless steels have improved strength over austenitic stainless steels and also higher resistance to corrosion. Stainless steels can be also classified according to series with different characteristics. For example, 300 series stainless steels are austenitic chromium-nickel alloys which, among other things, includes types 304, the most common grade, type 304L (similar to 304 grade but specially modified for welding and fabricability), type 316, the second widely used austenitic steel (following 304) for nuclear reprocessing plants, food, pharmaceutical products and surgical stainless steel applications. The addition of molybdenum to type 316 enhance its resistance to specific type of corrosion and metallic contamination and chloride corrosion relative to type 304. Other series include 400 series (ferritic and martensitic chromium alloys), 500 series (heat resisting chromium alloys), and 600 series (martensitic precipitation hardening alloys. *See* AISI, *Steel Glossary*, found at *http://www.steel.org/AM/Template.cfm?Section=Steel_Glossary2&TEMPLATE=/CM/HTMLDisplay.cfm&CONTENTID=6426*, retrieved February 22, 2008; Atlas Publishing Co., *Metal Reference and Encyclopedia*, p. 140, 1968; and *http://www.berkeleypoint.com/learning/stainless.html*, retrieved February 24, 2008.

production. In addition, products made to A-358 specifications (included when they are produced to meet ASTM A-312 or ASTM A-778 specifications) are made of austenitic stainless steel.

As discussed later in the section on "Manufacturing processes," ASTM A-312 or ASTM A-778 products of 14 inches or less in diameter are typically produced on the same machinery and equipment. In contrast, domestic producers reportedly are unable to use a continuous welding process for sizes larger than 14 inches.[19] For larger sizes, domestic producers use either the batch process or the spiral welding process for forming and welding.[20]

The term "WSS pressure pipe," in this case, includes any welded pipe that is made from austenitic stainless steel to ASTM specifications A-312 and A-778 or equivalent.[21] As specified by the ASTM, A-312 pipes are designed for high temperature and general corrosive service, and must be annealed.[22] Major uses for welded A-312 pipes include digester lines, pharmaceutical production lines, petrochemical stock lines, automotive paint lines, and various processing lines such as those in breweries, paper mills, and general food facilities.[23] A-778 pipes are most often used in the pulp/paper industry and for wastewater applications, owing to its ability to withstand high temperatures and corrosive contact, albeit somewhat less than A-312 pipes. A-778 pipes are also used in corn processing (to ethanol) and low-pressure fluid transfer systems.[24]

Although stainless steel tubular products as a group are defined by their anti-corrosive and high strength characteristics, they are designed for a wide variety of applications under different operating conditions and made by different processes as specified by the ASTM. Consequently, certain types of stainless steel products may be distinguished from WSS pressure pipe.

ASTM A-249, A-269, and A-688 tubes are used primarily in heating and cooling apparatuses such as heat exchangers, condensers, boilers, and feed water heaters. Among the industries using these tubing products are producers of ethanol, pharmaceuticals, and foods and beverages.[25] ASTM A-270 tubes have a polished finish on either the inside or the outside of the tube, or both, and are intended for applications in the dairy and food industries. ASTM A-358 pipes are used in critical applications where failure of the weld might have serious consequences, such as in nuclear power plants and liquified natural gas facilities. According to Commerce's scope, A-358 pipes are only included when they are produced to meet ASTM A-312 or A-778 specifications. ASTM A-409 products are thin-walled mechanical tubing. They are generally used in applications requiring withstanding corrosive or high- temperature conditions,

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[19] Schagrin Associates, "*Response to the Department of Commerce's Request for Clarification of the Petition for the Antidumping Duties on U.S. Imports of Welded Stainless Pressure Pipe from the People's Republic of China,*" February 5, 2008.

[20] Schagrin Associates, "*Response to the Department of Commerce's Request for Clarification of the Petition for the Imposition of Antidumping Duties on U.S. Imports of Welded Stainless Pressure Pipe from the People's Republic of China,*" February 5, 2008, p. 1.

[21] Other ASTM pipe and tube specifications include A-249, A-269, A-270, and ASTM tube specifications include A-358, and A-409. In general, the descriptions of the uses for various types of welded stainless steel tubular products are taken from *Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-540-541 (Second Sunset Review),* USITC Publication 3877, December 1992, pp. I-10 and I-11, unless otherwise noted. The physical description of the various grades of WSS pressure pipe is compiled from the standards and specifications published by the ASTM.

[22] Annealing is a process in which the subject material is heated to a temperature of over 1,900 degrees Fahrenheit followed by controlled cooling. This specific heat treatment technique alters the micro-structure of the subject material, causing changes in properties such as strength and hardness.

[23] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I-15.

[24] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I-15.

[25] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I-15.

such as in automotive exhaust-converter systems and water well casings. Petitioners stressed that most imports from Canada are of this grade.[26]

Manufacturing Processes

Two common methods can be used to form the tubular shape of WSS pressure pipe, the continuous-mill process and the press-brake process.[27] The continuous-mill process, which is the principal method of producing WSS pressure pipe, begins with coils of sheet, strip, or plate. Coiled steel, of a width essentially equal to the outside diameter of the pipe to be produced, is set up in an uncoiler and fed into a series of paired forming rolls. As it progresses through the rolls, its cross-sectional profile is formed into a tubular shape with the butted edges ready for welding as described below. Petitioners report that domestic producers use this process for diameter sizes between 2 and 14 inches.[28]

The second method of manufacturing welded stainless steel tubular products is a batch process in which a press gradually bends cut-to-length sheet into a cylindrical shape with the butted edges ready for welding as described below.[29] The starting sheet is of a width essentially equal to the outside diameter and a length equal to the length of the piece of pipe to be produced. The press-brake process is labor-intensive, and is used primarily for the production of pipes with diameters typically above 16 inches, although one U.S. producer, ***, does produce WSS pressure pipe using this method.[30]

In the welding stage, the butt edges are welded together by an automatic welding machine using either the tungsten inert gas ("TIG") welding process,[31] the plasma welding process, or the laser welding process. These methods allow welding without filler material,[32] complete fusion of butted edges, and shielding of the weld area with inert gas to prevent oxidation. In the TIG welding process, welding heat is provided by an electric arc between a tungsten electrode and the pipe edges. The plasma welding process is similar to the TIG process in that the plasma (a gas) is heated as it passes through an arc torch which is created by an electrode within a nozzle. In the laser welding process, a laser beam is directed to the weld butt joint, forming a deep-penetration fusion weld. The laser process is capable of a higher speed of operation than is the TIG process. For continuous welded pipe, the pipe continues after welding

[26] Conference transcript, p. 86 (Tidlow).

[27] An additional method of WSS pipe and tube manufacture is the less commonly used spiral-weld process in which a steel strip is spiraled and welded along the spiral. This process can be used to produce pipes of any diameter, but the looped weld running throughout the product, rather than along a single straight weld, is reportedly a disadvantage in terms of weld refinement and potential end use. The spiral-weld process cannot be used for welded A-312 pipes, as that ASTM specification requires straight-seam welding. The spiral-weld process is only used for larger-diameter pressure pipes and tubes, and requires a separate non-inline annealing step owing to the nonlinear weld.

[28] Conference transcript, p. 31 (Schagrin).

[29] This is called a batch process (rather than "continuous") because each individual length of pipe is bent and welded individually.

[30] Staff telephone interview with ***.

[31] Also known as the gas tungsten-arc welding ("GTAW") process.

[32] Although the TIG and plasma process can use filler metal, the laser process does not allow for the use of filler metal. WSS pressure pipe produced in accordance with the standard for ASTM A-312, according to the ASTM, may not be made with filler metal.

through an in-line annealing furnace,[33] then through straightening and, finally, cutting to length.[34] Batch welded pipe must be annealed in a separate operation, and subsequently pickled in acid.

Marketing

WSS pressure pipe is largely sold to distributors, and rarely sold directly to end users, as presented in table I-4.

Table I-4
WSS pressure pipe: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2005-07

* * * * * * *

DOMESTIC LIKE PRODUCT ISSUES

The petitioners contend that the Commission should find one domestic like product that is co-extensive with the scope of merchandise subject to the investigations as identified by Commerce.[35] At the Commission's staff conference, U.S. importer Silbo argued that there is no basis for excluding pressure pipe greater than 14 inches in diameter from the domestic like product.[36]

Physical Characteristics and Uses

Most stainless steel pipes are produced to conform to one or more of the standard specifications published by the ASTM. Welded stainless steel tubular products include ASTM A-312 and A-778, ASTM A-358 and A-409 pipes, and ASTM A-249, A-269, and A-270 pressure tubes. Most are produced in either of two common grades (defined by chemical composition and physical requirements) of stainless steel, namely 304/304L or 316/316L.[37]

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[33] In-line annealing normally is performed in a nonoxidizing atmosphere, a process known as "bright annealing." Product that is annealed by other than bright annealing must be pickled in acid to remove surface oxides and produce a "bright" finish.

[34] ASTM A-249 and A-269 specifications for pressure tubes are similar to that for A-312 pipes in that the process of annealing is required after welding. Tubular products produced to A-249 specification must be cold worked (planished) in the weld bead before annealing. Cold-working and planishing are finishing steps to assure a smooth surface, particularly in the area of the weld. Cold-working is defined as "altering the shape or size of a metal by plastic deformation. Processes include rolling, drawing, pressing, spinning, extruding and heading, it is carried out below the recrystallisation point, usually at room temperature. Hardness and tensile strength are increased with the degree of cold work while ductility and impact values are lowered. The cold rolling and cold drawing of steel significantly improves surface finish." Planishing is defined as producing a smooth surface finish on metal by rapid succession of blows delivered by highly polished dies or by a hammer designed for the purpose, or by rolling in a planishing mill. Alternatively, and for tube too small in diameter to weld, the product tubing must be cold drawn from a larger size and subsequently annealed and pickled. The A-269 specification is similar to A-249 in that it requires post-weld annealing but A-269 products may or may not be cold worked, depending upon the diameter, wall thickness, and manufacturer's capabilities. For some products, the removal or smoothing of the interior weld bead is required prior to annealing.

[35] Petitioners' postconference brief, p. 1.

[36] Conference transcript, pp. 96-98 (Jakob). Silbo did not submit a postconference brief.

[37] Type 304 is the most widely used austenitic stainless steel. It is resistant to food processing environments, except for high-temperature conditions involving high acid and chloride contents, and it resists organic chemicals,

(continued...)

ASTM specification A-312 is the most common specification for stainless steel pipe, and accounts for much of the welded stainless steel pipe consumed in the United States.[38] The specification for A-312 pipe requires that it be straight-seam welded without the use of filler metal in the weld, and that the pipe be annealed after welding. Welded A-312 pipes are designed for high temperature and general corrosive service. ASTM A-778 pipe is most similar to A-312, but differs in the welding process and in that A-778 post-weld annealing of the pipe is not required.[39]

*** reported the larger-diameter WSS pressure pipe market is different in several ways. First, a much larger share of this product is produced to the A-358 specification, *** for 2005-07. Second, this product is predominantly used in the liquid natural gas and waste water treatment markets, markets that are not really present in the smaller diameter categories. *** reported that the similarities are limited to shape and some common industry uses. However, as 14 inch and smaller pipe is produced to much tighter tolerances and is manufactured with different methods, the weld seam that is a result of the manufacturing process in producing greater than 14 inch pipe is more prevalent. This weld seam is not typically cold worked, ironed, or planished as is the norm with the 14 inch pipe and is typically used in large air duct systems, waste water plants, and mining. *** reported that larger sizes are commonly used in liquid natural gas systems, large size water transmission, pulp and paper production, oil refining and mining. They are typically used in capital projects and generally purchased by engineering or construction companies, or end users directly, or on a bid basis through a distributor.

Manufacturing Facilities, Employees, and Processes

Firms producing both welded ASTM A-312 and A-778 pipes can use the same facilities and workers to produce both grades (except that A-778 pipes do not require annealing).[40] Other (non-A-778) welded stainless steel pipes and pressure tubes have been reported to be produced at the same facilities as welded A-312 pipes.[41] However, domestic producers typically specialize in certain size ranges. For example, *** generally manufactures products which are larger than 14 inches in diameter while Marcegaglia only produces tubes with smaller than 14 inch diameters. Outokumpu's south plant primarily makes pipes of up to 6 inches in diameter while the north plant manufactures larger sizes.[42] That is because, as mentioned before, pipes with diameters above 14 inches are typically produced by the press-brake method, a batch process, while smaller tubes are generally manufactured by a continuous-mill

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[37] (...continued)
dyestuffs, and a wide variety of inorganic chemicals. Type 316 has corrosion resistance superior to that of Type 304 in many types of chemical corrodents, as well as marine atmospheres. It also has higher strength at elevated temperatures. Type 316 contains a minimum of 2 percent of molybdenum and 10 percent of nickel compared to no molybdenum and 8 percent of nickel in Type 304. The chromium content of Type 316 is 16 percent compared to 18 percent for Type 304. Both Types 304 and 316 contain a maximum of 0.08 percent of carbon. Extra-low carbon grades, Types 304L and 316L, containing a maximum of 0.03 percent carbon, are more suitable for applications involving welding. Welded pipes and tubes are usually produced using steel that meets the requirements of both the regular grade and the extra-low carbon grade, designated 304/304L or 316/316L. Iron & Steel Society, *Steel Products Manual: Stainless Steels, 1999,* pp. 86 and 114.

[38] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I-19.

[39] ASTM A-778 is listed in the ASTM as having diameter of 3" to 14". However, a note attached to the ASTM states that if the pipe meets the other ASTM specifications even though it is a non-included diameter, it can still be classified as A-778.

[40] Conference transcript, p. 46 (Schagrin).

[41] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I- 22.

[42] Conference transcript, p. 65 (Avento); *See also* staff telephone interview with ***.

process. These two manufacturing processes reportedly require different equipment and are operated by employees with different skills and training.[43]

*** reported that the vast majority of the larger than 14 inch pipes are produced on a batch mill process, one piece at a time, versus a continuous mill process that is much more efficient in terms of costs and time. Costs can be *** percent more for the batch process and production cycles can be *** longer to achieve only a small fraction of the continuous mill production footage. *** reported that the manufacturing processes are "completely different," that the 14 inch and smaller diameter pipe is made on continuous tube mills where automatic welding is utilized that requires minimal operator intervention and the raw coil is slit to width. Greater than 14 inch diameter pipe is produced one piece at a time using a "press break" operation. The pipe cylinder is rolled in 10' or 20' lengths and then welded together with a "seamer" weld operation. Semi-automatic welding is utilized, requiring constant operator intervention. The skill set of the trained employee "is completely different and not interchangeable without additional training." *** also reported that large diameter pipe is usually made piece by piece in a "batch" process, using different equipment, from individual plates, rather than from continuous coils.

Interchangeability and Customer and Producer Perceptions

U.S. producers and importers were asked to identify any products that may be substituted for WSS pressure pipe. None of the responding questionnaire recipients identified larger diameter pipe produced to ASTM specifications A-312 or A-778 as a substitute for WSS pressure pipe. Also, none of the responding producers identified ASTM A-358 pipe (generally reserved for critical applications), pressure tubes such as ASTM A-249, A-269, and A-270 (generally used in heat exchangers, condensers, boilers, and feed water heaters, or in dairy applications), or mechanical tubing as a substitute for WSS pressure pipe. Similarly, most importers identified no welded stainless steel substitutes for WSS pressure pipe, although two indicated that welded pipe produced from other nickel/chromium alloys or from duplex stainless steel could substitute for WSS pressure pipe.

According to domestic producers, A-312 and A-778 pipes are the only "true pressure pipe products."[44] The domestic producers note that "A-312 is always substitutable for A-778, but A-778 is never substitutable for A-312."[45]

*** reported that the larger diameter and smaller diameter categories have little or no interchangeability as they are specified by size and gauge for specific uses. *** reported that specific diameter requirements are specified by an engineering company and are not likely interchangeable. *** reported that the project specifications determine the size of the pipe, thus larger welded pipe is generally not interchangeable with smaller sizes.

*** reported that customers and producers perceive the larger than 14 inch WSS pressure pipe as a different product than the smaller diameters. First, the products are manufactured differently. Second, both the mills and the distributors keep very few inventories of the larger diameter pipes but rather sell to end users. Third, most of these items are custom made to specifications, gauges and testing requirements that are not typical of inventoried pipes. X-ray, eddy current, dye penetrant and corrosion testing are typical supplemental requirements for larger than 14 inch pipe that are seldom seen on smaller diameter pipes. *** reported that large pipe is usually for more critical applications requiring a high degree of quality.

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[43] Conference transcript, p. 31 (Schagrin).

[44] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I- 20.

[45] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006, p. I- 20.

Channels of Distribution

As discussed earlier, the vast majority of U.S. shipments of WSS pressure pipe less than or equal to 14 inches are sold through distributors. In contrast, *** reported that larger than 14 inch pipe is characterized by direct selling to end users as compared to inventories at the master distributors. Even if sold to a master distributor, the larger-diameter pipe is most often destined to a specific customer for a specific project, rather than for inventory. *** reported that greater than 14 inch diameter pipe is not typically stocked at distribution. This product is purchased for projects by distributors as required and typically shipped directly to job sites. *** reported that large pipe is usually sold directly to the user or fabricator or as part of a package put together by a distributor including fittings, flanges, and other products.

Price

In aggregate, the average unit values for U.S. shipments of WSS pressure pipe less than or equal to 14 inches were $*** per short ton in 2005, $*** in 2006, and $*** in 2007. By comparison, the average unit values for WSS pressure pipe greater than 14 inches were higher: $*** in 2005, $*** in 2006, and $*** in 2007. Pricing practices and prices reported for WSS pressure pipe in response to Commission questionnaires are presented in Part V of this report. *** reported smaller diameter pipe is typically priced as listed and discounted from price sheets. The larger diameters are sold as cost plus a mark-up. *** also reported that, unlike for smaller pipe, there is no industry list price sheet for greater than 14 inch diameter pipe. Also, price discounting is far less prevalent when quoting greater than 14 inch pipe. *** reported that larger diameter pipe generally carries a greater price per pound because it is more labor intensive to produce.

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

U.S. MARKET CONDITIONS AND CHARACTERISTICS

The primary factors affecting WSS pressure pipe usage are capital investment projects by chemical and petrochemical plants, grain processing (ethanol plants), food and beverage processing plants, power generation plants, and pulp and paper mills.[1] The demand for WSS pressure pipe depends on demand for downstream products using A-312 pipe and typical end users include the chemical and pharmaceutical industry, food and beverage industry, power generation industry, and the pulp and paper industry.

Producers and importers were asked to estimate the share of their sales that occurred within certain distance ranges. Four of the five responding U.S. producers reported nationwide sales and the remaining U.S. producer reported that it sold it products in the Northeast, Mid-Atlantic, Midwest, Southeast, West Coast, Southeast, and Northwest. On average, U.S. producers sold 6.3 percent of their WSS pressure pipe within 101 miles of their storage or production facilities, 78.2 percent between 101 and 1,000 miles, and 15.5 percent beyond 1,000 miles. Seven of the ten responding importers also reported nationwide sales; another reported sales to the Northwest, Southeast, Mid-Atlantic, Mid-West, and Great Lakes; another reported sales in the Mid-Atlantic; and the remaining importer reporting sales in the Southeast, Mid-West, and the West Coast. On average, U.S. importers of Chinese WSS pressure pipe sold 39.5 percent of their WSS pressure pipe within 100 miles of their entry or storage facilities, 22.9 percent between 101 and 1,000 miles, and 37.5 percent over 1,000 miles.

CHANNELS OF DISTRIBUTION

Both domestic and imported WSS pressure pipe are sold to distributors and end users. During 2005-07, the vast majority of U.S. producers' shipments of WSS pressure pipe was shipped to distributors. The share shipped to distributors decreased slightly from *** percent in 2005 to *** percent in 2007. Four of the five responding U.S. producers of WSS pressure pipe shipped to both distributors and end users while the other shipped exclusively to distributors.

U.S. shipments of subject imported WSS pressure pipe also went primarily to distributors. During 2005-07, *** percent of U.S. shipments of WSS pressure pipe imported from China (on average) were to distributors. Table II-1 presents information on channels of distribution for U.S. producers as well as for U.S. importers of subject SSW pressure pipes from China and from all other countries.

[1] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USTC Publication 3877, August 2006.

Table II-1
WSS pressure pipe: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2005-07

* * * * * * *

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. producers of WSS pressure pipe have the ability to respond to increases in demand with relatively large increases in shipments of U.S.-produced WSS pressure pipe to the U.S. market. Should demand increase, U.S. producers have ample available capacity and moderate inventory levels with which they could respond. Should demand decrease, however, producers are likely to be limited in their ability to switch resources into producing alternative products or to move product into export markets. Factors contributing to this degree of responsiveness of supply are discussed below.

Industry capacity

Total U.S. capacity increased from *** short tons in 2005 to *** short tons in 2007, or by *** percent. U.S. producers' reported capacity utilization for WSS pressure pipe decreased from *** percent in 2005 to *** percent in 2007. These levels of capacity utilization indicates that U.S. producers of WSS pressure pipe have ample available capacity with which they could increase production of WSS pressure pipe in the short run in the event of a price change.

Alternative markets

U.S. producers' exports of WSS pressure pipe were low over the period for which data were collected, accounting for *** percent of total shipments in 2007. Exports decreased from *** short tons in 2005 to *** short tons in 2007, or by *** percent. The low levels of exports during the period of for which data were collected indicates that domestic producers of WSS pressure pipe are constrained in their ability to shift shipments between the United States and other markets in the short run in response to price changes.

Inventory levels

U.S. producers of WSS pressure pipe reported that end-of-period inventory quantities declined from *** short tons in 2005 to *** short tons in 2007, or by *** percent. U.S. producers also reported that the ratio of U.S. producers' inventory to total shipments of WSS pressure pipe increased from *** percent in 2005 to *** percent in 2007. Overall, these inventory levels (relative to total shipments) indicate that U.S. producers have the ability to respond to changes in demand by changing their inventories.

Production alternatives

*** reported producing other products using the same equipment or machinery or using the same labor as it used to produced WSS pressure pipe. Petitioner Marcegaglia stated that no other products were produced on its mills besides WSS pressure pipe.[2]

Subject Imports from China

Imported WSS pressure pipe from China increased by 225.2 percent from $47.9 million in 2005 to $155.8 million in 2007. On an absolute basis, U.S. subject imports from China increased from 14,486 short tons in 2005 to 30,574 short tons in 2007. Based on information provided by one Chinese producer, supplies of subject imports of WSS pressure pipe from China are likely to respond to changes in demand with large changes in the quantity shipped to the U.S. market. Factors contributing to the degree of responsiveness of supply are discussed below.

Industry capacity

Reported Chinese capacity remained constant at *** short tons during 2005-07. Capacity utilization increased from *** percent in 2005 to *** percent in 2006 before declining to *** percent in 2007. These data indicate that Chinese suppliers of WSS pressure pipe have excess capacity with which to increase production of subject product in the event of a change in demand.

Alternative markets

Shipments to the home market accounted for a small and declining portion of total reported shipments of WSS pressure piped by the responding Chinese firm, falling from *** percent in 2005 to *** percent in 2007. All reported exports went to markets in ***. The one responding Chinese producer, Winner Stainless Steel Tube Co., reported that more than *** percent of its shipments of WSS pressure pipe were to the United States, with less than *** exported to other markets. Overall, however, available data indicate that foreign producers in China have some ability to divert substantial shipments from alternative markets in response to changes in the U.S. market conditions regarding WSS pressure pipe.

Inventory levels

Data on Chinese producers's inventory levels indicate that, between 2005 and 2007, inventories as a share of total shipments fell from *** percent in 2005 to *** percent in 2007. These data indicate that Chinese producers have only limited ability to use inventories as a means of increasing shipments of WSS pressure pipe to the U.S. market.

Production alternatives

The one responding Chinese producer, Winner Stainless Steel Tube Co., reported that equipment used to produce WSS pressure pipe could manufacture welded stainless steel mechanical tubing as well. Overall, approximately *** percent of Winner's total sales in 2007 were of WSS pressure pipe.

[2] Conference transcript, p. 69 (Cornelius).

U.S. Demand

Based on available information, U.S. consumers of WSS pressure pipe are likely to respond to changes in the price of WSS pressure pipe with moderate changes in their purchases of WSS pressure pipe. High pressure pipes are necessary for many production facilities, and while substitutes are available, they are either more expensive (as in the case with seamless pipe) or are not as corrosive resistant as stainless steel (as in the case with plastics or other materials).

Demand Characteristics

U.S. demand for WSS pressure pipe depends primarily on the level of demand for downstream products using WSS pressure pipe.[3] WSS pressure pipe are used primarily as a conduit for liquids or gasses, heat exchange, and other purposes in the chemical and petrochemical industry, food and beverage processing industry, power generation industry, and pulp and paper industry. Major uses for WSS pressure pipe include digester lines, pharmaceutical production lines, petrochemical stock lines, automotive paint lines, and various other processing lines such as those in paper mills, breweries, and food processing facilities. Since WSS pressure pipes are annealed, they can withstand very high heat and are corrosion resistant. This is not the case with A-778 pipes, which are not annealed and therefore cannot withstand temperatures above 800 degrees Fahrenheit. A-788 pipes are therefore used in less demanding applications such as paper manufacturing.[4]

Available data indicates that total apparent U.S. consumption of WSS pressure pipe increased from *** short tons in 2005 to *** short tons in 2007. When asked if demand for WSS pressure pipe had changed since January 1, 2005, three of the four responding U.S. producers reported that U.S. demand had increased between 2 to 5 percent per year and that this increase was driven by economic expansion and higher per capita consumption of stainless steel. One U.S. producer indicated that during the recent expansion cycle in the United States, all the growth in demand was captured by imports from China. Another U.S. producer indicated that there had been no change in demand for WSS pressure pipe as it remained steady since January 2005. Six of ten responding importers reported that U.S. demand had increased, two reported that it had fluctuated, and one reported that it had decreased. Reasons given for the increase in U.S. demand included more consumption per capita and the growing demand for renewable fuels (ethanol and bio-diesel plants). High domestic prices for domestically produced WSS pressure pipe was given as the principal factor behind declining U.S. demand. One importer reported that demand appeared to be down over the last 2 to 3 months of 2007 and it indicated that there had been an increase in demand in China and in other developing Asian countries.

Substitute Products

U.S. producers and importers were asked to list any products that may be substituted for WSS pressure pipe. Four of five responding U.S. producers reported that there are direct substitutes for WSS pressure pipe, whereas the remaining importer reported that there were no substitutes. The most frequently mentioned substitutes were coated carbon steel pipe, fiberglass reinforced plastics (FRP), and

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[3] *Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review),* USITC Publication 3877, August 2006.

[4] In contrast, the thicker-walled A-358 pipes are used in highly critical applications such as nuclear power plants or liquid gas facilities. WSS pressure pipe tubes such as A-269 or A-249 have a broader range of applications although many are used in heating and cooling applications. Tube products are normally ordered to meet customers' exact specifications, whereas pipe products are normally sold in standard sizes. No responding producer or importer reported changes in the end uses of WSS pressure pipe.

high density polyethylene (HDPE), seamless stainless steel pressure pipe, and other nickel-chromium based alloys. One U.S. producer indicated that coated carbon steel pipe could be use as a substitute in energy and petrochemical applications, whereas, another indicated that substitutes find their way into the market when prices for stainless steel are high. These substitutes reportedly have a shorter installed life; nonetheless, in recent years they have replaced stainless steel pipe in waste water treatment projects and pulp and paper plants.

Cost Share

Since most responding U.S. producers and importers of WSS pressure pipe are distributors or sell to distributors, they were unable to provide useful information regarding the share of end-use costs accounted for by WSS pressure pipe.

SUBSTITUTABILITY ISSUES

The degree of substitution between imported WSS pressure pipe and U.S.-produced WSS pressure pipe depends upon such factors as end uses, relative prices, quality, and conditions of sales (e.g., order lead times, availability, price discounts/rebates, payment terms, product services, etc.), purchaser supply requirements, and product differentiation. Product differentiation depends on factors such as the range of products and the market perception of these factors. Based on available data, staff believes that while there may be some differences between domestic WSS pressure pipe and imported WSS pressure pipe in factors such as availability, product range, and delivery, among others, overall there is a very high degree of substitution between WSS pressure pipe from the United States and WSS pressure pipe from China. However, the degree of substitution between imported WSS pressure pipe and U.S.-produced other than WSS pressure pipe may be lower, and depends on the characteristics and end uses of each specific domestic product considered.

Comparison of Domestic Products, Subject Imports, and Nonsubject Imports

Producers and importers were asked to report how frequently WSS pressure pipe from different countries are interchangeable (table II-2). The four responding U.S. producers reporting knowledge of both Chinese and U.S.-produced WSS pressure pipe indicated that they were always interchangeable. Similarly, seven importers reporting knowledge of both Chinese and U.S.-produced WSS pressure pipe reported that Chinese and U.S.-produced WSS pressure pipe were always interchangeable. One importer, ***, however, noted that it is very important to understand the significance of the price of nickel in determining the price of stainless pipe and to appreciate the level of volatility in the price of nickel, coil, and pipe. *** also reported that it is critical to understand differences in price quotations. *** indicated that it quoted prices for mills that would ship WSS pressure pipe on a fixed price for delivery four months (on average) into the future. Domestic delivery is done possibly in a month or less, may be cancelled, and prices may not be fixed (subject to surcharges).

Three producers that compared U.S. products with those from Taiwan, Malaysia, and Korea reported that products from these countries can always be used interchangeably. Five importers reported that products from Taiwan can always be used interchangeably, four importers reported that products from Korea can always be used interchangeably, and five importers reported that products from Malaysia can be used interchangeably.

Table II-2
WSS pressure pipe: Perceived degree of interchangeability of products produced in the United States, imported from China, and imported from third countries and sold in the United States[1]

	U.S. producers					U.S. importers				
Country comparison	A	F	S	N	O	A	F	S	N	O
U.S. vs. China	5	0	0	0	0	7	0	0	0	1
U.S. vs. Taiwan	3	0	0	0	1	5	0	0	0	3
U.S. vs. Korea	3	0	0	0	1	4	0	0	0	3
U.S. vs. Malaysia	3	0	0	0	1	5	0	0	0	3
U.S. vs. Thailand	0	0	0	0	0	0	0	0	0	0
U.S. vs. Other nonsubject countries	6	0	0	0	1	9	0	0	0	7
China vs. Taiwan	2	0	0	0	2	5	0	0	0	3
China vs. Korea	2	0	0	0	2	5	0	0	0	3
China vs. Malaysia	2	0	0	0	2	5	0	0	0	3
China vs. Thailand	0	0	0	0	0	0	0	0	0	0
China vs. Other nonsubject countries	5	0	0	0	2	9	0	0	0	7

[1] Producers and importers were asked if WSS pressure pipes produced in the United States and in other countries are used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Factors Affecting Purchasing Decisions

Producers and importers were asked to assess how often differences other than price were significant in sales of WSS pressure pipe from different sources (table II-3). Three of five responding U.S. producers reported that non-price differences between U.S.-produced and Chinese-produced WSS pressure pipe are never a factor in their sales of WSS pressure pipe, the fourth reported that it is sometimes a factor, and the fifth reported that it is always a factor. Three responding importers of WSS pressure pipe reported that non-price differences between U.S.-produced and Chinese-produced WSS pressure pipe are always a factor, two reported that they are frequently a factor, two reported that they are sometimes a factor, and one reported that they are never a factor. One importer reported that perceived quality differences, end user acceptance, availability, and other factors are importance differences.

Two producers reported that non-price differences between U.S.-produced and Korean-produced, Malaysian-produced, and Taiwan-produced WSS pressure pipe were never a factor in their sales of WSS pressure pipe and one producer reported that non-price differences between U.S.-produced and Korean-produced, Malaysian-produced, and Taiwan-produced WSS pressure pipe were always a factor in their sales. Two importers reported that non-price differences between U.S.-produced and Korean-produced, Malaysian-produced, and Taiwan-produced WSS pressure pipe were always a factor in their sales, two reported that it was frequently a factor, one reported that it was never a factor with Malaysian-produced and Taiwan-produced, and three reported that it was never a factor in their sales.

Table II-3
WSS pressure pipe: U.S. producers' and importers' perceptions concerning the importance of non-price differences in purchases of WSS pressure pipe from the United States and other countries[1]

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	O	A	F	S	N	O
U.S. vs. China	1	0	1	3	0	3	2	2	1	1
U.S. vs. Taiwan	1	0	1	2	1	2	2	1	1	3
U.S. vs. Korea	1	0	1	2	1	2	2	0	1	4
U.S. vs. Malaysia	1	0	1	2	1	2	2	1	1	3
U.S. vs. Thailand	0	0	0	0	0	0	0	0	0	0
U.S. vs. Other nonsubject countries	2	0	1	4	3	4	4	0	2	8
China vs. Taiwan	0	0	0	2	2	2	2	1	1	3
China vs. Korea	0	0	0	2	2	2	2	0	1	4
China vs. Malaysia	0	0	0	2	2	2	2	1	1	3
China vs. Thailand	0	0	0	0	0	0	0	0	0	0
China vs. Other nonsubject countries	1	0	0	4	4	4	4	0	2	9

[1] Producers and importers were asked if factors other than price were a significant factor in their sales of WSS pressure pipe.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

PART III: U.S. PRODUCERS' 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 and the alleged subsidies 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.

U.S. PRODUCERS

The Commission sent producer questionnaires to all firms identified in the petition as domestic producers of WSS pressure pipe and to other domestic firms identified by public sources as producers of welded stainless steel tubular products. Five firms that are estimated to account for nearly *** percent of U.S. production of WSS pressure pipe during 2007 provided responses to the Commission's producer questionnaire.

Presented in table III-1 is a list of current domestic WSS pressure pipe producers, each company's position on the petition, production locations, related and/or affiliated firms, and their shares of 2007 reported domestic production of WSS pressure pipe. In addition to the reporting active producers, Crucible Materials Corp. closed its Trent Tube division's Carrollton, GA, pipe operations in June 2004, because the plant had lost market share and had suffered operating losses for the previous five years.[1] Crucible blamed the plant's unprofitable performance on over-capacity in the U.S. industry and low cost imports.[2]

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

In 2007, *** percent of U.S. producers' production of WSS pressure pipe was ASTM A-312 and *** percent was A-778.[3] No U.S. producer reported "other" forms of WSS pressure pipe. In addition, *** percent of their 2007 production was less than or equal to 4.5 inches in outside diameter, and *** percent was 4.5-14 inches. Producers' capacity, production, and capacity utilization data for WSS pressure pipe are presented in table III-2. These data show an increase in the capacity to produce WSS pressure pipe of *** percent from 2005 to 2007. *** and *** accounted for a majority of the increase in capacity. ***. Production of WSS pressure pipe fell overall by *** percent from 2005 to 2007.[4] *** accounted for almost all of the decrease. ***. Capacity utilization decreased by *** percentage points from 2005 to 2007. ***.

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[1] "Trent Tube Unit In Carrollton To Close Doors," *American Metal Market*, April 6, 2004. "After Five Years Of High Hopes, Trent Pulls Out The Low-End Pipe," *American Metal Market*, April 12, 2004.

[2] About 50 hourly workers and 12 salaried employees lost their jobs when the Carrollton plant closed 2004.

[3] ASTM A-358 is not made domestically to the A-312 or A-778 specifications. Conference transcript, p. 48-49 (Boling, Cornelius, Schagrin).

[4] Petitioners estimated the production for three nonresponding U.S. firms: Alaskan Copper (*** short tons), Rath Gibson (*** short tons), and Swepco Tube (*** short tons). Petitioners' postconference brief, exh. 1. With respect to Alaskan Copper, however, sales of A-312 pipe ***. Correspondence from Alaskan Pipe, April 21, 2006 (retrieved from the record in Inv. Nos. 731-TA-540 and 541 (Second Review)). With respect to Rath Gibson, the firm reported it produces WSS pressure pipe and ***. Staff telephone interview with ***. With respect to Swepco, it reported that about *** percent of its production of WSS pressure pipe is 14 inches or less in diameter, and the remaining *** of its production is over 14 inches. Swepco can produce ***. Staff telephone interview with ***.

Table III-1
WSS pressure pipe: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2007 reported U.S. production of WSS pressure pipe

Firm name	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of production (*percent*)
Bristol	Support	Bristol, TN	Synalloy Corp. (United States)	***
Felker	Support	Marshfield, WI Glasgow, KY	None.	***
Marcegaglia	Support	Munhall, PA	Marcegaglia (Italy)	***
Outokumpu	Support	Wildwood, FL	Outokumpu (United States) Outokumpu (Finland) Outokumpu (Sweden)	***
Rath Gibson	([1])	Janesville, WI	([1])	([1])
Swepco	([1])	Clifton, NJ	([1])	([1])
Webco	Support	Mannford, OK	None.	***

[1] Not available.

Note.–Because of rounding, shares may not total 100.0 percent.

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

Table III-2
WSS pressure pipe: U.S. capacity, production, and capacity utilization, 2005-07

* * * * * * *

In the Commission's questionnaire, U.S. producers were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of WSS pressure pipe since January 1, 2005. Three firms reported such changes; their responses to this question are presented in table III-3.

Table III-3
WSS pressure pipe: U.S. producers' comments concerning plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns

* * * * * * *

*** of the U.S. producers of WSS pressure pipe that responded to the Commission's questionnaire reported the production of other products on the same equipment and machinery and using the same production and related workers employed in the production of WSS pressure pipe. Their responses are presented in table III-4.

Table III-4
WSS pressure pipe: U.S. producers' products made on the same equipment and machinery and using the same production and related workers, 2005-07

* * * * * * *

U.S. PRODUCERS' SHIPMENTS

Data on domestic producers' shipments of WSS pressure pipe are presented in table III-5. U.S. shipments accounted for *** percent of U.S. producers' total shipments of WSS pressure pipe in 2007, and commercial shipments alone accounted for *** percent. U.S. shipments *** in 2006 then *** in 2007, for an overall decrease of *** percent. *** producers had increased shipments in 2006 and decreased shipments in 2007, with *** accounting for the vast majority of reduction in shipments in 2007.[5] ***.[6] The domestic producers reported *** percent of total U.S. shipments as internal consumption during 2005-07.[7] The unit value of U.S. shipments increased *** percent from 2005 to 2007. This reflected in large part surcharges put in place by the stainless steel industry "due to enormous surges in the price of nickel and molybdenum."[8] All WSS pressure pipe producers reportedly passed those surcharges on to their customers.

Exports of WSS pressure pipe were reported by ***. These exports decreased steadily and accounted for less than *** percent of U.S. producers' total shipments during 2005-07. The export markets listed included ***.

*** firm reported involvement in a toll agreement regarding the production of WSS pressure pipe. *** firm reported production of WSS pressure pipe in a foreign trade zone.

Table III-5
WSS pressure pipe: U.S. producers' shipments, by types, 2005-07

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Data collected in these investigations on domestic producers' end-of-period inventories of WSS pressure pipe are presented in table III-6. Domestic producers' inventories declined over the period for which data were collected, but to a lesser extent than production and sales, resulting in higher inventory holdings relative to output and shipments. U.S. producers' inventories were equivalent to between *** and *** percent of U.S. producers' total shipments during 2005-07. *** firms, *** and ***, together accounted for *** percent of the inventories held during the period for which data were collected.

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[5] ***.

[6] ***. Conference transcript, pp. 10-12 (Boling).

[7] Internal consumption was reported by ***. At the Commission's conference Marcegaglia and Outokumpu reported they do not internally consume any WSS pressure pipe. Felker reported that "they do utilize some of the continuous pipe to bend and press elbow reducers, et cetera" and that they have a fabrication division that produces pipe spools. Conference transcript, p. 61 (Henke).

[8] Conference transcript, p. 5 (Schagrin). Nickel increased from $7 per pound in 2004 to $24 per pound in mid-2007, while molybdenum rose from $12 per pound to $47 per pound. Conference transcript, p. 7 (Schagrin).

Table III-6
WSS pressure pipe: U.S. producers' end-of-period inventories, 2005-07

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES

*** U.S. producer, ***, reported direct imports of WSS pressure pipe during the period for which data were collected. In 2007, *** imported ***. *** U.S. producers reported purchases of WSS pressure pipe. In 2006, *** reported purchases from U.S. importers of ***, citing the need to *** for certain sizes. In 2007, *** reported purchases from domestic producers of ***, citing ***.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for WSS pressure pipe are presented in table III-7. In the aggregate, U.S. WSS pressure pipe producers reported an increase in the number of production and related workers employed in the manufacture of WSS pressure pipe from 2005 to 2006, and then a decrease in 2007. This largely reflects ***. It was reported that several of the companies, faced with a decline in demand, instead of laying off employees chose to reduce the hours worked in order to save jobs[9] or to cross train employees on other equipment.[10] It was reported that job losses in the WSS pressure pipe industry had temporarily leveled off at the petitioning firms due to the earlier closure of plants at Trent Tube, Acme/Romac, and Davis.[11] Consistent with trends in output, productivity rose in 2006 then fell in 2007, for an overall decrease of *** percent (*** and *** accounted for a majority of the decrease). Falling productivity combined with a modest increase in wage rate, resulted in higher than unit labor costs in 2007.

Table III-7
WSS pressure pipe: U.S. producers' employment-related indicators, 2005-07

* * * * * * *

[9] Conference transcript, p. 28 (Hart).
[10] Conference transcript, pp. 66-67 (Henke).
[11] Conference transcript, pp. 28-29 (Hart).

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 34 firms believed to be importers of welded stainless steel tubular products, as well as to all U.S. producers of welded stainless steel tubular products.[1] Usable questionnaire responses were received from 10 companies that are believed to account for more than *** percent of the quantity of U.S. imports from China and more than *** percent of U.S. imports from other countries during the period for which data were collected.[2] The largest importer of WSS pressure pipe from China in 2007 was ***. Other major importers of WSS pressure pipe are ***. Presented in table IV-1 are the responding U.S. importers and 2007 coverage based on responses to Commission questionnaires.

U.S. IMPORTS

U.S. imports are based on official import statistics of Commerce,[3] as modified to include WSS pressure pipe entering under broader HTS categories[4] (based on questionnaire responses) and to exclude pressure pipe greater than 14 inches in diameter (based on questionnaire responses) and mechanical tubing from Canada.[5] U.S. imports of WSS pressure pipe are presented in table IV-2. China is the largest foreign supplier of WSS pressure pipe to the United States, accounting for 51.1 percent of the quantity of total imports in 2007, and 49.4 percent of the value.[6] From 2005 to 2007, the quantity and value of imports of WSS pressure pipe from China increased by 111.1 percent and 225.2 percent, respectively. At the same time, the unit value of imports of WSS pressure pipe from China increased by 54.1 percent. The quantity and value of imports from other countries increased by 35.9 percent and by 111.3 percent, respectively, from 2005 to 2007. In 2007, *** percent of U.S. importers' imports of WSS pressure pipe from China was A-312, and *** percent was A-778. In addition, *** percent of their 2007 U.S. imports from China was less than or equal to 4.5 inches in outside diameter, and *** percent was greater than 4.5 up to 14 inches. In 2007, *** percent of U.S. importers' imports of WSS pressure pipe from all other sources was A-312, and *** percent was A-778. In addition, *** percent of their 2007 U.S. imports from all other sources was less than or equal to 4.5 inches in outside diameter, and *** percent was greater than 4.5 up to 14 inches.

Nonsubject imports of WSS pressure pipe are presented in table IV-3. Four countries - Korea, Malaysia, Taiwan, and Thailand - consistently accounted for the large majority of imports of WSS pressure pipe from nonsubject sources during 2005-07.

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[1] Eight firms reported that they did not import the subject merchandise during 2005-07.

[2] The Commission received two incomplete questionnaire responses from firms, Angstrom USA and Robert Mitchell Co., Inc., that import from *** and ***, respectively. Ta Chen, the *** , did not respond to the Commission questionnaire.

[3] Imports of WSS pressure pipe are from official statistics under the HTS statistical reporting numbers 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085. Although certain larger diameter product may enter under these statistical reporting numbers, only *** reported such entries.

[4] Some WSS pressure pipe may be imported under HTS statistical reporting numbers 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090, which are basket categories. *** was the only U.S. importer to report imports under these statistical reporting numbers (these imports were from ***).

[5] Import data for Canada are not being used because the overwhelming majority consists of nonsubject mechanical tubing. ***.

[6] A majority of the remainder comes from Korea, Malaysia, Taiwan, and Thailand.

Table IV-1
WSS pressure pipe: U.S. importers, locations, related and/or affiliated firms, and shares of reported U.S. imports in 2007

Firm name	Location	Related and/or affiliated firms	Share of 2007 reported U.S. imports from China (*percent*)	Share of 2007 reported total U.S. imports (*percent*)	Source of other imports
Angstrom	Taylor, MI	None.	***	***	***
Kurt Orban	Burlingame, CA	None.	***	***	***
Merit Brass	Cleveland, OH	None.	***	***	***
Millennia	Santa Fe Springs, CA	None.	***	***	***
Norca	Great Neck, NY	Norca Corp. (United States)	***	***	***
Outokumpu	Wildwood, FL	Outokumpu (United States) Outokumpu (Finland) Outokumpu (Sweden)	***	***	***
Pusan	Santa Fe Springs, CA	Seah (Korea)	***	***	***
Robert Mitchell (Douglas Brothers Div)	Portland, ME	Marshall Barwick (Canada) Douglas Barwick (Canada)	***	***	***
Silbo	Montvale, NJ	None.	***	***	***
Sumitomo	Houston, TX	Sumitomo (Japan)	***	***	***
Summit	North Brunswick, NJ	Sumitomo Corp. of America (United States)	***	***	***
Techlin	Somerset, NJ	None.	***	***	***
Total			100.0	100.0	

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

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

Table IV-2
WSS pressure pipe: U.S. imports, by sources, 2005-07

Source	Calendar year		
	2005	2006	2007
	Quantity (*short tons*)		
China	14,486	23,751	30,574
Nonsubject sources	21,567	22,860	29,314
Total	36,053	46,611	59,888
	Value (*1,000 dollars*)[1]		
China	47,923	79,051	155,849
Nonsubject sources	75,650	93,018	159,869
Total	123,573	172,069	315,718
	Unit value (*per short ton*)[1]		
China	3,308	3,328	5,097
Nonsubject sources	3,508	4,069	5,454
Average	3,428	3,692	5,272
	Share of quantity (*percent*)		
China	40.2	51.0	51.1
Nonsubject sources	59.8	49.0	48.9
Total	100.0	100.0	100.0
	Share of value (*percent*)		
China	38.8	45.9	49.4
Nonsubject sources	61.2	54.1	50.6
Total	100.0	100.0	100.0

[1] Landed, duty-paid.

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

Source: Compiled from official Commerce statistics, as adjusted by questionnaire responses.

Table IV-3
WSS pressure pipe: U.S. imports from nonsubject countries, by sources, 2005-07

Source	Calendar year		
	2005	2006	2007
	Quantity (*short tons*)		
Korea	5,715	4,506	4,526
Malaysia	3,408	2,993	3,860
Taiwan	9,840	14,216	18,341
Thailand	1,192	1,516	1,740
All other	1,719	1,033	1,010
Subtotal	21,874	24,264	29,478
Adjustments[1]	(307)	(1,404)	(164)
Total	21,567	22,860	29,314
	Value (*1,000 dollars*)[2]		
Korea	17,573	14,178	19,270
Malaysia	10,956	9,501	19,444
Taiwan	37,588	66,279	106,301
Thailand	3,798	5,675	8,457
All other	6,883	4,731	7,244
Subtotal	76,798	100,363	160,716
Adjustments[1]	(1,148)	(7,345)	(847)
Total	75,650	93,018	159,869
	Unit value (*per short ton*)[2]		
Korea	3,075	3,146	4,258
Malaysia	3,215	3,174	5,037
Taiwan	3,820	4,662	5,796
Thailand	3,187	3,744	4,860
All other	4,003	4,580	7,169
Subtotal	3,511	4,136	5,452
Adjustments[1]	3,742	5,230	5,175
Total	3,508	4,069	5,454

[1] Adjusted to include WSS pressure pipe imported under HTS basket categories and to exclude pressure pipe greater than 14 inches; data exclude imports of nonsubject mechanical tubing from Canada.
[2] Landed, duty-paid.

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

Source: Compiled from official Commerce statistics as adjusted by questionnaire responses.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of WSS pressure pipe presented in table IV-4 are based on U.S. producers' U.S. shipments of WSS pressure pipe provided in response to Commission questionnaires and U.S. imports from official statistics as adjusted to include WSS pressure pipe imported under HTS basket categories and to exclude pressure pipe greater than 14 inches and imports of nonsubject mechanical tubing from Canada. Apparent U.S. consumption increased steadily by *** percent from 2005 to 2007. A substantial portion of the increase in demand was a result of the expansion of ethanol facilities in the United States.[7] However, the ethanol expansion has reportedly begun to slow.[8]

Table IV-4
WSS pressure pipe: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 2005-07

Item	Calendar year		
	2005	2006	2007
	Quantity (*short tons*)		
U.S. producers' U.S. shipments[1]	***	***	***
U.S. imports from--			
China[2]	14,486	23,751	30,574
Nonsubject[2]	21,567	22,860	29,314
Total imports	36,053	46,611	59,888
Apparent U.S. consumption	***	***	***
	Value (*1,000 dollars*)		
U.S. producers' U.S. shipments[1]	***	***	***
U.S. imports from--			
China[2]	47,923	79,051	155,849
Nonsubject[2]	75,650	93,018	159,869
Total imports	123,573	172,069	315,718
Apparent U.S. consumption	***	***	***

[1] F.o.b. U.S. mill.
[2] Landed, duty-paid.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics, as adjusted by questionnaire responses.

[7] Conference transcript, p. 36 (Schagrin).
[8] Conference transcript, pp. 36, 63 (Schagrin), p. 106 (Jakob).

U.S. MARKET SHARES

U.S. market share data are presented in table IV-5. The quantity of the U.S. producers' market share decreased *** percentage points from 2005 to 2007. In contrast, the share of subject imports from China increased from *** percent in 2005 to *** percent in 2007, on the basis of quantity. Nonsubject imports' market share decreased from 2005 to 2006, then increased in 2007, for an overall increase.

Table IV-5
WSS pressure pipe: Apparent U.S. consumption and market shares, 2005-07

* * * * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of WSS pressure pipe is presented in table IV-6. Imports from China were equivalent to *** percent of U.S. production during 2005, increased to *** percent during 2006, and further to *** percent in 2007.

Table IV-6
WSS pressure pipe: Ratio of U.S. imports to U.S. production, by sources, 2005-07

* * * * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Flat- rolled stainless steel and alloying agents are the primary raw materials used to produce WSS pressure pipe. Raw material costs have risen substantially since 2005 and accounted for as much as 70 to 80 percent of the cost of production of WSS pressure pipe in 2007.[1] As shown in figure V-1, the monthly prices of AISI 304 stainless steel increased by 65.9 percent during 2005-07.[2] This trend reflects the rising costs of scrap iron and alloying agents such as chromium, molybdenum, manganese, and nickel. The latter element is especially important for the nickel-rich stainless steel grades 304 and 316 used to manufacture WSS pressure pipe. As shown in figure V-2, monthly nickel prices rose from $0.41 per pound of steel in January 2005 to a peak of $2.60 per pound of steel in July 2007. The price of nickel per pound of steel subsequently declined irregularly to $1.45 per pound of steel by December 2007.

As a result of rising costs, many stainless steel sheet producers have instituted raw material, energy, and fuel surcharges.[3] These surcharges are then passed along by producers of WSS pressure pipe. According to conference testimony, monthly surcharges have increased since 2003 and grade 304 prices, in particular, increased by 223 percent from 2004 to 2007. These surcharges reportedly can account for as much as 50 percent of the final price of WSS pressure pipe.[4]

Energy inputs used in the production of WSS pressure pipe include natural gas and electricity. As shown in table V-1, the cost of both natural gas and electricity have increased since 2002.

Transportation Costs to the U.S. Market

Transportation costs for WSS pressure pipe from China to the United States (excluding U.S. inland costs) in 2007 are estimated to be equivalent to approximately 1.0 percent of the customs value from product from China. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.[5]

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[1] Conference transcript, p. 15 (Cornelius).

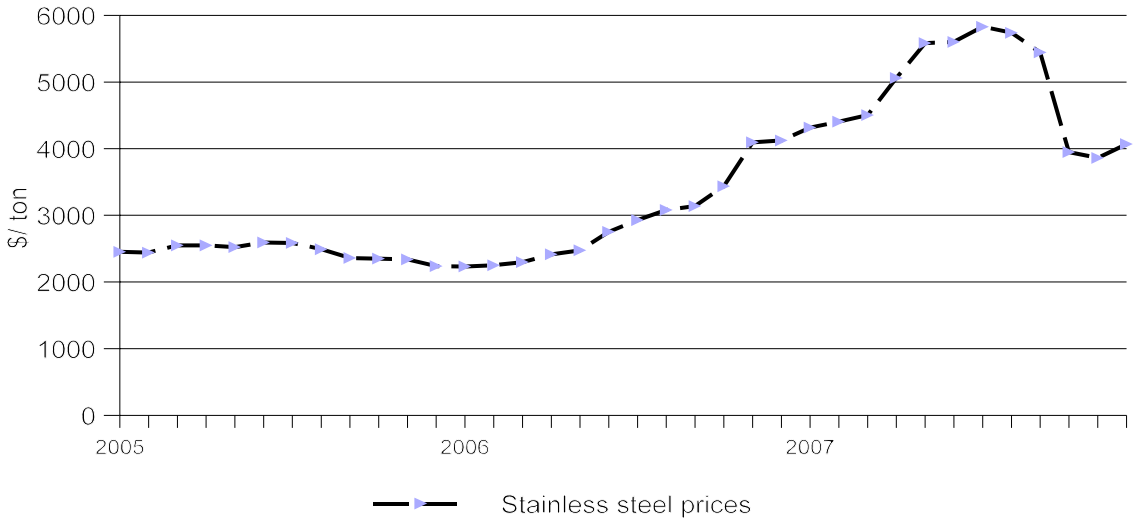
[2] Welded A-312 pipes are normally manufactured from hot-rolled stainless steel sheet.

[3] Petitioners' postconference brief. *Also see Certain Welded Stainless Steel Pipe From Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Second Review)*, USITC Publication 3877, August 2006, pp. V-1 to V-2.

[4] Conference transcript, p. 7 (Schagrin).

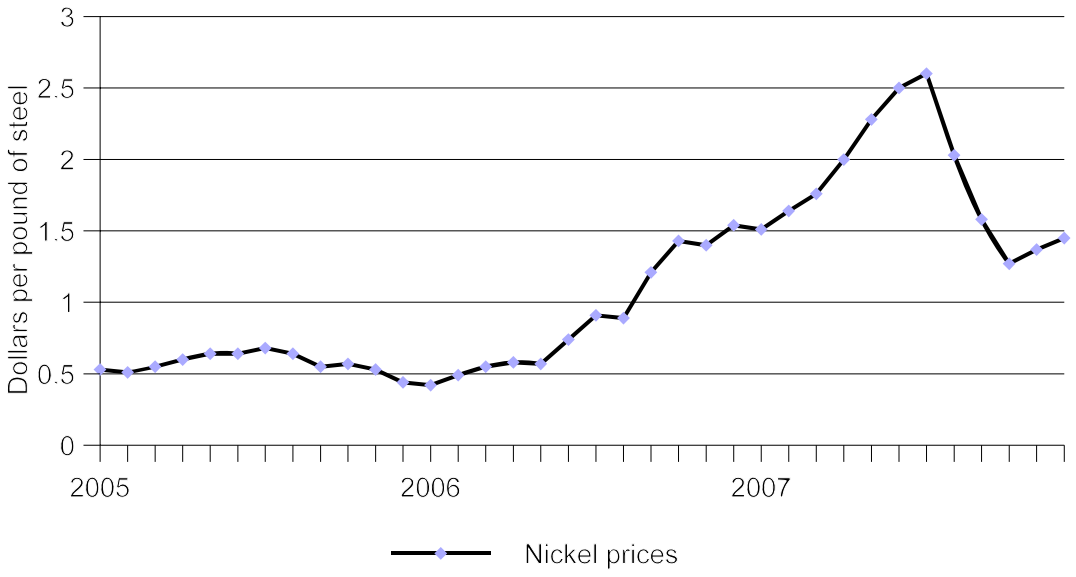
[5] These estimates are based on HTS statistical reporting numbers 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.60.64, and 7306.40.50.85.

Figure V-1
Cold-rolled and hot-rolled stainless steel sheet: Monthly prices of grade AISI 304, 2005-07



Source: Purchasing Magazine's *Steel Price Transaction Report*.

Figure V-2
Nickel prices, by month, 2005-07



Source: Petitioners' postconference brief, Exhibit 8.

Table V-1
U.S. natural gas and electricity prices for industrial customers, 2002-07

Item	2002	2003	2004	2005	2006	Jan.-Nov. 2007
U.S. natural gas[1] industrial prices	$4.02	$5.89	$6.53	$8.56	$7.86	$7.37
Electricity[2] industrial prices	4.88¢	5.11¢	5.25¢	5.73¢	6.16¢	6.38

[1] In dollars per thousand cubic feet.
[2] In cents per kilowatt-hour.

Sources: U.S. Energy Information Administration, http://www.eia.doe.gov.

U.S. Inland Transportation Costs

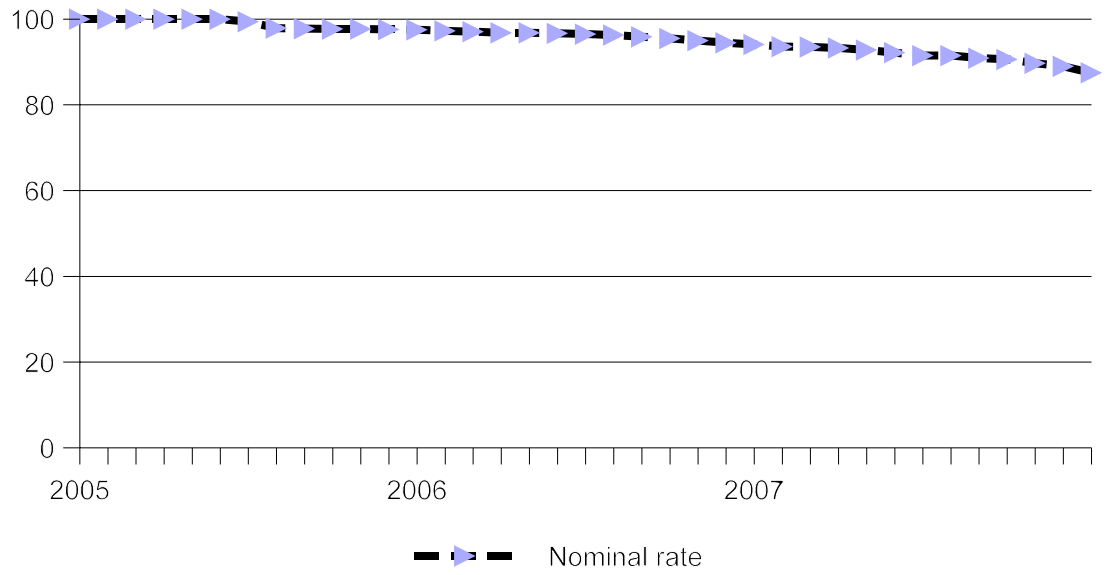
The five responding U.S. producers reported that U.S. inland transportation costs for WSS pressure pipe generally ranged between 1.0 and 2.5 percent of U.S.-produced WSS pressure pipe. For imports from China these costs accounted for between less than 1.0 percent and 5.0 percent for imports of WSS pressure pipe, with four of five responding importers reporting the U.S. inland transportation costs of less than 5.0 percent. The five responding U.S. producers and five of eight importers reported that they normally arrange for inland transportation. The remaining two importers reported that the purchaser arranges for U.S. inland transportation. On average, U.S. producers sold 6.3 percent of their WSS pressure pipe within 101 miles of their storage or production facilities, 78.2 percent between 101 and 1,000 miles, and 15.5 percent beyond 1,000 miles. Seven of the ten responding importers also reported nationwide sales; another reported sales to the Northwest, Southeast, Mid-Atlantic, Mid-West, and Great Lakes; another reported sales in the Mid-Atlantic; and the remaining importer reported sales in the Southeast, Mid-West, and the West Coast. On average, U.S. importers of Chinese WSS pressure pipe sold 39.5 percent of their WSS pressure pipe within 100 miles of their entry or storage facilities, 22.9 percent between 101 and 1,000 miles, and 37.5 percent over 1,000 miles.

Exchange Rates

Quarterly data reported by the Federal Reserve Bank of St. Louis indicate that the nominal exchange rate for the Chinese yuan appreciated against the U.S. dollar during 2007 compared to 2006, averaging 7.58 yuan per dollar. Figure V-3 shows that quarterly nominal exchange rate index of the Chinese yuan relative to the U.S. dollar during 2005-07.[6]

[6] Producer price data in China were not available to calculate real exchange rates of the yuan vis-a-vis the U.S. dollar during 2005-07. The Chinese government effectively pegged the yuan to the U.S. dollar at 8.28 per dollar during the early part of this period. On July 21, 2005, the Chinese government announced that it would no longer peg the yuan to the U.S. dollar but would tie the yuan to a basket of currencies. Within the new basket, the yuan was revalued upward against the U.S. dollar by 2.1 percent, or from 8.28 yuan per dollar under the old peg to 8.11 yuan per dollar under the new exchange rate policy. The Chinese government has not disclosed which currencies are in the new basket, but indicated that the weight of the U.S. dollar represented less than 50 percent of the new basket of currencies.

Figure V-3
Nominal exchange rate indices of the Chinese yuan relative to the U.S. dollar, by quarters, 2005-2007



Note. - - Index (Jan.-Mar. 2005=100). Exchange rates are in U.S. dollars per Chinese yuan.

Source: Federal Reserve Bank of St. Louis, retrieved from http://research.stlouis.org, last accessed March 5, 2008.

PRICING PRACTICES

Pricing Methods

Five U.S. producers and seven U.S. importers of WSS pressure pipe from China and from other countries reported their 2007 shipments by type of sale.[7] U.S. producers' and importers' shares of their 2007 U.S. commercial shipments of the domestically produced and imported Chinese WSS pressure pipe, on average, are shown in the following tabulation.

Type of sale	Share of 2007 U.S. commercial shipments *(percent)*	
	U.S.- produced products	Imported Chinese products
Spot sale	78.5	84.5
Short-term sales	21.5	15.5
Long-term sales	0	0
Total	100.0	100.0

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

[7] Data for nonsubject countries are presented in appendix D.

U.S. producers and importers reported that spot sales, short-term sales, and long-term contract sales were most often negotiated on an individual transaction basis, although U.S. producers also reported using price lists. U.S. producers and importers reported the typical provisions of their short-term sales agreements with their customers for WSS pressure pipe. U.S. producers reported that their short-term contracts ranged from 60 days to 12 months and importers reported that their short-term contracts ranged from 3 to 6 months. Four of the five responding U.S. producers reported that prices could be renegotiated during the contract period while the fifth reported that they could not. Responding importers reported that prices could not be renegotiated during the contract period. The majority of U.S. producers reported that short-term contracts generally fix both price and quantity. Responding U.S. producers reported that short-term contracts did not have meet or release provisions. One of two responding importers reported that short-term contracts did have meet or release provisions, whereas the other reported that they did not.

Responding U.S. producers reported making at least 40 percent of their sales from inventory. Two of five U.S. producers reported that 65 percent of their sales were from inventory, two others reported that 80 percent of its sales were from inventory, and the remaining U.S. producer reported that 40 percent of its sales were from inventory. The responding U.S. producers also reported giving quantity discounts for their sales of WSS pressure pipe. Four of the five responding U.S. producers reported giving quantity discounts based on either annual or quarterly volumes while the fifth offered quantity discounts based on early payment. Six of ten responding importers reported making 100 percent of their sales on a produced-to-order basis, the remaining four importers reported that 100 percent of their sales were from inventory. Reported lead times on produced-to-order sales ranged from 90 to 120 days, whereas lead times on sales from inventory ranged from one to seven days.

Prices are determined differently by different suppliers. Eight of ten responding importers reported determining price through transaction-by-transaction negotiations and the remaining importers reported determining price through contracts. Seven of ten responding importers reported that they did not give discounts; whereas the remaining importers reported giving quantity discounts. Seven of ten responding importers reported typical sales terms net 30 days, one reported 45 days, one reported sales terms of 60 days, and another reported various sales terms.

Since 2005, raw material surcharges have accounted for a substantial portion of the final price of WSS pressure pipe for domestic suppliers. Over the past 12 months, energy and fuel (delivery) surcharges have also been added to the price of steel sheet and passed on to the price of WSS pressure pipe. In 2007, prices in the WSS pressure pipe industry are reportedly continuing to rise in order to keep pace with rising input costs.[8]

PRICE DATA

The Commission requested U.S. producers and importers of WSS pressure pipe to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of specified A-312 pipes that were shipped to unrelated customers in the U.S. market in 2005-07. The products for which pricing data were requested are as follows:

[8] Conference transcript, p. 7 (Schagrin).

Product 1.--ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40;
Product 2.--ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40;
Product 3.--ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10;
Product 4.--ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10; and
Product 5.--ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40.[9]

The price data were based on quarterly net U.S. f.o.b. selling price data of U.S. producers and importers for their shipments of the specified domestic and imported Chinese WSS pressure pipe, during 2005-07, for sales to unrelated U.S. distributors. In addition, each U.S. importer was requested to provide the selling price data for the specified product categories that they imported from their largest nonsubject country source.

Five U.S. producers and six importers of welded A-312 pipe from China, provided usable pricing data for sales of the requested products. In addition, seven U.S. importers of WSS pressure pipe also reported the requested price data for three nonsubject countries, two of which (Taiwan and Korea) have U.S. antidumping duty orders in place.[10]

Price Trends

Tables V-2 through V-6 and figures V-4 through V-8 present f.o.b. (U.S. point of shipment) selling prices to unrelated customers for the five products defined above which were produced and sold in the United States as well as for products produced in China and sold in the United States. Pricing data reported by responding firms accounted for *** of U.S. producers' shipments of U.S.- produced WSS pressure pipe and *** of reported U.S. shipments of subject imports from China from January 2005 through December 2007 (based on questionnaire responses). In addition, price comparisons between domestic A-312 pipe and that imported from nonsubject countries are shown in appendix D.

[9] Grade AISI 316 stainless steel has corrosion resistance superior to that of grade AISI 304 (which is more widely used in the production of welded A-312 pipes). Grade AISI 316 also has higher strength at elevated temperatures than does AISI 304. These properties are due principally to the higher nickel content of AISI 316 as well as the addition of molybdenum to the steel. Iron & Steel Society, *Steel Products Manual: Stainless Steels*, 1999, pp. 86, 114.

[10] As noted previously, however, imports of welded stainless pressure pipe from two Taiwan producers (Chang Tieh Industry and Ta Chen) are not subject to antidumping duty orders.

Table V-2
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1] and margins of underselling/(overselling), by quarters, January 2005 - December 2007

Period	United States		China		
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Margin *(percent)*
2005: Jan.-Mar.	$2,949.80	166.0	$2,470.95	114.5	16.2
Apr.-June	2,999.34	88.9	2,670.07	139.2	11.0
July-Sept.	2,961.33	123.2	2,420.56	165.3	18.3
Oct.-Dec.	2,705.27	87.9	2,005.36	135.4	25.9
2006: Jan.-Mar.	2,660.57	121.8	2,058.78	169.0	22.6
Apr.-Mar.	3,088.39	128.3	2,157.20	200.4	30.2
July-Sept.	3,627.96	129.2	2,582.72	260.1	28.8
Oct.-Dec.	4,245.73	68.9	3,238.84	257.0	23.7
2007: Jan.-Mar.	4,837.92	68.2	4,478.35	274.1	7.4
Apr.-June	5,372.19	71.1	3,948.24	257.6	26.5
July-Sept.	4,485.83	83.0	5,256.59	224.3	(17.2)
Oct.-Dec.	4,095.01	46.1	4,175.92	154.9	(2.0)

[1] ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40.

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

Table V-3
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] and margins of underselling/(overselling), by quarters, January 2005 - December 2007

Period	United States		China		
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Margin *(percent)*
2005: Jan.-Mar.	$5,925.52	148.5	$5,294.78	88.2	10.6
Apr.-June	6,190.69	72.4	5,605.01	92.8	9.5
July-Sept.	5,809.50	78.8	5,219.46	112.6	10.2
Oct.-Dec.	5,470.45	56.6	4,263.81	98.5	22.1
2006: Jan.-Mar.	5,385.88	138.6	4,659.92	154.1	13.5
Apr.-Mar.	5,857.54	102.3	4,703.80	162.8	19.7
July-Sept.	7,855.54	111.4	6,038.67	189.2	23.1
Oct.-Dec.	9,422.27	80.5	6,856.51	178.4	27.2
2007: Jan.-Mar.	8,641.32	102.4	7,321.25	232.9	15.3
Apr.-June	8,625.55	69.5	7,881.03	206.1	8.6
July-Sept.	7,853.28	55.5	9,114.48	173.9	(16.1)
Oct.-Dec.	***	***	***	***	***

[1] ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40.

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

Table V-4
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1] and margins of underselling/(overselling), by quarters, January 2005 - December 2007

Period	United States		China		
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price (*per 1,000 feet)*	Quantity *(1,000 feet)*	Margin *(percent)*
2005: Jan.-Mar.	$***	***	$908.13	6.4	***
Apr.-June	1,524.26	6.1	1,365.12	4.1	10.4
July-Sept.	***	***	1,017.59	5.6	***
Oct.-Dec.	1,255.36	15.5	1,030.24	6.3	17.9
2006: Jan.-Mar.	1,396.07	8.9	917.41	12.7	34.3
Apr.-Mar.	1,395.25	15.8	1,142.30	8.3	18.1
July-Sept.	1,970.60	10.1	1,066.87	9.7	45.9
Oct.-Dec.	***	***	1,471.41	12.9	***
2007: Jan.-Mar.	2,130.63	9.6	1,572.48	27.9	26.2
Apr.-June	2,271.65	9.1	1,520.87	15.4	33.1
July-Sept.	1,898.83	26.5	1,698.16	17.1	10.6
Oct.-Dec.	1,532.79	21.5	1,889.58	9.0	(23.3)

[1] ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10.

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

Table V-5
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1] and margins of underselling/(overselling), by quarters, January 2005 - December 2007

Period	United States		China		
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Margin *(percent)*
2005: Jan.-Mar.	$15,198.19	61.2	$13,130.36	22.2	13.6
Apr.-June	15,496.26	49.2	***	***	***
July-Sept.	15,292.44	59.1	13,400.90	29.4	12.4
Oct.-Dec.	13,696.95	75.2	11,521.47	19.9	15.9
2006: Jan.-Mar.	13,788.60	77.2	12,180.82	39.4	11.7
Apr.-Mar.	15,728.95	67.6	13,035.11	59.6	17.1
July-Sept.	19,284.15	100.0	14,721.03	50.5	23.7
Oct.-Dec.	22,668.69	143.0	17,400.97	80.6	23.2
2007: Jan.-Mar.	25,164.84	55.0	20,156.15	152.6	19.9
Apr.-June	25,487.08	51.0	21,105.02	114.7	17.2
July-Sept.	21,830.97	41.3	22,217.71	88.7	(1.8)
Oct.-Dec.	22,609.09	26.4	***	***	***

[1] ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10.

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

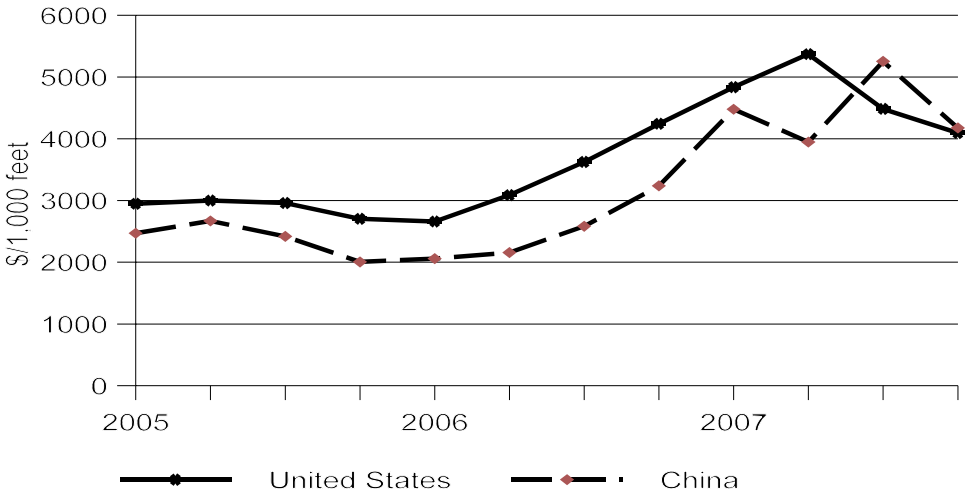
Table V-6
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 5[1] and margins of underselling/(overselling), by quarters, January 2005 - December 2007

Period	United States		China		
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price (*per 1,000 feet)*	Quantity *(1,000 feet)*	Margin *(percent)*
2005: Jan.-Mar.	$9,736.70	49.7	$10,751.46	24.0	(10.4)
Apr.-June	10,309.42	61.8	8,774.53	47.2	14.9
July-Sept.	10,267.98	47.8	8,926.89	51.1	13.1
Oct.-Dec.	9,616.68	56.5	8,389.16	30.8	12.8
2006: Jan.-Mar.	9,174.41	55.2	7,564.61	38.6	17.6
Apr.-Mar.	9,648.69	56.5	7,869.98	55.0	18.4
July-Sept.	12,125.37	65.4	9,149.32	64.7	24.5
Oct.-Dec.	13,644.29	54.1	10,895.55	69.0	20.3
2007: Jan.-Mar.	13,096.37	35.3	12,419.58	50.0	5.2
Apr.-June	12,362.79	41.0	12,731.99	56.9	(3.0)
July-Sept.	13,447.11	33.1	14,556.16	26.3	(8.2)
Oct.-Dec.	12,570.00	22.6	***	***	***

[1] ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40.

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

Figure V-4
WSS pressure pipe: Weighted-average f.o.b. prices of domestic and imported product 1, by quarters, January 2005-December 2007



Source: Table V-2.

Figure V-5
WSS pressure pipe: Weighted-average f.o.b. prices of domestic and imported product 2, by quarters, January 2005-December 2007

* * * * * * *

Figure V-6
WSS pressure pipe: Weighted-average f.o.b. prices of domestic and imported product 3, by quarters, January 2005-December 2007

* * * * * * *

Figure V-7
WSS pressure pipe: Weighted-average f.o.b. prices of domestic and imported product 4, by quarters, January 2005-December 2007

* * * * * * *

Figure V-8
WSS pressure pipe: Weighted-average f.o.b. prices of domestic and imported product 5, by quarters, January 2005-December 2007

* * * * * * *

U.S. producers' weighted-average prices for product 1 increased by 82.1 percent from January-March 2005 through April-June 2007 then declined through the remainder of the year. Overall, prices for product 2 increased irregularly by 59.0 percent from January-March 2005 to October-December 2006 then declined through the remainder of the period. Weighted-average prices for domestic product 3 increased by *** percent from January 2005 to April-June 2007 before declining through the remainder of the period. Weighted-average prices for domestic product 4 increased by 67.7 percent from January 2005 through April-June 2007 before declining through the remainder of the period. Average prices for domestic product 5 increased by 38.1 percent from January 2005 through October-December 2006 before declining through the remainder of the period.

Prices of U.S. shipments of product 1 imported from China increased by 112.7 percent from January 2005 through July-September 2007 before declining through the rest of the period. Prices of Chinese product 2 increased irregularly by 72.1 percent from January 2005 through July-September 2007 before declining in the final quarter. Prices of Chinese product 3 increased by *** percent from 2005 to 2007. Likewise, prices of Chinese product 4 increased by *** percent from 2005 to 2007. Prices of U.S. shipments of Chinese product 5 increased by 35.4 percent from January 2005 to July-September 2007 before declining in the final quarter.

Price Comparisons

Imported welded A-312 pipe from China undersold the domestic product in 49 of 60 quarters. A detailed summary of margins of overselling and underselling is presented in table V-7.

Table V-7
WSS pressure pipe: Number of quarters of underselling and overselling and highest and lowest margin of underselling and overselling, by product

Product	Number of quarters of underselling	Number of quarters of overselling	Lowest margin of underselling	Highest margin of underselling	Lowest margin of overselling	Highest margin of overselling
China						
Product 1	10	2	7.4	30.2	2.0	17.2
Product 2	10	2	8.6	27.2	***	16.1
Product 3	11	1	10.4	45.9	23.3	23.3
Product 4	10	2	***	23.7	1.8	***
Product 5	8	4	5.2	24.5	3.0	10.4

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

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of WSS pressure pipe to report any instances of lost sales and /or lost revenues they experienced due to competition from imports of WSS pressure pipe from China during January 2005 through December 2007. One petitioner, *** provided a list of 42 alleged lost sales or lost revenues to Chinese competitors in 2007 and 2008. *** reported *** lost sales allegations totaling $*** and involving *** feet of WSS pressure pipe and *** lost revenues allegations totaling $*** and involving *** feet of WSS pressure pipe. Staff contacted the listed purchasers, and a summary of the information obtained is presented in tables V-8 and V-9 and is discussed below in detail.

Table V-8
WSS pressure pipe: U.S. producers' lost sales allegations

* * * * * * *

Table V-9
WSS pressure pipe: U.S. producers' lost revenue allegations

* * * * * * *

*** named *** in *** lost revenue allegations concerning imports of WSS pressure pipe from China. *** agreed with the allegations. *** named *** in *** lost sales allegations and *** lost revenue allegations. *** agreed with the lost sales allegations stating that "***." *** agreed with *** lost revenue allegations noting that "***." ***, indicated that during the period examined his company switched from welded stainless pressure pipe produced in the United States to pipe produced in ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Bristol, Felker, Marcegaglia, Outukumpu, and Webco, which together accounted for nearly *** percent of the U.S. production of WSS pressure pipe during the 2005-07 time period, supplied financial data on their WSS pressure pipe operations. Bristol, Marcegaglia, and Outukumpu are subsidiaries of larger entities, while Felker and Webco are independent producers. All five domestic producers produced other products (most notably other stainless and alloy pipes and tubes) at the establishments where WSS pressure pipe was produced. *** reported internal consumption of WSS pressure pipe, and these sales accounted for *** to *** percent of the industry's annual sales quantities and values. No firms reported any transfers to related parties. The unit sales values of *** product were very similar to the unit sales value of its commercial sales. Webco's fiscal year ends July 31, while the fiscal year for the other producers ends December 31.

OPERATIONS ON WSS PRESSURE PIPE

Aggregate income-and-loss data for the U.S. producers are presented in table VI-1. To summarize, the overall financial condition of the domestic WSS pressure pipe industry improved – though not substantially – from 2005 to 2007, even as sales quantities declined and costs increased sharply. Most of the improvement occurred from 2005 to 2006, as sales quantity, sales value, and profitability all improved, and the moderate operating loss turned to become a moderate operating profit. Increases in unit sales prices ($ *** per short ton) more than *** increases in unit operating costs (cost of goods sold and selling, general, and administrative costs combined) ($ *** per short ton, primarily resulting from higher raw material costs). From 2006 to 2007, increases in unit sales prices ($ *** per short ton) continued to exceed increases in unit operating costs ($ ***, again mostly raw materials), though by a much smaller margin, and profitability was essentially stable. Three producers reported operating losses in 2005, compared to none in 2007.

Table VI-1
WSS pressure pipe: Results of U.S. producers' operations, fiscal years 2005-07

* * * * * * *

The domestic industry has argued that the apparent improvement in its financial condition is the result of inventory gains caused by massive increases in the prices for nickel and molybdenum, and that this presents a unique condition of competition that the Commission should factor into its analysis in this investigation.[1] That is, U.S. producers of flat-rolled stainless steel (the input used to produce WSS pressure pipe) have instituted monthly surcharges to account for large price swings in the major cost components of stainless steel (nickel, chromium, molybdenum, vanadium, manganese, iron, titanium, and energy).[2] While there were marked fluctuations from month to month, these surcharges generally

[1] Petitioners' postconference brief, p. 3.

[2] Surcharges are a widely-accepted method of transparently and quickly accommodating changes in specific costs. Absent surcharges, which are in addition to some base price, buyers and sellers would have to continually renegotiate or otherwise reset the base price. From an accounting point of view, however, there is no distinction between revenues earned through either surcharges or base prices, and there is no distinction between costs incurred through either surcharges or base prices. Thus, if a company sells one ton of WSS pressure pipe and charges a base price of $4,000 per ton and a surcharge amount of $2,000 per ton, the revenue it reports in its financial statements is $6,000. Similarly, if that same company buys one ton of hot-rolled stainless steel and pays a base price of $4,000

(continued...)

increased, often by large amounts, from 2005 to 2007. Since there is an approximate two- to four-month time lag between the time the flat-rolled steel is ordered and the time the finished pipe is shipped, the cost of pipe shipped at any point in time is based upon surcharge amounts in effect several months previous. Lastly, since pipe producers bill their customers the surcharge amount in effect when the finished pipe is shipped, if surcharges are increasing (as they generally did from 2005 through 2007), an important component of reported profits is the difference between higher surcharges in effect when the finished pipe is shipped and lower surcharges imbedded in the cost of the pipe. If surcharges decline, then the reverse will be true, and pipe producers will be charging lower prices for finished pipe that has higher costs.[3]

In an effort to quantify the monthly effect of the surcharges, the Commission staff has prepared (in table VI-2) an estimate of the revenue, cost, and resulting profit or (loss) reflecting the monthly stainless steel surcharges reported by Allegheny Ludlum and AK Steel, two major suppliers of flat-rolled stainless steel.[4] The revenue data are the simple average of the grade 304 and grade 316 surcharges in effect by the two producers for the given month, while the cost data are the simple average of the grade 304 and grade 316 surcharges in effect by the two producers for the periods three, four, and five months previous.[5] Using July 2007 as an example, the revenue data ($5,754 per short ton) is the simple average of the grade 304 and grade 316 surcharges reported by Allegheny Ludlum and AK Steel for the month of July 2007, while the cost data ($4,007 per short ton) is the simple average of the grade 304 and grade 316 surcharges reported by Allegheny Ludlum and AK Steel for the months of February, March, and April 2007.[6] The data both demonstrates the extent of the surcharges (a low of $1,650 per short ton in March 2006 to a high of $5,754 per short ton in July 2007) and the fact that domestic producers benefitted from increasing surcharges and suffered when surcharges were declining (late 2005/early 2006 and again in late 2007).

The annual data at the bottom of the table agree with the financial data reported in table VI-1 – the cost increase from 2005 to 2006 was moderate when compared to the cost increase from 2006 to 2007, while the increase in profitability was much larger from 2005 to 2006 than from 2006 to 2007. Thus, the data are consistent with the argument that the profitability reported by the domestic WSS pressure pipe producers in 2006 and 2007 reflects their ability to pass along generally increasing cost surcharges.

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[2] (...continued)
per ton and a surcharge amount of $2,000 per ton, the cost it reports in its financial statements is $6,000.

[3] Conference transcript, pp. 75-76 (Henke), pp. 76-77 (Cornelius), and pp. 77-79 (Schagrin).

[4] The surcharges were provided by ***; *see* edis document number 294176. *See also* HTTP://WWW.AKSTEEL.COM/MARKETS_PRODUCTS/STAINLESS_SURCHARGES.ASP and HTTP://WWW.ALLEGHENYLUDLUM.COM/LUDLUM/PAGES/SURCHARGECALCULATOR/SURCHARGEFRONT.ASP?TYPE=STAINLESS%20STEEL. Although domestic WSS pressure pipe producers probably also sourced some of their hot-rolled stainless steel from North American Stainless, there is no publicly available surcharge information available for that company for periods prior to April 2007.

[5] This three month period is an estimate of the effect of the two- to four-month lag between the time the flat-rolled stainless steel is ordered and the time it is received and converted into pipe, plus any amount in inventory.

[6] The estimate in table VI-2 only takes surcharges into account; it does not take other items (essentially the base price), estimated to approximate $ *** per short ton per period, into account. Thus, changes in profitability in table VI-2 are not exactly comparable to changes in profitability in table VI-1.

Table VI-2
WSS pressure pipe: Estimated unit revenues, costs, and resulting profits or losses as a result of stainless steel surcharges, calendar years 2005-07

Date	Revenue	Cost	Gross profit	Gross profit
	Unit value (*per short ton*)			(*percent*)
January 2005	$1,771	$1,520	$251	14.2
February 2005	1,881	1,555	326	17.3
March 2005	1,947	1,599	349	17.9
April 2005	1,897	1,671	226	11.9
May 2005	2,104	1,791	313	14.9
June 2005	2,098	1,866	232	11.1
July 2005	2,237	1,908	328	14.7
August 2005	2,105	1,983	122	5.8
September 2005	1,793	2,033	(240)	(13.4)
October 2005	1,820	2,146	(327)	(18.0)
November 2005	1,922	2,147	(224)	(11.7)
December 2005	1,703	2,045	(342)	(20.1)
January 2006	1,672	1,906	(234)	(14.0)
February 2006	1,658	1,845	(187)	(11.3)
March 2006	1,650	1,815	(165)	(10.0)
April 2006	1,725	1,766	(41)	(2.4)
May 2006	1,712	1,678	35	2.0
June 2006	2,035	1,660	375	18.4
July 2006	2,420	1,678	743	30.7
August 2006	2,390	1,696	694	29.0
September 2006	2,943	1,824	1,119	38.0
October 2006	3,365	2,056	1,309	38.9
November 2006	3,312	2,282	1,030	31.1
December 2006	3,505	2,584	921	26.3
January 2007	3,454	2,899	554	16.1
February 2007	3,690	3,206	483	13.1
March 2007	3,922	3,394	528	13.5
April 2007	4,411	3,423	987	22.4
May 2007	5,065	3,549	1,515	29.9
June 2007	5,500	3,688	1,812	32.9
July 2007	5,754	4,007	1,747	30.4
August 2007	4,877	4,466	411	8.4
September 2007	4,039	4,992	(953)	(23.6)
October 2007	3,451	5,440	(1,989)	(57.6)
November 2007	3,661	5,377	(1,716)	(46.9)
December 2007	3,878	4,890	(1,013)	(26.1)
Annual 2005	1,940	1,855	84	4.4
Annual 2006	2,366	1,899	467	19.7
Annual 2007	4,308	4,111	197	4.6

Source: Edis document number 294181; AK Steel and Allegheny Ludlum are the source of the underlying surcharge data.

Selected company-by-company data are presented in table VI-3. Virtually every company reported the same experience – from 2005 to 2007 sales quantities decreased, sales values, unit sales values, and unit costs all increased, and, except for ***, profitability increased. All producers reported large increases in raw materials costs ($ *** per short ton), a reflection of the increase in raw material surcharges detailed in table VI-2. With the exception of *** (whose direct labor costs and other factory costs combined were higher than any other producer), direct labor costs for all producers were within a relatively narrow band, and overall increases were moderate. Other factory costs were not as contained, largely because of cost increases reported by *** (increased health insurance and energy costs)[7] and *** (increased profit sharing, pension, and outside processing costs).[8] In the aggregate, the industry's other factory costs increased by approximately $ *** (*** percent) from 2005 to 2007 while the sales quantities decreased by *** percent). The unit operating income for every producer was higher in 2007 than in 2005, meaning that every producer was able to raise their unit revenues by an amount in excess of increased unit costs.

Table VI-3
WSS pressure pipe: Selected financial data, by firm, fiscal years 2005-07

* * * * * * *

The variance analysis showing the effects of prices and volume on the producers' sales of WSS pressure pipe, and of costs and volume on their total cost, is shown in table VI-4. The analysis confirms that the increase in profitability from year to year and from 2005 to 2007 was the result of per-unit prices increasing faster than costs and expenses. The summary at the bottom of the table illustrates that from 2005 to 2007 the positive effect of increased prices ($ ***) was more than the negative effect of increased costs and expense ($ ***). The analysis also confirms that even though the magnitude of the change in prices, costs, and expenses was less from 2005 to 2006 than from 2006 to 2007, the impact was greater from 2005 to 2006 than from 2006 to 2007.

Table VI-4
WSS pressure pipe: Variance analysis of operations of U.S. producers, fiscal years 2005-07

* * * * * * *

Capital Expenditures and Research and Development Expenses

The capital expenditures and research and development (R&D) expenses are presented in table VI-5. Capital expenditures were *** for the domestic industry (table VI-1), an indication that the domestic industry is ***.

*** R&D expenses.

Table VI-5
WSS pressure pipe: Capital expenditures and R&D expenses, fiscal years 2005-07

* * * * * * *

[7] February 25, 2008 e-mail from ***.
[8] February 26, 2008 e-mail from ***.

Assets and Return on Investment

The domestic WSS pressure pipe industry's assets and its return on investment are presented in table VI-6. The increase in the total value of assets from 2005 to 2007 was the result of increased inventories; the original cost and book value of the producers' productive assets decreased by a small amount from 2005 to 2007. At the same time, the return on the assets turned from negative to positive as operating income increased.

Table VI-6
WSS pressure pipe: Value of assets and return on investment, fiscal years 2005-07

* * * * * * *

Capital and Investment

The Commission requested U.S. WSS pressure pipe producers to describe any actual or potential negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of WSS pressure pipe from China. The firms' comments are contained in appendix E.

PART VII: THREAT CONSIDERATIONS AND *BRATSK* INFORMATION

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

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors[1]--
>
> (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,

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider [these factors] . . . as a whole in making a determination of 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 under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

> (VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),
>
> (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).[2]

Information on the nature of the alleged subsidies and sales at less than fair value was presented earlier in this report; 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;" and dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission in relation to *Bratsk* rulings.

THE INDUSTRY IN CHINA

Overview

China's stainless steel tube production benefits from upstream Chinese industries. First, China is among the top ten countries in the world in nickel reserves, and China also holds a quarter of the world's reserves in molybdenum, the two key alloys in austenitic stainless steels. Together they account for most of the production cost of stainless steel.[3] In addition, according to the 2005 U.S. Geological Survey, Chinese companies have expanded their stainless steel capacity substantially over the past several years,[4] consistent with the country's rapid growth in stainless steel consumption.[5] In 2006, China surpassed Japan as the world's largest stainless steel producer. In 2007, according to the Stainless Steel Council of

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

[3] Stainless steel grades A-304 or A-316. Conference transcript, p. 22 (Avento).

[4] Pui Kwan Tse, *The Mineral Industry of China,* 2005 Mineral Yearbook, U.S. Geological Survey, 2005.

[5] Zhou Zhijiang, Jiuli Group, "*Basic Introduction of Production, Consumption and Demand of Stainless Steel Pipes in China.*" Second Asian Stainless Steel Conference, May 22-23, 2006, Shanghai, China. Petitioners' postconference brief, Exhibit 5.

China Special Steel Enterprises Association, China remained the leading stainless steel producer in the world with total production of 7.9 million tons.[6]

As with stainless steel generally, China has continued to expand its stainless steel tube production capacity. Recently reported activities include Baofeng Steel Corp.,[7] an affiliate of Baofeng Steel Group, which plans to begin production at a 5,500 ton facility in June 2008, producing welded stainless tubular products with diameter larger than 4.5 inches.[8] Tingshan, China's leading private stainless steel producer, has formed a joint venture with Spain's Irstal Group to install a welded stainless tubular plant with a capacity of 55,000 tons.[9] In December 2007, ArcelorMittal and Hunan Valin jointly expanded production of several value-added products, including welded stainless steel tubular products.[10]

The petition in these investigations identified nine producers and/or exporters of WSS pressure pipe in China.[11] The Commission sent foreign producer questionnaires to 24 firms, received one completed questionnaire, and received two responses indicating that the firms do not produce the subject product.[12] The responding firm, Winner Stainless Steel Tube Co., Ltd. ("Winner"), estimated that it accounts for *** percent of total exports of WSS pressure pipe from China to the United States.[13] In the most recent fiscal year, Winner estimated that the share of its total sales represented by sales of WSS pressure pipe is *** percent, based on quantity. U.S. importers identified the following Chinese producers as sources for their imports: ***.

WSS Pressure Pipe Operations

Information on Winner's WSS pressure pipe operations is presented in table VII-1. Capacity *** during the period, while production and capacity utilization increased in 2006 and decreased in 2007. Projections for 2008-09 included a ***.[14] Winner's capacity was based on *** hours per week, *** weeks per year. Winner reported *** of WSS pipe. Home market sales *** of Winner's shipments, and declined during 2005-07 as a share of total shipments, while the share held by total exports increased during the same period. As a share of total shipments, exports destined for the United States *** during 2005-07. Projections for 2008 and 2009 forecast that exports to the United States and exports to all other markets would ***.[15] Winner's other major export markets are ***. Inventories held by Winner decreased *** between December 2005 and December 2007, and are projected to ***.

Table VII-1
WSS pressure pipe: Winner's production capacity, production, shipments, and inventories, 2005-07, and projected 2008-09

* * * * * * *

[6] SteelGuru, "China remains largest SS producer in world 2007," February 18, 2008, found at *http://www.steelguru.com/news/index/2008/02/18/MzcwNjc%3D/China_remains_largest_SS_producer_in_world_2007.html*, retrieved on February 27, 2008.

[7] Baofeng Steel Corp. is an affiliate of Baofeng Steel Group.

[8] Capacity was reported as 5,000 metric tons with diameter of more than 114 mm. Welded Steel Tube and Pipe Monthly, February 2008, pp. 2, 12.

[9] Welded Steel Tube and Pipe Monthly, January 2008, pp. 11-12.

[10] Welded Steel Tube and Pipe Monthly, December 2007, p. 10.

[11] Petition, exh. I-6.

[12] The Commission received responses from *** indicating they do not produce WSS pressure pipe.

[13] Winner could not estimate the percentage of total production of WSS pipe in China for which it accounts.

[14] Winner's projections are based on ***.

[15] As of January 1, 2008, China imposed a 15 percent export tax on WSS pressure pipe (the same export tax was applied to flat-rolled stainless steel). Conference transcript, pp. 33-34 (Schagrin).

Winner *** inventories of circular welded pipe in the United States, and ***. Winner reported *** plans to add, expand, curtail, or shut down production capacity and/or production of circular welded pipe in China. However, U.S. importer *** reported that "a few new plants have opened in China" since January 1, 2005. Witnesses testifying at the Commission's staff conference also reported new production capacity in China.[16]

Alternative Products

In addition to WSS pressure pipe, Winner produces *** on the same equipment and machinery used to produce WSS pressure pipe.

U.S. IMPORTS SUBSEQUENT TO DECEMBER 31, 2007

Six U.S. importers reported that they had placed orders for WSS pressure pipe from China for delivery into the United States after December 31, 2007.[17] This information is presented in table VII-2.

Table VII-2
WSS pressure pipe: U.S. importers' orders after December 31, 2007

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Two U.S. importers reported inventories of imports of WSS pressure pipe from China during the period for which data were collected, and two firms reported inventories from other countries.[18] Data collected in these investigations on U.S. importers' end-of-period inventories of WSS pressure pipe are presented in table VII-3. Inventory from China decreased over the period. The ratio of inventory to imports and the ratios of inventory to U.S. and total shipments fell *** from 2005 to 2007. The ratio of inventory to imports fell from *** percent in 2005 to *** percent in 2007. The ratios of inventory to U.S. and total shipments fell from *** percent in 2005 to *** percent in 2007.

Table VII-3
WSS pressure pipe: U.S. importers' end-of-period inventories of imports, 2005-07

* * * * * * *

[16] According to one domestic producer, "(M)ost of this investment (in WSS pressure pipe productive facilities) has been made since the turn of the century. Most of these facilities have been built in the last five to seven years, and they continually expand, year on year." Conference transcript, p. 45 (Tidlow).

[17] Those firms were ***. Five firms, ***, reported orders of WSS pressure pipe from other sources after December 31, 2007.

[18] *** reported inventories from China. *** reported inventories from other sources.

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

Based on available information, WSS pressure pipe from China has been subject to import relief investigations in Argentina[19] and South Africa.[20] In the United States, there are two antidumping orders in effect on a subset of the subject merchandise (specifically ASTM A-312 pipe) from Korea and Taiwan.[21]

INFORMATION ON NONSUBJECT SOURCES

"Bratsk" Considerations

As a result of the Court of Appeals for the Federal Circuit ("CAFC") decision in *Bratsk Aluminum Smelter v. United States* ("Bratsk"), the Commission is directed to:

> *undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers."*[22]

Nonsubject Source Information

During the preliminary phase of these investigations, the Commission sought pricing data from U.S. importers of WSS pressure pipe from China, Taiwan, Korea, Malaysia, Thailand, and all other countries. Those data are presented in appendix D of this report. With respect to foreign nonsubject sources of supply, the Commission sought publicly available information regarding international suppliers of WSS pressure pipe since 2005 from national import and export statistics, from conference testimony, and from interviews with industry sources.

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[19] Final affirmative determination, June 1, 2007.

[20] Petition, exh. I-34.

[21] *Certain Welded Stainless Steel Pipe From Korea and Taiwan*, Inv. Nos. 731-TA-540-541 (Second Review), USITC Publication 3877 (August 2006). Imports of subject merchandise from two Taiwan producers are not subject to antidumping duties. In the original investigations, imports of subject merchandise by Chang Tieh Industry were determined to have a 0.00 percent dumping margin and thus no order was imposed. *Id*., p. I-2. After administrative reviews with *de minimis* dumping margins, Commerce revoked the order regarding imports of subject merchandise by Ta Chen as of December 1, 1998. *Id*., p. I-9.

[22] *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

Overview

As discussed in Part IV of this report, the leading nonsubject source of WSS pressure pipe is Taiwan; other major nonsubject source countries include Korea and Malaysia, followed by Thailand.[23] Imports from all nonsubject sources combined accounted for nearly 60 percent of total imports in 2005 but, by 2007, had decreased as a share of total imports to below 50 percent. Figure VII-1 shows the volume of subject and nonsubject imports for the period for which data were collected, while figure VII-2 shows the respective average unit values of such imports during the same period.

Global Exports of Circular Welded Tubes, Pipes, and Hollow Profiles of Stainless Steel

Table VII-4 presents information on global exports of circular welded tubes, pipes, and hollow profiles of stainless steel (HTS 7306.40) during 2004-06 (the most recent period available) as reported by *Global Trade Atlas*. Circular welded tubes, pipes, and hollow profiles of stainless steel encompass a larger commodity category, at the 6-digit international harmonization level, than subject WSS pressure pipe (including, for example, larger pipe sizes; mechanical tubing; tubing for boilers, heat exchangers, superheaters, refining furnaces, feedwater heaters, and condensers; and other specialized tubing).

Korea

In 2007, Korea was the third largest supplier of imported WSS pressure pipe to the United States. U.S. imports of ASTM A-312 pipe from Korea currently are subject to antidumping duties of up to 7.92 percent.[24] Nonetheless, as shown in table VII-5, the United States remains the leading market for exports of circular welded tubes, pipes, and hollow profiles of stainless steel from Korea. As reported by Simdex, Korea has four manufacturers of the subject products with a total capacity of almost 2.75 million tons. These companies also produce other types of stainless steel products. The two largest companies are Huyndai HYSCO (annual capacity of 1.1 million tons) and SeAH Steel (annual capacity of 1.3 million ton).[25]

Malaysia

Malaysia ranks behind Korea as a supplier of WSS pressure pipe to the United States. Nonetheless, as shown in tables VII-4 and VII-6, Malaysia is one of the leading global exporters of circular welded tubes, pipes, and hollow profiles of stainless steel, and the United States is one of Malaysia's leading markets for its exports of such products. Simdex reports that, in Malaysia, there are eight manufacturers of the subject products with total capacity of approximately 600,000 tons. These companies also produce several other types of stainless steel products. The largest company is Leader Steel with annual capacity of 220,000 tons.[26]

---

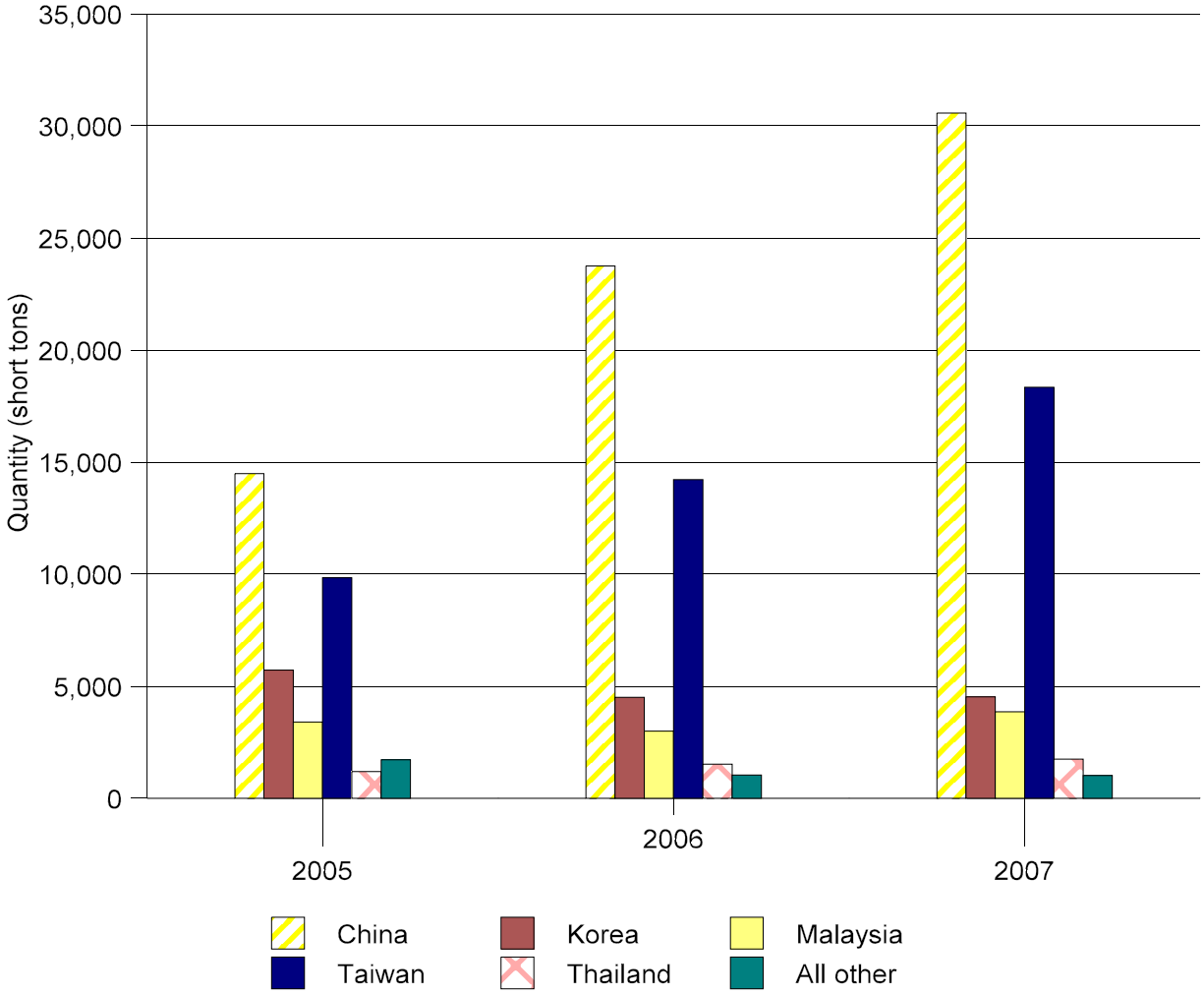
[23] Between 2005 and 2007, U.S. imports from Taiwan grew from less than one-half of the quantity of WSS pressure pipe imports from nonsubject countries to greater than 60 percent.

[24] 71 FR 96, January 3, 2006.

[25] The Simdex Steel Tube Manufacturers Worldwide Guide (2007). Some companies do not report data on capacity to Simdex and some do not specifically identify their stainless steel types.

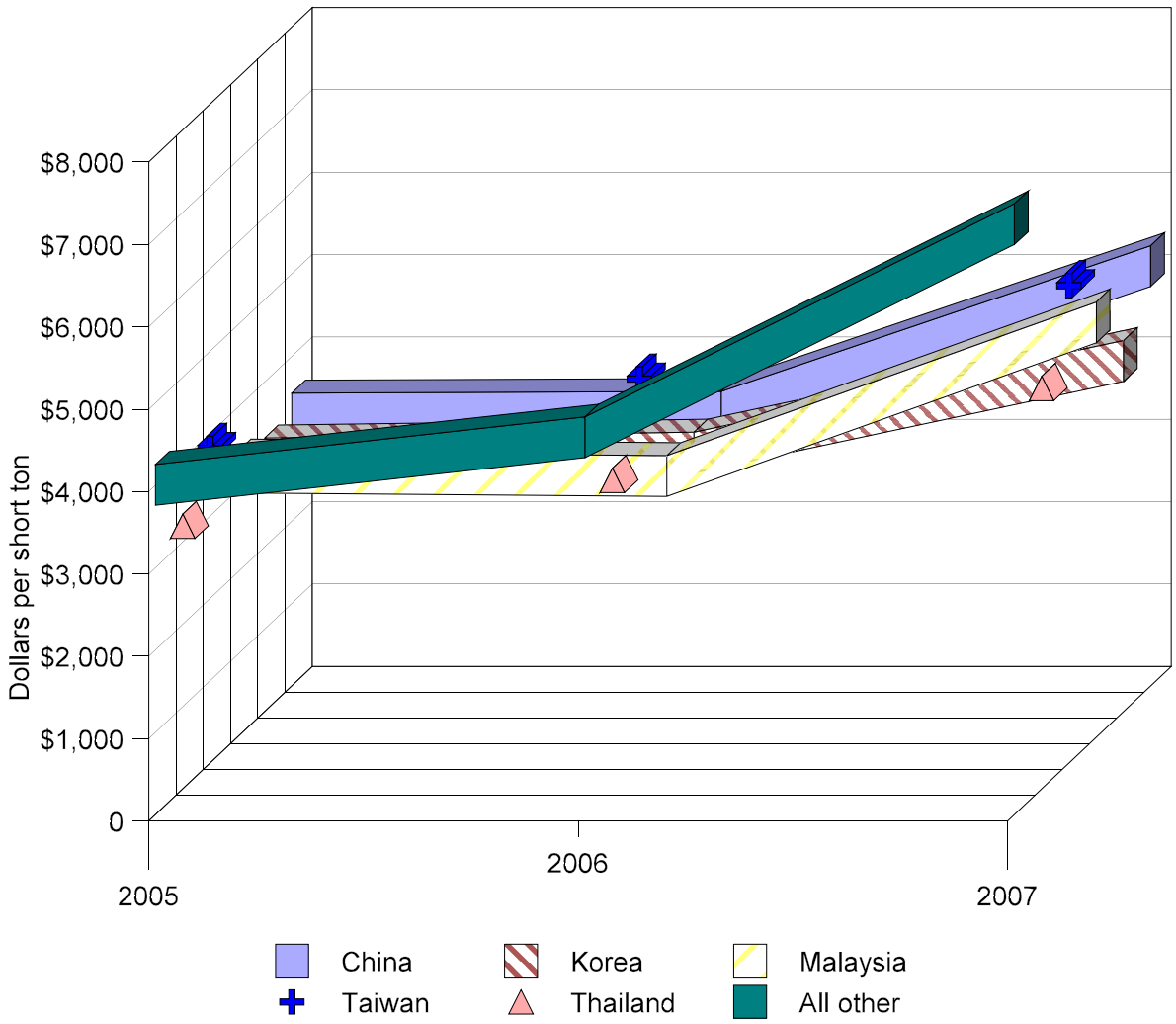
[26] Ibid.

Figure VII-1
WSS pressure pipe: Quantity of U.S. imports, by sources, 2005-07



Source: Tables IV-2 and IV-3.

Figure VII-2
WSS pressure pipe: Average unit values of U.S. imports, by sources, 2005-07



Source: Tables IV-2 and IV-3.

Table VII-4
Circular welded tubes, pipes, and hollow profiles of stainless steel: Global exports by leading sources, by quantity and average unit value, 2004-06

Leading sources	2004	2005	2006	2004	2005	2006
	Exports (*short tons*)			Unit value (*U.S. dollars per short ton*)		
Italy	230,369	236,791	270,518	3,265	3,366	4,067
Taiwan	92,956	102,339	136,443	2,636	3,115	3,620
Germany	68,633	83,820	98,283	5,246	5,252	5,936
China	37,328	49,694	95,999	2,383	2,758	3,151
United States	27,061	43,366	66,507	3,491	3,118	2,438
Sweden	31,627	29,136	40,537	4,707	4,915	5,570
France	24,230	27,537	32,323	4,775	5,079	4,941
Korea	28,108	26,573	27,043	2,568	3,131	3,886
Switzerland	34,233	34,058	23,563	2,836	2,971	3,391
Finland	25,794	23,563	23,288	3,877	4,098	4,830
Czech Republic	801	12,187	18,791	4,320	2,624	2,380
Canada	18,474	16,408	16,831	4,552	4,986	5,882
Malaysia	16,212	10,895	16,201	1,454	2,716	1,799
Belgium	17,722	16,719	15,140	2,547	2,280	3,308

Note.– Data were compiled from HTS 7306.40, which covers WSS pressure pipe as well as other forms of circular welded tubes, pipes, and hollow profiles of stainless steel.

Source: Compiled from *Global Trade Atlas*.

Taiwan

Since 2005, China has replaced Taiwan as the largest supplier of WSS pressure pipe to the U.S. market, although Taiwan remains the second largest supplier. While U.S. imports of ASTM A-312 pipe from Taiwan generally are subject to antidumping duties of up to 31.90 percent,[27] imports of such pipe from Taiwan producers Chang Tieh Industry and, since 1998, Ta Chen, are not covered. Despite the antidumping duty order on ASTM A-312 pipe, the United States remains a leading market for circular welded tubes, pipes, and hollow profiles of stainless steel from Taiwan, as shown in table VII-7. According to Simdex, there are nine companies producing welded stainless steel tubular products in Taiwan with a total capacity of over 424,000 tons. These companies also produce other types of stainless steel products. The largest company is Yieh Hsing Enterprise with annual capacity of 220,000 tons.[28]

[27] 71 FR 96, January 3, 2006.

[28] The Simdex Steel Tube Manufacturers Worldwide Guide (2007) is published by Simdex, a French market research and consulting firm in the steel and iron industry. Some companies do not report data on capacity to Simdex and some do not specifically identify their stainless steel types.

Table VII-5
Circular welded tubes, pipes, and hollow profiles of stainless steel: Korea's exports, by quantity and average unit value, 2004-06

Export markets	2004	2005	2006	2004	2005	2006
	Exports (*short tons*)			Unit value (*U.S. dollars per short ton*)		
United States	10,526	11,533	11,740	2,972	3,318	3,759
China	5,162	2,794	3,470	2,177	3,967	5,250
India	2,142	2,430	2,448	1,656	1,898	2,181
Saudi Arabia	0	12	1,524	---	5,814	3,796
Japan	2,997	2,459	1,341	2,740	2,815	3,262
Canada	1,154	724	1,192	2,486	2,696	3,181
Thailand	866	1,035	961	2,585	2,802	2,981
Oman	43	0	720	2,959	---	3,378
Vietnam	270	142	543	1,221	2,578	3,259
Singapore	1,255	656	474	2,840	3,200	3,692
Indonesia	602	1,413	404	1,578	1,649	3,326
Mexico	261	338	334	3,307	3,693	4,454
Iran	1,025	449	285	1,565	1,556	9,759
Pakistan	152	296	200	1,930	2,053	2,162
Philippines	25	4	176	4,167	2,511	3,973
Croatia	181	232	147	4,607	5,157	5,644
Australia	197	520	146	3,002	3,732	4,947
Germany	34	43	113	7,460	10,110	5,148
Hong Kong	208	248	98	3,939	4,988	5,308
New Zealand	224	298	80	1,390	1,816	1,820
Russia	0	68	67	---	1,448	3,565
Malaysia	43	20	65	3,557	3,650	5,204
Turkey	178	40	65	2,019	6,557	6,007
All other	561	817	448	6,245	5,196	9,167
World	28,108	26,573	27,043	2,568	3,131	3,886

Note.– Data were compiled from HTS 7306.40, which covers WSS pressure pipe as well as other forms of circular welded tubes, pipes, and hollow profiles of stainless steel.

Source: Compiled from *Global Trade Atlas*.

Table VII-6
Circular welded tubes, pipes, and hollow profiles of stainless steel: Malaysia's exports, by quantity and average unit value, 2004-06

Export markets	2004	2005	2006	2004	2005	2006
	Exports (*short tons*)			Unit value (*U.S. dollars per short ton*)		
United States	3,000	3,533	3,059	2,433	2,944	3,082
United Kingdom	1,870	1,847	1,459	2,562	3,639	3,593
Canada	1,077	1,068	1,019	2,649	3,100	3,255
India	625	606	713	798	1,304	3,538
Singapore	6,956	724	513	224	2,565	2,627
Indonesia	324	700	344	1,516	1,310	2,893
South Africa	474	582	222	2,555	3,193	3,475
Sri Lanka	84	293	216	2,703	1,975	2,997
Netherlands	707	206	206	2,675	3,031	3,981
Germany	0	0	164	---	---	1,165
Spain	50	0	131	2,668	---	3,514
Ireland	190	60	123	2,552	3,689	3,042
Australia	174	67	119	3,013	3,399	6,684
All other[1]	682	1,208	656	2,363	1,721	2,882
World	16,212	10,895	8,944	1,454	2,716	3,221

[1] Data for Brunei were omitted from 2006 exports and unit values, due to a reporting inconsistency.

Note.– Data were compiled from HTS 7306.40, which covers WSS pressure pipe as well as other forms of circular welded tubes, pipes, and hollow profiles of stainless steel.

Source: Compiled from *Global Trade Atlas*.

Table VII-7
Circular welded tubes, pipes, and hollow profiles of stainless steel: Taiwan's exports, by quantity and average unit value, 2004-06

Export markets	2004	2005	2006	2004	2005	2006
	Exports (*short tons*)			Unit value (*U.S. dollars per short ton*)		
United States	19,849	20,797	29,251	2,963	3,235	4,243
China	8,587	11,598	18,264	3,522	3,037	3,351
Australia	10,396	8,711	9,917	2,607	3,095	3,562
Netherlands	1,922	1,618	5,995	3,074	3,833	4,097
Turkey	2,094	2,463	5,392	2,479	3,083	3,356
Indonesia	4,485	3,850	4,873	2,179	2,487	2,926
United Kingdom	2,039	3,829	4,837	2,661	3,399	3,752
Singapore	3,032	3,185	4,749	2,658	3,112	3,503
South Africa	1,540	2,507	4,401	2,883	3,165	3,628
Canada	3,587	5,019	4,062	2,721	3,338	3,552
Hong Kong	4,117	2,844	3,778	2,650	3,146	3,240
Belgium	2,353	1,840	3,245	2,797	3,558	3,830
Brazil	1,912	3,516	2,917	2,402	2,860	2,883
Estonia	373	1,057	2,550	2,526	2,515	3,205
Chile	1,804	1,466	2,517	2,710	3,038	3,420
Philippines	1,856	1,850	2,184	2,296	2,549	2,703
New Zealand	1,459	1,253	1,887	2,567	2,999	3,411
U.A.E.	1,149	1,955	1,845	2,792	3,347	3,681
Malaysia	1,517	1,906	1,658	2,503	2,823	3,021
Israel	1,281	1,564	1,601	2,610	3,113	3,297
Spain	764	1,615	1,558	2,664	3,687	4,140
Colombia	1,204	1,521	1,533	2,334	2,734	2,891
All other	15,633	16,374	17,430	2,416	3,073	3,500
World	92,955	102,339	136,443	2,636	3,115	3,620

Note.– Data were compiled from HTS 7306.40, which covers WSS pressure pipe as well as other forms of circular welded tubes, pipes, and hollow profiles of stainless steel.

Source: Compiled from *Global Trade Atlas*.

APPENDIX A
FEDERAL REGISTER NOTICES

business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Friday, April 4, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is Friday, April 18, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before April 18, 2008. On May 6, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 8, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. In addition, comments on the Department of Commerce's final determinations with respect to subject imports from China and Korea will be permitted based on a schedule to be issued by the Commission no later than the publication in the **Federal Register** of such determinations by the Department of Commerce. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 31, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–2052 Filed 2–4–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–454 and 731–TA–1144 (Preliminary)]

Welded Stainless Steel Pressure Pipe From China

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase countervailing duty investigation No. 701–TA–454 (Preliminary) and antidumping duty investigation No. 731–TA–1144 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 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 China of welded stainless steel pressure pipe, provided for in subheadings 7306.40.50 and 7306.40.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China, and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by March 17, 2008. The Commission's views are due at Commerce within five business days thereafter, or by March 24, 2008.

For further information concerning the conduct of these investigations 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: January 30, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on January 30, 2008, by Bristol Metals (Bristol, TN), Felker Brothers Corp. (Marshfield, WI), Marcegaglia USA Inc. (Munhall, PA), Outoukumpu Stainless Pipe, Inc. (Schaumburg, IL), and the United Steel Workers of America (Pittsburgh, PA).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations 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 countervailing duty and antidumping duty 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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations 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 these investigations for 9:30 a.m. on February 21, 2008, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than February 15, 2008, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations 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 February 26, 2008, a written brief containing information and arguments pertinent to the subject matter of the investigations. 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). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (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 investigations (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: These investigations are 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: January 31, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–2054 Filed 2–4–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2008–0001]

Grain Handling Facilities; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on Grain Handling Facilities (29 CFR 1910.272).

DATES: Comments must be submitted (postmarked, sent, or received) by April 7, 2008.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2008–0001, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2008–0001). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et*

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I – Issues and Decision Memorandum

I. Analysis Of Programs

A. Programs Determined to Be Not Used

1. *Provision of Fertilizer and Machinery*
2. *Provision of Credit*
3. *Tax Exemptions*
4. *Provision of Water and Irrigation Equipment*
5. *Technical Support*
6. *Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Export Goods*
7. *Program to Improve Quality of Exports of Dried Fruit*
8. *Iranian Export Guarantee Fund*
9. *GOI Grants and Loans to Pistachio Farmers*
10. *Crop Insurance for Pistachios*

II. Total *Ad Valorem* Rate

III. Analysis Of Comments

Comment 1: Whether Ahmadi's Sale of Subject Merchandise Constitutes a Bona Fide Sale

Comment 2: Whether the Department Should Assign an Adverse Facts Available Net Subsidy Rate to Ahmadi Because of the GOI's Failure to Cooperate with the Department By Providing Incomplete Questionnaire Responses

Comment 3: Whether the Department Should Assign an Adverse Facts Available Net Subsidy Rate to Ahmadi on the Grounds That it Failed to Respond to the Department's Questionnaires to the Best of its Ability

Comment 4: Whether the All–Others Rate Stated in the Preliminary Results Is Inaccurate and Should Be Corrected

[FR Doc. E8–3511 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–931)

Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation

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

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2849 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 2008, the Department of Commerce (the ''Department'') received a petition filed in proper form by Bristol Metals, L.P., Felker Brothers Corp., Marcegaglia USA Inc., Outokumpu Stainless Pipe, Inc., and the United Steel Workers of America (the ''petitioners''), domestic producers of circular welded austenitic stainless pressure pipe (''CWASPP'' or ''subject merchandise''). In response to the Department's request, the petitioners provided timely information supplementing the petition on February 5, February 11, and February 14, 2008.

In accordance with Section 702(b)(1) of the Tariff Act of 1930, as amended (''the Act''), the petitioners allege that manufacturers, producers, or exporters of CWASPP in the People's Republic of China (''PRC'') receive countervailable subsidies within the meaning of Section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in Section 771(9)(C) of the Act and the petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation (*see* ''Determination of Industry Support for the Petition'' section below).

Period of Investigation

The period of investigation (''POI'') is January 1, 2007, through December 31, 2007.

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe (''CWASPP'') not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (''HTSUS''). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioners 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 regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (''CRU''), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to Section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the PRC for consultations with respect to the countervailing duty petition. The Department held these consultations in Beijing, China, with representatives of the Government of the PRC on February 15, 2008. *See* the February 15, 2008, Memorandum to The File, entitled,

''Consultations Regarding the Petition on Welded Stainless Steel Pressure Pipe from the People's Republic of China'' on file in the CRU of the Department of Commerce, Room 1117.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. Section 702(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: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, Section 702(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 Department 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 a 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 (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (Section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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).

With regard to the domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that CWASPP constitutes a single domestic like product, which is defined further in the ''Scope of the Investigation'' section above, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Countervailing Duty Investigation Initiation Checklist: Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China* (''*PRC Initiation Checklist*'') at Attachment II, on file in the CRU.

In determining whether the petitioners have standing (*i.e.*, those domestic workers and producers supporting 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), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I (Scope of the Petition), to the *PRC Initiation Checklist*. To establish industry support, the petitioners provided their shipments for the domestic like product for the year 2007 and compared them to shipments of the domestic like product for the industry. In their February 13, 2008, supplement to the petition, the petitioners demonstrated the correlation between shipments and production. *See* February 13, 2008, Supplement to the petition. Based on the fact that total industry production data for the domestic like product for 2007 is not reasonably available, and that the petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion *see PRC Initiation Checklist* at Attachment II (Industry Support).

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that the petitioners have established industry support. First, the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(i) because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under Section 702(c)(4)(A)(ii) because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of Section 702(b)(1) of the Act. *See PRC Initiation Checklist* at Attachment II (Industry Support).

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are an interested party as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. *See PRC Initiation Checklist* at Attachment II (Industry Support).

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of Section 701(b) of the Act, Section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of CWASPP from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the domestic industry producing CWASPP. In addition, the petitioners allege that subsidized imports exceed the negligibility threshold provided for

under Section 771(24)(A) of the Act. The petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance and increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See PRC Initiation Checklist* at Attachment III (Injury).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under Section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations. The Department has examined the countervailing duty petition on CWASPP from the PRC and finds that it complies with the requirements of Section 702(b) of the Act. Therefore, in accordance with Section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of CWASPP in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *PRC Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

Preferential Lending

1. Loans and Export Credits Pursuant to the Northeast Revitalization Program

Income Tax Programs

2. ''Two Free, Three Half'' Program
3. Income Tax Reductions for Export–oriented Foreign Investment Enterprises (''FIEs'')
4. Reduced Income Tax Rate for FIEs Located in Economic and Technological Development Zones and Other Special Economic Zones
5. Income Tax Credit or Refund for Reinvestment of FIE Profits
6. Provincial and Local Tax Exemptions and Reductions for Productive FIEs
7. Local Income Tax Reductions in Certain Development Zones
8. Preferential Tax Policies for Research and Development at FIEs

Indirect Tax Programs and Import Tariff Program

9. VAT Refunds on Purchases of Domestically–produced Equipment by FIEs
10. Tax Credits on Purchases of Domestically–produced Equipment by Domestically–owned Companies

Provincial Subsidy Programs

11. Guangdong Province's ''Outward Expansion'' Program
12. Preferential Loans Pursuant to Liaoning Province's Five–Year Framework
13. Preferential Tax Policies for Town and Village Enterprises (''TVEs'')

Provision of Goods or Services for Less than Adequate Remuneration

14. Provision of Stainless Steel Coil for Less than Adequate Remuneration
15. Provision of Land Use Rights for Less than Adequate Remuneration

Government Restraints on Exports

16. Export Restraints on Flat–rolled Steel

For further information explaining why the Department is investigating these programs, see the *PRC Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. *Guangshou High Technologic Enterprise*: Petitioners allege that a producer of CWASPP located in Guangshou received subsidies by virtue of its status as a high technology enterprise, but failed to explain what those alleged subsidies were. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

2. *Exemption of Export Taxes for CWASPP*: Petitioners allege that producers of CWASPP are exempt from paying certain export taxes that the Government of China (''GOC'') levies on other steel products. Consistent with the Department's decision in the initiation of Light–walled Rectangular Pipe and Tube from the PRC, we find that petitioners have failed to adequately allege how CWASPP producers have been relieved of taxes they would otherwise have paid. *See Notice of Initiation of Countervailing Duty Investigation: Light–walled Rectangular Pipe and Tube from the People's Republic of China*, 72 FR 40281, 40283 (July 24, 2007) (''*LWRP Initiation Notice*'').

3. *City of Shenzhen's Grants to Exporter to Cover Interest on Loans*: Petitioners allege that the City of Shenzhen provides interest payment grants to exporters in the Shenzhen Special Economic Zone (''SEZ''). Consistent with the Department's practice in recent initiations, we are declining to initiate on the allegation because petitioners have failed to provide information indicating that a producer of CWASPP is located in the Shenzhen SEZ. *See*, *e.g.*, *LWRP Initiation Notice* 72 FR at 40284.

4. *''Famous Brands'' Program*: Petitioners allege that the GOC designates the products of certain firms as ''Famous Brands,'' thereby making the firms eligible for grants and for enhanced trademark protection. In addition, petitioners allege that some provinces have coordinated efforts to build brands from their provinces. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we do not plan to investigate the ''Famous Brands'' program.

5. *Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs*: Petitioners allege that FIEs that qualify as technology intensive or knowledge intensive and have major products listed in a catalogue issued by the Ministry of Science and Technology (''MOST'') pay a reduced income tax of 15 percent. However, there is no mention of ''pipe'' in the catalogue, a fact that petitioners acknowledge. Thus, based on record evidence, producers of subject merchandise cannot use this program. Therefore, we do not plan to investigate this program.

6. *Provision of Electricity, Natural Gas, and Water for Less than Adequate Remuneration*: Petitioners allege that the GOC controls electricity, natural gas, and water prices through the National Development and Reform Commission. Petitioners state that the government caps the price that power generation companies can charge. Petitioners maintain that the steel industry has benefited from preferential treatment in both the prices of these utilities as well as access to the utilities.

Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we are not investigating the provision of electricity, natural gas, and water for less than adequate remuneration.

7. *The State Key Technologies Renovation Project Fund*: Petitioners allege that the purpose of this subsidy program is to promote technological renovations and improvements in key industries through the grant of funds equal to two or three years of interest expense payments for the projects depending upon the region of the country in which the project occurs, not to exceed 15 percent of the total cost of the project. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we do not plan to investigate ''The State Key Technologies Renovation Project Fund'' program.

Because petitioner has not sufficiently alleged countervailable subsidies for these programs, we are not initiating on them at this time.

Application of the Countervailing Duty Law to the PRC

The Department has treated the PRC as a non–market economy (''NME'') country in all past antidumping duty investigations and administrative reviews. In accordance with Section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See*, *e.g.*, *Tapered Roller Bearings and Parts Thereof, Finished and 10 Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003).

In the final affirmative countervailing duty determination on coated free sheet paper from the PRC, the Department determined that the current nature of the PRC economy does not create obstacles to applying the necessary criteria in the CVD law. *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and the accompanying Issues and Decision Memorandum at Comment 1. Therefore, because the petitioners have provided sufficient allegations and support of their allegations to meet the statutory criteria for initiating a CVD investigation of CWASPP from the PRC, initiation of a CVD investigation is warranted in this case.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POI. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with Section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by Section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized CWASPP from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* Section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to Section 777(i) of the Act.

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–3510 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–840, A–570–920]

Lightweight Thermal Paper From Germany and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations

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

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon (Germany), or Frances Veith (the People's Republic of China), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3797, (202) 482–1167, (202) 482–4295, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On October 29, 2007, the Department of Commerce (the Department) initiated the antidumping duty investigations of lightweight thermal paper from Germany, the Republic of Korea, and the People's Republic of China (PRC). *See Notice of Initiation of Antidumping Duty Investigations: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China,* 72 FR 62430 (November 5, 2007). The notice of initiation stated that the Department would issue its preliminary determinations for these investigations no later than 140 days after the date of issuance of the initiation, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act). On December 5, 2007, the International Trade Commission (ITC) determined that imports of lightweight thermal paper from the Republic of Korea were negligible, and therefore, terminated the investigation with regard to the Republic of Korea. *See Certain Lightweight Thermal Paper From China, Germany, and Korea,* 72 FR 70343 (December 11, 2007). On February 6, 2008, the petitioner, Appleton Papers Inc. (Appleton), made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e) for a 50-day postponement of the preliminary determinations. The petitioner requested postponement of the preliminary determinations for Germany and the PRC in order to allow

Avenue, SW., Washington, DC 20250–1590. Telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION: The cost of money rate methodology develops a weighted average rate for the Bank's cost of money considering total fiscal year loan advances, debentures and other obligations, and the costs to the Bank of obtaining funds from these sources. Because of the dissolution of the Bank, which was discussed at greater length in the Notice of 2006 fiscal year interest rate determination published November 30, 2006 (See 71 FR 69200), the only component described in 7 CFR 1610.10(c) that is still relevant to the determination of the Bank's cost of money interest rate is the rate paid on the issuance of debentures and other obligations [see 7 CFR 1610.10(c)(4)]. The table that has been attached to this notice in prior years will no longer be provided since the only calculation necessary to determine the interest rate for advances is the comparison of the interest rate on Treasury borrowings to the statutory minimum rate.

Progress of Dissolution of the Bank

At its quarterly meeting on August 4, 2005, the Board of Directors (the ''Board'') approved a resolution to dissolve the Bank. On November 10, 2005, the liquidation and dissolution process was initiated with the signing by President Bush of the 2006 Agriculture Appropriations bill, which contained a provision lifting the restriction on the retirement of more than 5 percent of the Class A stock held by the Government. This paved the way for all Bank stock to be redeemed.

The dissolution process is now largely complete. The Government's Class A stock was redeemed on April 10, 2006; redemption payments to Class B and C shareholders began on April 11, 2006 and were completed by September 30, 2006. The final liquidation payments were made to Class A and B shareholders at the time of liquidation on November 13, 2007. The only action still to be taken is the completion of a final audit.

Sources and Costs of Funds

Due to the dissolution of the Bank, the only remaining source of funds is the borrowings from the Treasury, which are categorized as issuance of debentures or other obligations in accordance with the regulations pertaining to the setting of the interest rate for advances on Bank loans (7 CFR 1610.10(c)(4)). For fiscal year 2007, Treasury borrowings related to advances were $53,534,679 at an interest rate of 5.84%. Since this rate exceeds the minimum statutory rate of 5.00% for Bank loans, the Bank's cost of money rate for fiscal year 2007 advances is set at 5.84%.

James M. Andrew,

Governor, Rural Telephone Bank.

[FR Doc. E8–3561 Filed 2–25–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–930]

Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: February 26, 2008.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3518.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 2008, the Department of Commerce (''Department'') received a petition concerning imports of circular welded austenitic stainless pressure pipe from the People's Republic of China (''PRC'') filed in proper form by Bristol Metals, L.P., Felker Brothers Corp., Marcegaglia USA Inc., Outokumpu Stainless Pipe, Inc. and United Steel Workers of America (collectively ''Petitioners''). *See* Petition on Welded Stainless Pressure Pipe from the People's Republic of China, dated January 30, 2008 (''Petition''). In February 2008, the Department issued multiple requests for additional information, seeking clarification of certain areas of the Petition. Based on the Department's requests, Petitioners filed additional information on February 5 through February 13, 2008.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''Act''), Petitioners allege that imports of circular welded austenitic stainless pressure pipe from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed this Petition on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) and (D) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioners are requesting the Department initiate (*see* ''Determination of Industry Support for the Petition'' section below).

Period of Investigation

The period of investigation (''POI'') is July 1 through December 31, 2007. See 19 CFR 351.204(b).

Scope of Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe (''CWASPP'') not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials (''ASTM'') A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (''HTSUS''). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners 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 regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), 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 days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (''CRU''), Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, attention Melissa Blackledge, room 3067. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaire

We are requesting comments from interested parties regarding the appropriate physical characteristics of CWASPP to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order for respondents to accurately report the relevant factors of production, as well as develop appropriate product reporting criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. For example, they may provide comments as to which characteristics are appropriate to use as general product characteristics and product reporting criteria. We note that it is not always appropriate to use all product characteristics as product reporting criteria. We base product reporting criteria on meaningful differences among products. While there may be some physical product characteristics which manufacturers use to describe CWASPP, it may be that only a select few product characteristics take into account meaningful physical characteristics. In order to consider the suggestions of interested parties in developing the antidumping duty questionnaire, we must receive comments at the above–referenced address by March 10, 2008. Rebuttal comments must be received within 10 calendar days of the receipt of timely filed comments.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition 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: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, 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 Department 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 a 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 (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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 subtitle.'' 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).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that CWASPP constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* the Antidumping Investigation Initiation Checklist: Circular Welded Austenitic Stainless Pressure Pipe from the PRC (''Initiation Checklist'') at Attachment II (Industry Support) on file in the Central Records Unit, Room 1117 of the main Department of Commerce building.

In determining whether Petitioners have standing (*i.e.*, those domestic workers and producers supporting 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), we considered the industry support data contained in the Petition with reference to the domestic like product as defined in Attachment I to the Initiation Checklist (Scope of the Petition). To establish industry support, Petitioners provided their shipments for the domestic like product for the year 2007, and compared them to shipments of the domestic like product for the industry. In their supplement to the Petition, dated February 13, 2008, Petitioners demonstrated the correlation between shipments and production. *See* Petitioners' February 13, 2008, supplemental at 1 and Exhibit 1. Based on the fact that total industry production data for the domestic like product for 2007 is not reasonably available, and that Petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II (Industry Support).

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) because the

domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. 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. *See* Initiation Checklist at Attachment II (Industry Support).

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) and (D) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate. *See* Initiation Checklist at Attachment II (Industry Support).

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). Petitioners contend that the domestic industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depressing and suppressing effects, lost revenue, reduced employment, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Injury).

Allegation of Sales at Less Than Fair 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 of imports of CWASPP from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the checklist. *See* Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price

Petitioners relied on eight prices obtained from U.S. distributors of CWASPP manufactured by PRC producers/exporters. The eight prices are for POI sales of CWASPP that falls within the scope of the Petition and include freight costs incurred to ship the merchandise from the PRC to the U.S. port. Petitioners deducted from the prices the costs associated with exporting and delivering the product to the customer in the United States, including international freight and handling, U.S. duty charges, and a trading company markup. Petitioners based international freight and handling and U.S. duty charges on the difference between the cost–freight-insurance and free–alongside-ship values for U.S. imports from the PRC under the HTSUS subheadings applicable to the subject merchandise. *See* Petition at 13–14 and Exhibit I–30 and Petitioners' February 13, 2008, supplemental at 1 and Exhibits 2 and 6. Petitioners calculated a trading company mark–up based on their own experience and knowledge of the industry. See Petition at Exhibit I–8 and Petitioners' February 5, 2008, supplemental at 1 and Exhibits 2 and 3.

Normal Value

In accordance with section 771(18)(C)(i) of the Act, the presumption of non–market economy (''NME'') status remains in effect until revoked by the Department. Petitioners note that the Department has not revoked the NME status of the PRC, and thus they treated the PRC as an NME country for purposes of their Petition. In May 2006, the Department examined the PRC's market status and determined that NME status should continue for the PRC. *See* Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding The People's Republic of China Status as a Non–Market Economy, dated May 15, 2006 (this document is available online at *http://ia.ita.doc.gov/ia–news–2006*. html). This determination continues to be applied in the Department's NME antidumping proceedings. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). Because the presumption of NME status for the PRC has not been revoked by the Department it remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market–economy country in accordance with section 773(c) of the Act. After initiation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners selected India as the primary surrogate country arguing, pursuant to section 773(c)(4) of the Act, that India is an appropriate surrogate because it is a market–economy country that is at a level of economic development comparable to that of the PRC and is a significant producer of CWASPP. *See* Petition at 6–7. Based on the information provided by Petitioners, we find it appropriate to use India as a surrogate country for this initiation. After initiation, we will solicit comments regarding surrogate country selection.

Petitioners calculated NVs for each of the U.S. prices discussed above using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Because the quantities of the factors of production that are consumed by Chinese companies in manufacturing CWASPP are not available to Petitioners, Petitioners calculated NVs using consumption rates experienced by a U.S. producer of CWASPP. *See* Petition at 7. Petitioners provided information, which they claim demonstrates that Chinese and U.S. companies use the same process to produce CWASPP. *See* Petitioners' February 5, 2008, supplemental at 3 and Exhibit 4 and Petitioners' February 13, 2008, supplemental at 2. Additionally, Petitioners provided an affidavit to support their use of U.S. production data. *See* Petition at Exhibit I–13 and Petitioners' February 5, 2008, supplemental at Exhibit 5. Petitioners valued the factors of production as noted below.

Petitioners valued stainless steel using POI world–prices from Management Engineering & Production Services (''MEPS''), an organization that they identified as a ''leading source of pricing data in the stainless steel industry.'' According to Petitioners, it

would not be appropriate to value stainless steel using import prices from India, or any other potential surrogate country, because import statistics do not distinguish between basic stainless steel and the more expensive grades of stainless steel (grades 304 and 316) that were used to produce the merchandise for which Petitioners obtained U.S. price quotes. Petitioners claim that obtaining prices specific to grades 304 and 316 stainless steel is critical because these grades contain high concentrations of expensive alloys, such as nickel and molybdenum, and cost several times more than the cost of basic stainless steel. *See* Petition at 8–9 and Exhibit I–20. Moreover, Petitioners contend that it would not be appropriate to value stainless steel using Indian Average Unit Values (''AUVs'') because (1) news reports indicate that India primarily produces stainless steel with a low nickel content (*i.e.*, grades other than 304 and 316) and (2) the AUVs of hot–rolled stainless steel imported into India do not even reach the cost of the nickel and molybdenum contained in grades 304 and 316 stainless steel. *See* Petition at 8–11 and Exhibits I–14 through I–18 and Petitioners' February 8, 2008, supplemental at 2–3 and Exhibit 1.

In response to the Department's request to provide stainless steel prices from the other potential surrogate countries, Petitioners provided a domestic Indian company price quote that was obtained by their counsel. *See* Petitioners' February 8, 2008, supplemental at 6 and Exhibit 5. Additionally, in supplements to the Petition, Petitioners valued stainless steel using the prices paid by one of the Petitioning firms. *See* Petitioners' February 8, 2008, supplemental at 12 and Exhibit 10 and Petitioners' February 13, 2008, supplemental at 4 and Exhibit 6.

When subject merchandise is exported from an NME country, section 773 (c)(1)(B) of the Act directs the Department to determine NV based on the value of factors of production in one or more market economy countries that are (1) at a level of economic development comparable to the NME country and (2) significant producers of merchandise comparable to subject merchandise (*i.e.*, surrogate countries). Petitioners have not provided a sufficient basis for the Department to depart from this approach. In contending that import statistics from surrogate countries, including India, should not be used to value stainless steel because they do not separately identify imports of grades 304 and 316 steel, Petitioners did not claim that those steel grades were not imported into, or used in, the surrogate countries. The fact that import statistics may contain imports of materials other than the material that is being valued does not necessarily render those statistics inappropriate surrogate values. Moreover, although the Department requested that Petitioners provide stainless steel values from surrogate countries in addition to India, Petitioners did not do so, nor did they demonstrate that such values are distortive. *See* Petitioners' February 8, 2008, supplemental at 5–6. With respect to the MEPS prices, we note that Petitioners did not (1) identify the countries from which the MEPS prices were derived, (2) demonstrate that MEPS data excludes prices that are not used in valuing factors of production (*e.g.*, prices from NME countries), and (3) demonstrate that MEPS prices are preferable to other sources of prices from multiple–countries. Finally, we do not find Petitioners' costs to be an appropriate surrogate value in an NME case.

Thus, for initiation purposes, we have determined that Indian import statistics, which are the only surrogate country prices from public sources on the record of this proceeding, are the best information with which to value stainless steel. Therefore, in accordance with section 773(c)(1)(B) of the Act, we recalculated NVs and the dumping margins using stainless steel values derived from Indian import statistics for January 2007, through June 2007, which is the most recent data available. *See* Initiation Checklist at Attachment V. The Department excluded NME countries and adjusted the values by converting Indian rupees into U.S. dollars and inflating those to the POI values using the Indian wholesale price index (''WPI'') in the publication *International Financial Statistics* which is published by the International Monetary Fund.

Petitioners valued electricity using the Indian electricity rate as reported by the U.S. Energy Information Administration for the year 2000. *See* Petition at 12 and Exhibit I–27. We revised the U.S. dollar electricity rate calculated by Petitioners to correct errors that were made in converting Indian rupees into U.S. dollars and inflating the price.

Petitioners valued natural gas based on two articles ''Govt. raises natural gas price by 20 pc,'' dated July 20, 2006, and ''Impact of June 2006 natural gas price hike,'' dated July 2006. According to Petitioners, these articles indicate that the Indian government directive to increase the price of natural gas applies to the Gas Authority of India Ltd. *See* Petition at 12–13 and Exhibit I–28 and Petitioners' February 5, 2008, supplemental at 7 and Exhibit 7. We revised the gas price calculated by Petitioners to correct an error that was made in inflating the price.

Petitioners valued labor at $0.83 per hour, which is the PRC wage rate listed on the Department's website. *See* 19 CFR 351.408(c)(3) and the Petition at 13 and Exhibit I–33. The surrogates for electricity, gas, and labor are based on information reasonably available to Petitioners and are, therefore, acceptable for purposes of initiation.

Where a surrogate value was in effect during a period preceding the POI, Petitioners adjusted it using the Indian WPI in the publication *International Financial Statistics* which is published by the International Monetary Fund. *See* Petition at 12–13 and Exhibits I–27 and I–28.

Petitioners based factory overhead expenses, selling, general and administrative expenses, and profit on data for the fiscal year–ended March 31, 2007, from an Indian CWASPP producer, Suraj Stainless Ltd. *See* Petition at 13 and Exhibit I–29. We revised factory overhead expenses to correct errors made in calculating those expenses. *See* Initiation Checklist at Attachment V. We find that Petitioners' use of this company's information as surrogate financial data is appropriate for purposes of this initiation.

Fair Value Comparisons

Based on the data provided by Petitioners, as adjusted by the Department, there is reason to believe that imports of CWASPP from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for CWASPP range from 8.36 percent to 12.70 percent. *See* Initiation Checklist at Attachment V.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on CWASPP from the PRC, the Department finds 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 CWASPP from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Separate Rates

In order to obtain separate–rate status in NME investigations, exporters and producers must submit a separate–rate status application. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non–Market Economy Countries (April 5, 2005) (''Separate Rates and Combination Rates Bulletin''), available on the Department's website at *http://ia.ita.doc.gov/policy/bull05–1.pdf*. The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at *http://ia.ita.doc.gov/ia–highlights-and–news.html* on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application will be due 60 days from publication of this initiation notice.

NME Respondent Selection and Quantity and Value Questionnaire

The Department will request quantity and value information from all known exporters identified in the Petition. The quantity and value data received from NME exporters will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. *See Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005); *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005); and *Initiation of Antidumping Duty Investigation: Certain Activated Carbon from the People's Republic of China*, 71 FR 16757, 16760 (April 4, 2006). Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters and received by the Department no later than March 12, 2008. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website (*http://ia.ita.doc.gov*). The Department will send the quantity and value questionnaire to those PRC companies identified in Exhibit I–6 of the Petition.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin, states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation. (Emphasis in original.)

See Separate Rates and Combination Rates Bulletin at 12.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(a) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the representatives of the Government of the PRC. We will attempt to provide a copy of the public version of the Petition to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

U.S. 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 International Trade Commission

The ITC will preliminarily determine, no later than March 17, 2008, whether there is a reasonable indication that imports of CWASPP from the PRC are materially injuring, or threatening material injury to, the U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

Appendix I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (*See* scope section of this notice), produced in the PRC and exported/shipped to the United States during the period July 1, 2007, through December 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured Sales			

Market	Total Quantity	Terms of Sale	Total Value
Total Sales			

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sale:

- Please report all sales on the same terms (*e.g.* free on board at port of export).

Total Value:

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price when the first sale to an unaffiliated customer occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured Sales:

- Sales of further manufactured or assembled (including re–packaged) merchandise is merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.
- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E8–3642 Filed 2–25–08; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Recruitment Notice for Expressions of Interest From Qualified U.S. Travel and Tourism Industry Associations

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Commerce is soliciting expressions of interest from U.S. Travel and Tourism industry associations with experience and/or core competency in self regulation to establish and implement a program to qualify inbound U.S. tour operators that meet the requirements of the China National Tourism Administration to facilitate packaged group leisure travel established by the ''Memorandum of Understanding Between the Government of the People's Republic of China and the Government of the United States of America to Facilitate Outbound Tourist Group Travel from China to The United States.'' The purpose of this program would be to provide quality assurance and a means for tour operators qualified under the program to be recognized by the China National Tourism Administration (CNTA) as able to do business with Chinese travel agencies approved by the CNTA to organize and market packaged group leisure travel from China to the United States.

Qualified Associations are those that are broadly representative of the U.S. travel and tourism industry, have experience in self regulation programs for the purpose of quality assurance (including the establishment of standards, systems to accept and adjudicate complaints, and procedures for membership revocation for those who do not comply), and have/or will have such programs identified as a mission of the organization.

The Memorandum of Understanding between the Government of the People's Republic of China and the Government of the United States of America to Facilitate Outbound Tourist Group Travel from China to the United States can be found at *http://trade.gov/press/press_releases/2007/china-tourism-mou-english-121107.pdf.*

Deadline: Expressions of interest will be accepted on an ongoing basis, and should be directed to Isabel Hill, Deputy Director for Planning and Policy, Office of Travel and Tourism Industries, U.S. Department of Commerce, Room 1003, 14th and Constitution Ave, NW., Washington, DC, 20230.

Interested Parties: Interested parties should send a letter of interest describing the interest and background of the organization as it relates to this notice. The letter should include a name, title and contact number for the individual responsible for communicating with the Department of Commerce on this matter.

Dated: February 20, 2008.

Helen N. Marano,

Director, Office of Travel and Tourism Industries.

[FR Doc. 08–850 Filed 2–21–08; 1:01 pm]
BILLING CODE 3510–DR–P

APPENDIX B
CONFERENCE WITNESSES

CALENDAR OF PUBLIC CONFERENCE

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

Subject: Welded Stainless Steel Pressure Pipe From China
Inv. Nos.: 701-TA-454 and 731-TA-1144 (Preliminary)
Date and Time: February 21, 2008 - 9:30 a.m.

The conference in connection with these investigations was held in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC

OPENING REMARKS:

Petitioners (**Roger B. Schagrin**, Schagrin Associates)
Respondents (**Max F. Schutzman**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of Countervailing and Antidumping Duties:

Schagrin Associates
Washington, DC
on behalf of

Bristol Metals LLC, Felker Brothers Corp., Marcegaglia USA, Inc., Outokumpu Stainless Pipe, Inc., and the United Steel Workers of America

Michael Boling, President, Bristol Metals LLC
John Tidlow, Vice President of Purchasing & Planning, Bristol Metals LLC
Thomas Henke, President, Felker Brothers Corp.
David Cornelius, President, Marcegaglia USA, Inc.
Rob Yepsen, Sales Manager, Marcegaglia USA, Inc.
Joe Avento, Senior Consultant, Outokumpu Stainless Pipe, Inc.
Holly Hart, Legislative Director, United Steelworkers

Roger B. Schagrin)– OF COUNSEL

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
New York, NY
on behalf of

Silbo Industries, Inc.

Howard Jakob, Executive Vice President, Silbo Industries, Inc.

Max F. Schutzman)– OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1
WSS pressure pipe: Summary data concerning the U.S. market, 2005-07

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2005	2006	2007	2005-07	2005-06	2006-07
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
China:						
Quantity	14,486	23,751	30,574	111.1	64.0	28.7
Value	47,923	79,051	155,849	225.2	65.0	97.1
Unit value	$3,308	$3,328	$5,097	54.1	0.6	53.2
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	21,567	22,860	29,314	35.9	6.0	28.2
Value	75,650	93,018	159,869	111.3	23.0	71.9
Unit value	$3,508	$4,069	$5,454	55.5	16.0	34.0
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	36,053	46,611	59,888	66.1	29.3	28.5
Value	123,573	172,069	315,718	155.5	39.2	83.5
Unit value	$3,428	$3,692	$5,272	53.8	7.7	42.8
Ending inventory quantity	***	***	***	***	***	***
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (tons/1,000 hours)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2
WSS pressure pipe: Summary data concerning the U.S. market (including >14" outside diameter), 2005-07

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2005	2006	2007	2005-07	2005-06	2006-07
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
China:						
Quantity	14,486	23,751	30,574	111.1	64.0	28.7
Value	47,923	79,051	155,849	225.2	65.0	97.1
Unit value	$3,308	$3,328	$5,097	54.1	0.6	53.2
Ending inventory quantity	***	***	***	***	***	***
All other sources (2):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (tons/1,000 hours)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Imports from all other sources include imports over 14" outside diameter from all sources.
(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

APPENDIX D

SUPPLEMENTAL PRICE DATA
FOR WSS PRESSURE PIPE PRODUCTS 1-5

Table D-1
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 1,[1] by quarters, January 2005 - December 2007

	United States		China	
	Price ***(per 1,000 feet)***	**Quantity** ***(1,000 feet)***	**Price** ***(per 1,000 feet)***	**Quantity** ***(1,000 feet)***
2005: Jan.-Mar.	$2,949.80	166.0	$2,470.95	114.5
Apr.-June	2,999.34	88.9	2,670.07	139.2
July-Sept.	2,961.33	123.2	2,420.56	165.3
Oct.-Dec.	2,705.27	87.9	2,005.36	135.4
2006: Jan.-Mar.	2,660.57	121.8	2,058.78	169.0
Apr.-Mar.	3,088.39	128.3	2,157.20	200.4
July-Sept.	3,627.96	129.2	2,582.72	260.1
Oct.-Dec.	4,245.73	68.9	3,238.84	257.0
2007: Jan.-Mar.	4,837.92	68.2	4,478.35	274.1
Apr.-June	5,372.19	71.1	3,948.24	257.6
July-Sept.	4,485.83	83.0	5,256.59	224.3
Oct.-Dec.	4,095.01	46.1	4,175.92	154.9
	Malaysia		**Korea**	
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[1] ASTM A-312, welded, grade AISI 304/304L pipe, 1-inch schedule 40.

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

Table D-2
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 2,[1] by quarters, January 2005 - December 2007

Period	United States		China	
	Price *(per 1,000 feet)*	**Quantity** *(1,000 feet)*	**Price** *(per 1,000 feet)*	**Quantity** *(1,000 feet)*
2005: Jan.-Mar.	$5,925.52	148.5	$5,294.78	88.2
Apr.-June	6,190.69	72.4	5,605.01	92.8
July-Sept.	5,809.50	78.8	5,219.46	112.6
Oct.-Dec.	5,470.45	56.6	4,263.81	98.5
2006: Jan.-Mar.	5,385.88	138.6	4,659.92	154.1
Apr.-Mar.	5,857.54	102.3	4,703.80	162.8
July-Sept.	7,855.54	111.4	6,038.67	189.2
Oct.-Dec.	9,422.27	80.5	6,856.51	178.4
2007: Jan.-Mar.	8,641.32	102.4	7,321.25	232.9
Apr.-June	8,625.55	69.5	7,881.03	206.1
July-Sept.	7,853.28	55.5	9,114.48	173.9
Oct.-Dec.	***	***	***	***
	Malaysia		**Korea**	

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[1] ASTM A-312, welded, grade AISI 304/304L pipe, 2-inch schedule 40.

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

Table D-3
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 3,[1] by quarters, January 2005 - December 2007

Period	United States		China	
	Price ***(per 1,000 feet)***	**Quantity** ***(1,000 feet)***	**Price** ***(per 1,000 feet)***	**Quantity** ***(1,000 feet)***
2005: Jan.-Mar.	$***	***	$908.13	6.4
Apr.-June	1,524.26	6.1	1,365.12	4.1
July-Sept.	***	***	1,017.59	5.6
Oct.-Dec.	1,255.36	15.5	1,030.24	6.3
2006: Jan.-Mar.	1,396.07	8.9	917.41	12.7
Apr.-Mar.	1,395.25	15.8	1,142.30	8.3
July-Sept.	1,970.60	10.1	1,066.87	9.7
Oct.-Dec.	***	***	1,471.41	12.9
2007: Jan.-Mar.	2,130.63	9.6	1,572.48	27.9
Apr.-June	2,271.65	9.1	1,520.87	15.4
July-Sept.	1,898.83	26.5	1,698.16	17.1
Oct.-Dec.	1,532.79	21.5	1,889.58	9.0
	Malaysia		**Korea**	

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[1] ASTM A-312, welded, grade AISI 304/304L pipe, 0.5-inch schedule 10.

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

Table D-4
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,[1] by quarters, January 2005 - December 2007

Period	United States		China	
	Price (***per 1,000 feet)***	**Quantity** ***(1,000 feet)***	**Price** ***(per 1,000 feet)***	**Quantity** ***(1,000 feet)***
2005: Jan.-Mar.	$15,198.19	61.2	$13,130.36	22.2
Apr.-June	15,496.26	49.2	***	***
July-Sept.	15,292.44	59.1	13,400.90	29.4
Oct.-Dec.	13,696.95	75.2	11,521.47	19.9
2006: Jan.-Mar.	13,788.60	77.2	12,180.82	39.4
Apr.-Mar.	15,728.95	67.6	13,035.11	59.6
July-Sept.	19,284.15	100.0	14,721.03	50.5
Oct.-Dec.	22,668.69	143.0	17,400.97	80.6
2007: Jan.-Mar.	25,164.84	55.0	20,156.15	152.6
Apr.-June	25,487.08	51.0	21,105.02	114.7
July-Sept.	21,830.97	41.3	22,217.71	88.7
Oct.-Dec.	22,609.09	26.4	***	***
	Malaysia		**Korea**	

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[1] ASTM A-312, welded, grade AISI 304/304L pipe, 6-inch schedule 10.

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

Table D-5
WSS pressure pipe: Weighted-average f.o.b. prices and quantities of domestic and imported product 5,[1] by quarters, January 2005 - December 2007

Period	United States		China	
	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*	Price *(per 1,000 feet)*	Quantity *(1,000 feet)*
2005: Jan.-Mar.	$9,736.70	49.7	$10,751.46	24.0
Apr.-June	10,309.42	61.8	8,774.53	47.2
July-Sept.	10,267.98	47.8	8,926.89	51.1
Oct.-Dec.	9,616.68	56.5	8,389.16	30.8
2006: Jan.-Mar.	9,174.41	55.2	7,564.61	38.6
Apr.-Mar.	9,648.69	56.5	7,869.98	55.0
July-Sept.	12,125.37	65.4	9,149.32	64.7
Oct.-Dec.	13,644.29	54.1	10,895.55	69.0
2007: Jan.-Mar.	13,096.37	35.3	12,419.58	50.0
Apr.-June	12,362.79	41.0	12,731.99	56.9
July-Sept.	13,447.11	33.1	14,556.16	26.3
Oct.-Dec.	12,570.00	22.6	***	***
	Malaysia		**Korea**	

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[1] ASTM A-312, welded, grade AISI 316/316L pipe, 2-inch schedule 40.

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

APPENDIX E

ALLEGED EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. processors to describe any actual or potential negative effects since January 1, 2005, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of WSS pressure pipe from China. Their responses are as follows:

Actual Negative Effects

***	Yes. Cancellation, postponement, or rejection of expansion projects; denial or rejection of investment proposal; and, reduction in the size of capital investments.
***	No.
***	Yes, substantial impact has been realized through decreased demand and much lower market pricing/profits for welded stainless steel pressure pipe. This will limit our ability to continue to invest into new capital required to efficiently manufacture this product line.
***	No.
***	Yes. Reduction in the size of capital investments. Past investments in equipment are not providing the desired return because of a reduction in volume of U.S. produced pipe.

Anticipated Negative Effects

***	Yes, substantial impact has been realized through decreased demand and much lower market pricing/profits for welded stainless steel pressure pipe. This will limit our ability to continue to invest into new capital required to efficiently manufacture this product line.
***	Yes, the pricing impact and volume impact have greatly hurt the financials of this firm, the number of employees working and the hours worked for these employees. Continued growth in Chinese imports will put our company in grievous danger of shutdown and will eliminate many good paying jobs prior to that time.

*** Yes. The low prices and high volumes of subject imported A-312 and A-778 pipe do not allow domestic producers to make an acceptable return on investment. As a result there will be less domestic production of this product, fewer jobs and loss of profits. Elimination of these items from domestic product lines can be expected to occur.

*** A reduction in sales and margins could result in the idling of equipment, inventory impairment losses, equipment write-downs and reassignment, or possible reduction, of the workforce.

*** Yes, we suffered both a steady decline in volume over the last several years, and a serious pressure on the sales price because of low-priced Chinese imports.